

United States Senate
WASHINGTON, DC 20510

December 19, 2011

Mr. Gene Dodaro
Acting Comptroller General
U.S. Government Accountability Office
441 G St., NW
Washington, D.C. 20548

Dear Comptroller General Dodaro:

As Chairman of the Senate Environment and Public Works Committee and Chairman of its Water and Wildlife Subcommittee, respectively, we jointly request that the Government Accountability Office (GAO) undertake a study of the Environmental Protection Agency's (EPA) efforts to restore and maintain the nation's waters through the Total Maximum Daily Load (TMDL) program. A TMDL is the daily maximum amount of a pollutant that a body of water can receive while still meeting water quality standards. Despite years of efforts to improve the quality of our nation's waters and limit pollution through TMDLs and other means, many waters are still failing to meet water quality standards for pollutants such as pathogens, mercury and other metals, nitrogen, and sediment. These pollutants are adversely impacting economically important waters in various ways, including nutrient enrichment, acidification, and increased concentrations of toxics. These impacts threaten aquatic species, vegetation, and wildlife, and can adversely affect individuals who come into contact with the water or consume contaminated fish.

Under the Federal Water Pollution Control Act (the "Clean Water Act"), states must identify waters that are not meeting applicable state water quality standards and submit a list of those waters to EPA. To bring these waters into compliance with the standards, states are required to establish a TMDL for key pollutants causing a body of water to be impaired. As part of a TMDL, point sources, such as sewage treatment plants, factories, and Concentrated Animal Feeding Operations, have an aggregate allowable discharge level for pollutants, known as a wasteload allocation, which EPA and states are to incorporate into individual discharge permits as they come up for renewal. Nonpoint sources, such as agricultural runoff, mining activities, and paved roads not covered by a Municipal Separate Storm Sewer System permit, are also included in TMDLs and have an aggregate allowable discharge level for pollutants, known as a load allocation. Under the act, if states do not establish EPA-approved TMDLs for impaired waters, EPA has an obligation to do so. In addition, while the states are primarily responsible for managing water quality, EPA is responsible for developing regulations and guidance implementing the act. Generally, the TMDL program is implemented by states, territories, and tribes with EPA oversight.

To our knowledge, over 46,000 TMDLs have been established or approved by EPA since 1995, and many TMDLs are now maturing. We are interested in knowing the extent to which EPA is involved in the TMDL process, the status of long-established TMDLs, and the extent to which these TMDLs have resulted in waters meeting water quality standards.

We are asking GAO to review EPA's TMDL program, considering the following questions, in one or more engagements as appropriate:

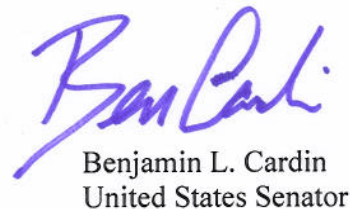
1. What are the roles of EPA and states in the development, approval, implementation, and assessment of TMDLs?
2. What is known about the extent to which actions have been taken to implement TMDLs? For long-established TMDLs, how many have implementation plans with timeframes and mechanisms for monitoring progress? To what extent have states and EPA taken actions, such as revising NPDES permits, to implement wasteload allocations identified in TMDLs? To what extent do implementation plans identify actions, such as implementing agricultural best management practices, to meet load allocations?
3. What is known about the effectiveness of implemented TMDLs in achieving water quality standards? For long-established TMDLs, to what extent are the waters showing improvement and meeting water quality standards?
4. What processes exist to revise TMDLs if waters remain impaired and to what extent are these processes being used? To what extent have adaptive management principles been used to revise TMDLs?
5. What research and tools, such as models, has EPA developed to support the TMDL program? To what extent are models and other tools and research being used to develop and implement TMDLs? How have the tools changed over time, and to what extent have they incorporated advances in science? What are stakeholder views on the usefulness of the current research and tools, and the needs for additional research and tools?
6. Are there a common set of characteristics that are associated with TMDLs that have been implemented and resulted in removal of waters from impaired waters lists or a lessening of the pollution levels entering these waters?

Thank you for your attention to this important matter. If your staff has any questions or seeks additional information, please have them contact senior policy advisor Jason Albritton of the Environment and Public Works Committee at Jason_Albritton@epw.senate.gov or 202-224-8832, or subcommittee counsel Royce Brooks at Royce_Brooks@cardin.senate.gov or 202-224-4254.

Sincerely,



Barbara Boxer
United States Senator



Benjamin L. Cardin
United States Senator