



The Basics

A Clean Water Act Primer

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Clean Water Act Basics

- Regulatory Structure
- Limits
- Permitting
- Enforcement



Clean Water Act

Regulatory Structure

Regulatory Structure

- Purpose: Maintain chemical, physical, and biological integrity of the Nation's waters
- Goals:
 - Eliminate discharge of pollutants to surface waters
 - “Fishable / Swimmable” where attainable
 - Protection and propagation of fish, shellfish, and wildlife
 - Recreation in and on the water

Regulatory Structure

- Policies to implement fishable/swimmable goals:
 1. Prohibit discharge of toxic pollutants in toxic amounts
 2. Provide federal financial assistance for POTW construction
 3. Implement areawide waste treatment management planning
 4. Support research to develop technology to eliminate discharge of pollutants
 5. Develop and implement nonpoint source pollution control programs

Major Structural Elements

- Jurisdiction
- Discharges to surface waters prohibited except in accordance with CWA requirements
- Permits authorize certain discharges
- Limits control authorized discharges
- Federal and/or state implementation
- Spill response, reporting, and prevention
- Permits for dredged and fill materials
- Enforcement

Regulatory Structure - POTW Issues

- 212: defines “treatment works”
- 301(b)(1)(B): secondary treatment requirements
- 402(p): stormwater permitting
- 402(q): combined sewer overflows

The background is a stylized underwater scene. The top half is a light blue gradient. The middle section features several horizontal stripes in shades of blue and dark blue. The bottom half is a dark blue gradient. Numerous light blue bubbles of various sizes are scattered throughout, primarily concentrated on the left side. The text 'Clean Water Act' is positioned in the lower-left area, above the word 'Limits'.

Clean Water Act

Limits

Limits

- Title III of the CWA
- Discharges (to surface waters) prohibited, except in compliance with permits containing:
 - Technology Based Limits (TBELs)
 - Water Quality Based Limits (WQBELs)

Limits - TBELs

- Effluent Limitation Guidelines (ELGs): BPT/BCT/BAT/PSES/NSPS requirements for industry categories and classes
- Secondary treatment standard
 - pH 6-9
 - BOD₅ and SS 45 mg/l and 30 mg/L
 - 85% removal of BOD₅ and SS
 - More? Nutrient petition
- Best Professional Judgment (BPJ)
- Backsliding prohibited

Limits - WQBELs

- Applicable when technology based limits not sufficient to maintain...
- Water Quality Standards
 - Designated uses
 - Water quality criteria (numeric and narrative)
 - Antidegradation policy

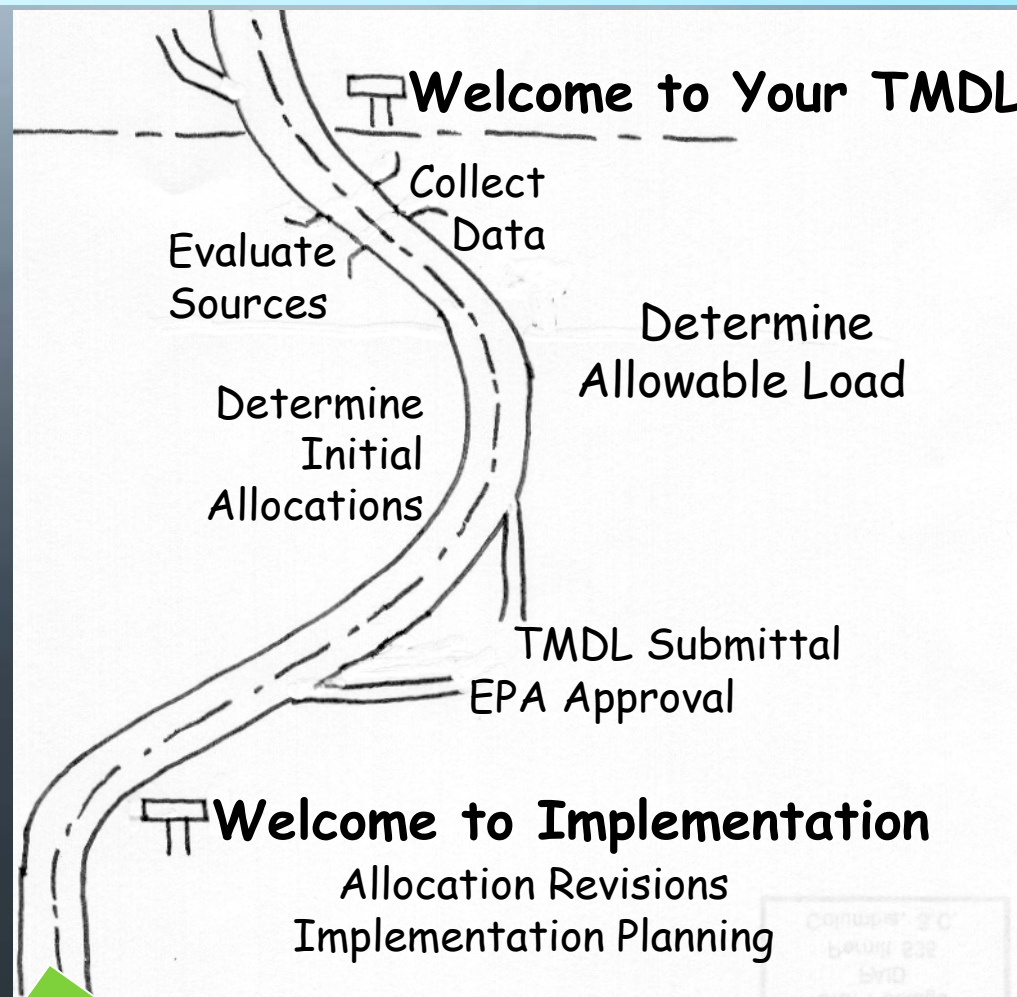
Limits - WQBELs

- TMDL Program
 - Evaluating and listing impaired waters
 - Developing and implementing TMDLs in permits

WQBELs - TMDL Highway



WQBELs - TMDL Highway



Exit
Here
to...

PERMITS!

Limits - POTW Issues

- Pretreatment standards, local limits
- Narrative criteria
- Use Attainability Analyses (UAAs) to revise inappropriate standards
- Wet weather standards
- CSOs/SSOs

Limits - POTW Issues

- Nutrient standards
- Bacteria standards
- Mercury
- Stormwater - maximum extent practicable

The background is a stylized illustration of a body of water under a blue sky. The sky is a solid light blue. The water is represented by horizontal bands of light blue and dark blue. Numerous light blue bubbles of various sizes are scattered throughout the scene, particularly concentrated on the left side. The text 'Clean Water Act' is written in a white, sans-serif font, positioned above the word 'Permits' which is in a larger, bold, light blue sans-serif font. The overall aesthetic is clean and modern.

Clean Water Act

Permits



Permits

- Permitting Process
- Permit Contents
- Relief Mechanisms

Permitting Process

- Submit application to state (or EPA in non-delegated state)
 - Important for permit shield
- Negotiation period
 - Ask for pre-public notice draft
 - Meet with agency to discuss conditions
- Public notice draft from state

Permitting Process

- Public comment period, possible public hearing
- EPA opportunity for review and approval (or objection)
- Final permit from state
- Appeal period
- Modifications

Permit Contents

- Facility description
- Effluent limitations and monitoring requirements
- Standard conditions
- Special conditions
- Pretreatment program

Permits - Limits and Monitoring

- WQBELs if reasonable potential to exceed (RPE) water quality standards
 - Based on waste load allocation (WLA)
 - Monthly average and daily maximum limits
 - Parameters can include CBOD₅, TSS, Ammonia-nitrogen, pH, DO, TRC, Fecal coliform or *E. coli*, metals, nutrients

Permits - Limits and Monitoring

- WQBELs if required by TMDL
 - Based on WLA or load allocation (LA)
 - Numeric vs BMPs
 - Daily?
- TBELs
 - Secondary treatment
 - More?

Permits - Limits and Monitoring

- Monitoring includes influent and effluent
- May specify test methods, limits of detection and quantification (LODs and LOQs)
- CSO / SSO limitations and conditions

Permits - Limits and Monitoring

- Narrative limitations
- Monthly reporting requirements
- Reopening clauses
 - Revised WLAs
 - Revised standards
 - Monitoring results

Permits - Standard Conditions

- General conditions:
 - Comply with the permit
 - Mitigate damage from noncompliance
 - Provide information to agency
 - Reapply for renewal permit before expiration
 - Penalties for violation
 - Operator certification
 - Inspections

Permits - Standard Conditions

- Management requirements:
 - Good facility operation, maintenance, and quality control
 - Collection system requirements
 - Bypass prohibitions, conditions
 - Blending, no feasible alternatives
 - Upset conditions
 - Power failures
- Important to understand for affirmative defenses

Permits - Standard Conditions

- Reporting requirements:
 - Facility changes
 - 24-hour reporting requirements
 - Unanticipated bypass
 - Significant danger to human health or environment
 - Upset that exceeds technology requirements
 - SSOs
 - Dry weather CSOs
 - Toxics violations

Permits - Special Conditions

- Spill reporting and prevention
- Slug discharge prevention
- Pollutant minimization requirements
- Biomonitoring for whole effluent toxicity
- Biosolids
- CSOs / SSOs
- Stormwater pollution prevention plans (SWPPPs)

Permits - Pretreatment Program

- Sewer use ordinance
- Local limits
- Permit/control indirect dischargers
- Slug control plans
- Industrial user compliance monitoring
- Enforcement
- Reporting:
 - Identify significant indirect dischargers subject to pretreatment standards
 - Notify agency of changes in or new indirect dischargers

Permits - Relief Mechanisms

- Compliance schedules
- Variances
 - Individual
 - Statewide or multiple-discharger
- Site-specific criteria
 - Bioavailability
 - Unique receiving water characteristics
- UAAs

Permits - Stormwater

- Municipal Separate Storm Sewer System (MS4)
- CWA 402(p)
 - Prohibit non-storm discharges to MS4
 - Control discharge of pollutants to “maximum extent practicable”
- Phase I, 1990:
 - Large MS4s (100,000 population or greater)
 - Individual permits
- Phase II, 1999:
 - Small MS4s
 - Urban areas
 - Otherwise designated
 - General permits
- Residual designation authority:
 - Contributes to WQS violation
 - Significant contributor of pollutants

Permits - Stormwater

- Establish Stormwater Management Program
 - Legal authority
 - Enforcement measures and tracking
 - Adequate resources to comply with permit
- Six Minimum Controls
 - Public education
 - Public participation
 - Illicit discharge detection/elimination
 - Construction site runoff control
 - Post-construction runoff control
 - Pollution prevention/good housekeeping
- Issues
 - Beyond BMPs
 - Regulating flow
 - New stormwater rule
 - Koontz



Clean Water Act

Enforcement

Enforcement

- CWA is self-reporting, strict liability
- Monthly compliance reports required
- Limits and other conditions enforceable:
 - Reporting
 - Recordkeeping
 - Monitoring
 - Special conditions
- Permit as a shield:
 - For pollutants specifically limited in the permit
 - Pollutants identified as present in application
 - Constituents of wastestreams, operations and processes identified in application

Enforcement

- Penalties for noncompliance
- Significant noncompliance
- Special enforcement initiatives
 - SSOs
 - CSOs
 - Stormwater management
- EPA overfiling in delegated states
- Citizen suits
 - Increased risk despite state enforcement
- Criminal enforcement for negligent or knowing violations

Enforcement

- Consent decrees / enforcement orders
 - Injunctive relief
 - Civil penalty
- Negotiating
 - Reopeners
 - Integrated planning
 - Relationship to permit, TMDL
- Renegotiating

Integrated Planning

- New EPA initiative began Oct 2011
- Final framework June 5, 2012
- Affordability discussions
- Basic process:
 - Define water-related obligations
 - Evaluate costs and benefits
 - Define available economic resources
 - Prioritize alternatives based on cost/benefit analysis
 - Determine relief mechanisms needed
 - Determine implementation mechanism

Integrated Planning

- Any community can develop an Integrated Plan
- Include any or all water-related obligations
 - CSO
 - SSO
 - Storm water management
 - WWTP issues
 - NPDES compliance
 - Source water protection
- Community can choose extent of integration

Integrated Planning

- Prioritize environmental activities within limited economic resources
 - Evaluate environmental costs and benefits
 - Consider all water-related costs
- Greater use of existing relief mechanisms
 - Long term compliance schedules
 - Variances
 - UAAs
 - Site-specific criteria

Integrated Planning

- Community self-determination
 - Cost-benefit evaluation
 - Selection and prioritization of projects
 - Engineering
- EPA Headquarters involvement
- Implementation mechanisms
 - Permits preferred
 - Administrative orders
 - Judicial orders/decrees

Questions?

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