



METHODOLOGY FOR THE EVALUATION AND  
DEVELOPMENT OF THE 2010 SECTION 303(D) LIST  
OF IMPAIRED WATER BODIES FOR KANSAS

Kansas Department of Health and Environment  
Watershed Planning Section/Bureau of Water/Division of Environment  
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\*All tables referenced in the 2010 303(d) Listing Methodology are available as an Appendix to the methodology in PDF format

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## **1.0 BACKGROUND**

### **1.1 REQUIREMENTS UNDER SECTION 303(D) OF THE FEDERAL CLEAN WATER ACT**

Section 303(d) of the Clean Water Act requires that States develop a list of water bodies needing additional work beyond existing controls to achieve or maintain water quality standards. This Section 303(d) list is meant to identify waters that require Total Maximum Daily Loads (TMDLs) because technology-based effluent limitations, more stringent State or local effluent limitations, and other pollution control requirements such as best management practices, are not stringent enough to implement applicable water quality standards. 40 CFR 130.7(b)(1).

A TMDL refers to the “total maximum daily load” of a pollutant that achieves compliance with a water quality standard, therefore a TMDL is essentially a regulatory tool which caps the allowable pollutant load to a water body and a planning tool which directs and guides practices that will bring a water body into compliance with the applicable water quality standard.

Under the current federal rules, States are to submit their 2010 Clean Water Act Section 303(d) lists of impaired waters, as well as the methodologies used to prepare them, by April 1, 2010. On May 5, 2009 the U.S. Environmental Protection Agency issued a guidance memorandum regarding the 2010 Integrated Reporting (IR) including 303(d), 305(b) and 314 reports. This guidance builds on previous guidance issued on October 12, 2006 regarding 2008 Integrated Reporting (IR) and Listing Decisions, which builds on the 2006 guidance for preparation of the 2010 IR pursuant to sections 303(d), 305(b) and 314 of the Clean Water Act. The 2008 Kansas 303(d) list was submitted by KDHE on April 1<sup>st</sup>, 2008 approved on December 18, 2008. The 2010 Kansas 303(d) list builds upon the prior approved lists, and seeks to further clarify the status of Kansas waters in light of ongoing water quality monitoring data.

### **1.2 WATER QUALITY STANDARDS (STATE OF KANSAS)**

Kansas surface water quality standards create the ‘yardstick’ by which water bodies are measured against. Kansas surface water quality standards are defined by:

- 1) designating beneficial uses of the water as contained in K.A.R. 28-16-28d;
- 2) setting criteria necessary to protect the beneficial uses, contained in K.S.A. 28-16-28e; and
- 3) establishing an antidegradation policy, contained in K.A.R. 28-16-28c(a).

Beneficial uses of waters in Kansas include aquatic life, domestic water supply, food procurement, groundwater recharge, industrial water supply, irrigation, livestock watering and recreation. In general, most pollutants impair aquatic life, recreation, domestic water supply and food procurement.

### **1.3 DESCRIPTION OF 303(D) LIST PURPOSE AND LINKAGE TO 305(B) WATER QUALITY REPORT**

The generation of this 303(d) List is an essential planning and guidance tool for the state. The Kansas 2010 303(d) list not only identifies those water bodies from the 2008 303(d) list which still

require TMDLs, but also determines those new water bodies and pollutants for which TMDLs will be needed. Water bodies are assigned a priority for TMDL development by assessing the frequency, magnitude and duration of impairment by a pollutant, as well as considering public comment.

2010 represents the second reporting cycle of integrating the 305(b) report and the 303(d) list in a single report. Nonetheless, fundamental differences remain for the two assessment procedures. The 305(b) report provides an assessment or measure of *all* waters in the state through probabilistic monitoring. The 305(b) report provides an overall picture of the water quality and recent status of support for the designated uses of waters within a state and is intended to represent a statistical analysis of overall water quality rather than provide information regarding individual water bodies.

In contrast, although the 303(d) list relies on the 305(b) assessments in initially identifying impaired water bodies within the state, the assessment procedures used for 303(d) listing, by necessity, are more intensive. The 303(d) list is a subgroup of all surface waters in the state; i.e., those water bodies not meeting one or more water quality standards because of pollutants and needing a TMDL. Because of the associated cost to the state in developing and implementing TMDLs, the state must determine the extent a water body is impaired and its relative severity among other water bodies with some degree of confidence. Hence the need for more vigorous assessment prior to listing a water body as impaired.

#### **1.4 RELATIONSHIP OF KANSAS 303(D) LIST TO 2010 INTEGRATED REPORT GUIDANCE**

In as much as practicable, the Kansas 303(d) list will be developed and submitted to the EPA in accordance with the and May 5, 2009 guidance. The list viewed for public review includes those waters identified in the 2010 Guidance as “Category 5”; those waters requiring development of a TMDL because of impairment by a pollutant. However, the public list will also list Category 2 waters that represent waters delisted from the 2008 303(d) list and Category 3 waters requiring additional information in order to make listing decisions for future 303(d) lists. Waters that now have a TMDL because of impairments identified from the 1998, 2002, 2004 & 2008 lists are included in the reporting database as Category 4a waters and are identified for the public by posting of approved TMDLs on the KDHE website. Waters that have addressed their impairment by other means than a TMDL are identified in the public report and database as 4b waters. Definitions of the five Categories for waters provided by the guidance from EPA and Kansas’ interpretation on using those Categories is provided in **Table 1**.

## **2.0 ASSESSMENT UNIT DEVELOPMENT**

### **2.1 DESCRIPTION OF KANSAS AMBIENT SURFACE QUALITY NETWORK**

Kansas has an extensive water quality monitoring network consisting of 330 active ambient stream chemistry monitoring sites spanning all the major river basins. Of these, there are 167 core sites visited on a bimonthly basis every year, whereas the remaining 163 sites are monitored using a four-year rotational approach. The biological network of monitoring sites includes 180 monitoring sites.

Of these, samples are generally obtained from 60-65 sites each year, including 45 core stations and 15-20 rotational stations sampled three consecutive years per rotation. Fish tissue samples normally are obtained each year from 15-20 water bodies across the state, which includes nine long-term monitoring sites. Water quality information currently is obtained from 121 lakes and wetlands, which includes all 24 federal reservoirs, most state-administered fishing lakes, various other state, county or locally owned lakes, several privately owned but publicly accessible lakes, and seven state or federally owned marshes. Probabilistic stream monitoring of random sites across the state began in 2006 with approximately 50 sites which were sampled four times for chemistry and once for biology that year. Approximately another 50 sites were sampled in 2007 and 50 more sites in 2008. The results from the probabilistic monitoring comprise the findings of the 305(b) assessment report regarding stream water quality. The monitoring networks are illustrated in Figures 1 - 5.

## **2.2 DELINEATION ASSESSMENT UNITS (CONTRIBUTING AREAS TO MONITORING SITES)**

Of the Kansas Department of Health and Environment's (KDHE) 330 ambient stream chemistry monitoring sites, 167 are fixed (permanent) sites sampled bi-monthly every year, and 163 are rotational sites samples bimonthly every four years. Assessment units (AU) were defined within the state by delineating the unique contributing area to each monitoring site. Groupings at the HUC 14 level were used as the basis for unique contributing areas to these monitoring sites. Once grouped by HUC 14, additional alterations to the boundaries were made using a digital elevation map (DEM) to create unique boundaries for each monitored area. This process ensures that no area has more than one monitoring station with it and that each AU boundary typically includes only tributary segments upstream of the monitoring station. The stream segments of the 2007 Kansas Surface Water Register (KSWR) were placed into each AU and a unique watershed name was assigned to each based on the main stem of each AU. The KSWR was also merged to the National Hydrography Dataset (NHD) (1:100,000) and this merge can be used as a translator from the AU stream routing structure in KSWR to a routing structure in NHD.

316 stream AUs were created from the 330 ambient stream chemistry monitoring sites. The discrepancy between the number of monitoring sites and AUs is because one monitoring station is located in Missouri, and monitors a watershed completely contained within Missouri, and the other stations are too new to have AUs assigned. When they meet minimum data requirements the AUs and the segment to station assignments will be revisited.

The 25 largest lakes and the largest wetland by surface area of the 121 monitored lakes and wetlands were also delineated in the same method, complimenting the existing stream AUs previously created. The establishment of these lake AUs creates unique contributing areas to the larger reservoirs in Kansas. The remainder of the monitored lakes and wetlands are identified simply as water bodies without a defined contributing area and have been identified as to which AU they are located within.

Generally, biological and fish tissue collection sites are located near a stream or lake monitoring site, so a best match for these sites were found from the existing AUs.

Based upon the combined area of all defined AUs within the state, almost 97% of the contributing areas of Kansas are monitored by the KDHE water quality monitoring program.

### **2.3 MAP AND TABLE FORMATS USED IN DESCRIPTION OF ASSESSMENT UNITS**

For TMDL planning purposes, visual clarity and to make the public participation process consistent with the current state water planning process, the state was divided into 12 river basins. Maps locating the AUs and monitoring sites were created for each of these 12 river basins. Tables of the registered streams in each assessment unit or in the case of a lake AU, streams and the lake itself, are available for each of the 12 river basins from the Watershed Planning Section.

## **3.0 DATA CONSIDERATIONS FOR 2010 LIST**

### **3.1 APPLICATION OF 2008 303(D) LIST**

Certain impairments listed in the 2008 303(d) list will be evaluated for delisting during the generation of the 2010 303(d) list. Section 5.4 and 6.5 describes the assessment method for delisting decisions. Error corrections to the 2008 list will be made as set forth in Section 3.2.

### **3.2 2008 303(D) LIST - ERROR CORRECTIONS**

Errors in the 2008 303(d) list will be corrected in the 2010 list. Examples of these corrections to the 2008 list are typographical list errors and water bodies that were never impaired but certain flaws in the original analysis led to the waters being listed.

### **3.3 2008 305(B) WATER QUALITY REPORT USE**

Because of the relatively small number of sample points from the individual biological, lakes/wetlands and fish tissue network monitoring sites through time, the information and best professional judgment used to generate the assessment of these three sections of the 2010 305(b) report will be the primary basis for any associated listings in the 2010 303(d) list. The stream chemistry monitoring network sites have a larger number of samples for each monitoring site. This will allow a more intensive statistical assessment of impairment for these sites for inclusion in the 2010 303(d) list.

### **3.4 SPATIAL APPLICABILITY OF DATA**

AUs have been defined based on contributing areas to ambient stream monitoring and lake stations. If an impairment is determined at a monitoring point, the stream segment or lake/wetland associated with that monitoring point will be listed. In the case of a stream AU, this will always be the main

stem of the system within the AU and in the case of a lake/wetland AU, it will always be the lake/wetland. If the lake/wetland AU is defined as just that water body, then reference to potential contributors in the appendix will not be made.

### **3.5 USE OF DATA (CHEMICAL, BIOLOGICAL, INTERNAL, EXTERNAL)**

As required by Section 303(d) of the Clean Water Act and 40 CFR 130.7(b)(5), KDHE will compile and consider “all existing and readily available water quality related data and information” in identifying waters to be listed. Existing and readily available data and information includes, but is not limited to:

- 2008 303(d) List;
- 2010 305(b) Report’s waters that are not meeting a designated beneficial use;
- Clean Water Act 319 nonpoint source and Watershed Restoration and Protection Strategy assessments,
- Drinking water source water assessment under Section 1453 of the Safe Drinking Water Act;
- KDHE fish consumption advisories,
- Data, information, and water quality problems reported from local, State, or Federal agencies (especially USGS water quality studies), Tribal governments, the public, and academic institutions.

As stated earlier, KDHE operates an extensive water quality monitoring network throughout Kansas and believes it is important that the decision to list a water body be based upon credible evidence. KDHE encourages the submittal of additional data and information from the general public during the list development and public comment period. Data and information can be in the form of analytical results, numeric data or information or narrative/qualitative submittals. When such information is submitted, the observation date, location(s), quality assurance methods and other pertinent information should also be provided. Other pertinent information includes the rationale supporting the observation being considered outside the normal range of conditions. If not verifiable, narrative and qualitative submittals may not be used in the 303(d) process. However, such information will be considered in the planning of future monitoring activities by KDHE.

In order to solicit available data from other entities, KDHE will published public notice in the Kansas Register on February 11, 18 and 25, 2010 to request data from various agencies and the public at the public hearings (Bern, Huchthinson & Great Bend on March 2-3) prior to submission of the 2010 303(d) list and will accept such data through March 19, 2010.

## **4.0 STREAM CHEMISTRY METHODOLOGY**

### **4.1 SAMPLE SIZE REQUIREMENTS – STREAM CHEMISTRY**

In most cases, a minimum of 12 samples will be required to make a determination of impairment for ambient stream chemistry monitoring sites and their associated AUs. An exception to the minimum sample size requirement would be the case where a sufficient number (3) of criterion excursions to list an AU as impaired have occurred prior to the collection of all 12 samples. In this case, regardless of the result of the remaining samples required to meet the minimum sample size, the assessment will always determine impairment once the sample size requirement is met. Similarly, data from the probabilistic stream monitoring network will indicate impairment if three or more criteria excursions are recorded.

#### 4.1.1 TEMPORAL BOUNDS OF DATA – STREAM CHEMISTRY

In an effort to meet the sample size requirements in 4.1, data collected from January 2000, through December 2009, will be used for fixed stream chemistry sites or their associated AUs. Data collected from 1990 through December 2009, will be used for rotational chemistry sites or their associated AUs in the assessment of stream chemistry impairment.

## 4.2 DESIGNATED USE APPLICATIONS – STREAM CHEMISTRY

Where possible, the water quality for use support of all monitored waters will be evaluated for potential inclusion on the 2010 303(d) List. The designated uses of these waters will determine the level of assessment necessary to evaluate impairment. For a complete list of criteria in conjunction with designated uses see K.A.R. 28-16-28e(d) table 1a.

The assessment levels of the designated uses are generally tailored after those suggested in EPA's *Guidelines for the Preparation of the Comprehensive State Water Quality Assessments and 305(b) Reports and Updates: Supplement*, where impairment is defined as excursion rates greater than 10 percent.

#### 4.2.1 AQUATIC LIFE CONSIDERATIONS

Kansas has two categories of aquatic life support. All parameter standards associated with the *chronic* category of aquatic life support will have an assessment level by percent excursion of:

Not impaired: < 10% as determined by the binomial test (see section 4.3)

Impaired >10%, failing the binomial test (see section 4.3)

The standards associated with the *acute* category will have a dual assessment level depending on the type of sampling site.

Fixed stream chemistry sites (using 10 continuous years of sampling):

Not impaired: 3 or less violations

Impaired > 3 violations

Rotational stream chemistry sites (4 to 6 separate years of sampling in a 20 year period):

Less than six years of samples:	Not impaired 0 or 1 violation Impaired > 1 violation
Six or more years of samples:	Not impaired 2 or less violations Impaired > 2 violations

#### 4.2.2 INTERPRETATION OF NARRATIVE CRITERIA FOR TOTAL SUSPENDED SOLIDS AND TOTAL PHOSPHORUS

In the 2008 303(d) analysis, KDHE decided to adopt an adaptive approach to identifying areas where significant total suspended solids or nutrient pollution exists using interpretive numbers that are neither adopted numeric criteria nor likely the final value that will be adopted should Kansas choose to establish numeric criteria for these parameters. The interpretive benchmarks for excessive suspended solids or nutrients identify areas that are the most severely impacted waters, without establishing the absolute concentrations that streams must attain to fully support aquatic life.

##### 4.2.2.1 TOTAL PHOSPHORUS

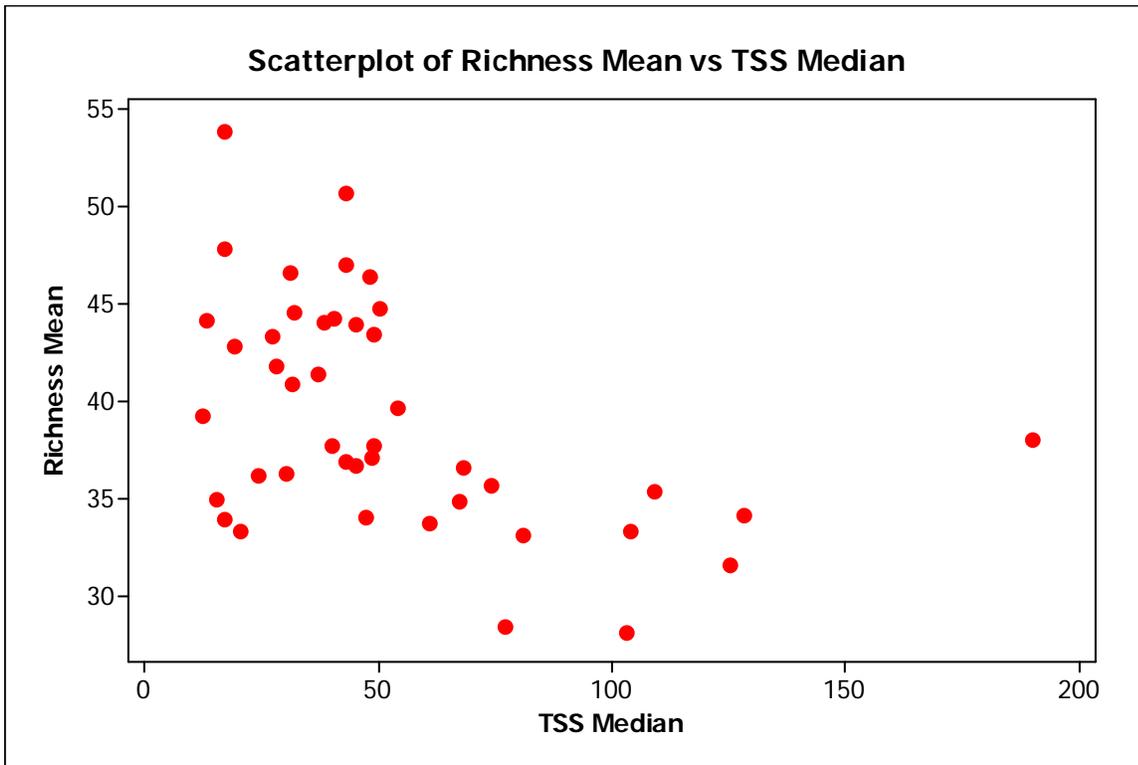
K.A.R. specifies that “The introduction of plant nutrients into streams, lakes, or wetlands from artificial sources shall be controlled to prevent the accelerated succession or replacement of aquatic biota or the production of undesirable quantities or kinds of aquatic life.” In 2001 EPA issued ambient nutrient water quality criteria recommendations for rivers and streams in nutrient ecoregion V, the South Central Cultivated Great Plains, which covers over 65% of Kansas (EPA 822-B-01-014). The recommendations summarized a large dataset and established 67 µg/L total phosphorus as the overall guidance value for the area. While KDHE has not adopted any specific nutrient criteria for phosphorus, some value for interpreting the narrative criteria is needed. There are 3 other ecoregions covering Kansas, and the 67 µg/L value is larger than the TP values corresponding to two of the three ecoregions. Nonetheless, the 67 µg/L value is viewed as a reasonable indicator of acceptable total phosphorus levels in Kansas streams.

Therefore, our initial analysis of total phosphorus concentrations focuses on waters most likely to be impaired and looks for values substantially larger than the 2001 guidance value as an ongoing condition. Specifically, for the purpose of developing the 2010 303(d) list, we shall consider a water as impaired by total phosphorus when a dataset of at least 12 samples for a monitoring site has a median condition of total phosphorus exceeding 201 µg/L, or three times the 2001 guidance value. This interpretive value should not be seen as a final determination of nutrient concentrations acceptable to the state of Kansas, but rather as a first step in addressing the most seriously impaired waters while the state continues to deliberate on what specific nutrient criteria may be adopted in the future.

##### 4.2.2.2 TOTAL SUSPENDED SOLIDS

Total suspended solids (TSS) can be highly variable in stream and river systems, with strong linkages to stream discharge. K.A.R. specifies that “Suspended solids added to surface waters by artificial sources shall not interfere with the behavior, reproduction, physical habitat, or other

factors related to the survival and propagation of aquatic or semiaquatic life or terrestrial wildlife.” Prior to the development of the 2008 303(d) list of impaired waters, KDHE analyzed 15 years of suspended solids data and associated biological monitoring data. A strong threshold relationship exists at 50 mg/L median TSS, above which streams are unlikely to support a rich diversity of aquatic life. Species richness is strongly correlated with other measures of aquatic life use support, including proportion of ephemeroptera, plecoptera, and trichoptera species, a long-used indicator of acceptable biological condition in Kansas waters.



Therefore, for the purposes of 303(d) analysis, any stream or river with a dataset of at least 12 samples and a median concentration of greater than 50 mg/L TSS shall be listed as impaired, relative to aquatic life support.

#### 4.2.2 CONTACT RECREATION

As applied to classified stream segments, Kansas has a Primary Contact Recreation (PCR) ‘not to exceed’ standard derived from a geometric mean calculated from at least five *E. coli* samples collected from separate 24-hour periods within a 30-day period for PCR classes as follows (K.A.R. 28-16-28e (c)(7)(D) (table 1i)):

PCR class A; 160 cfu/100mL (in effect from April 1 through October 31 each year)  
 PCR class A; 2,358 cfu/100mL (in effect from November 1 through March 31 each year)

PCR class B; 262 cfu/100mL (in effect from April 1 through October 31 each year)  
 PCR class B; 2,358 cfu/100mL (in effect from November 1 through March 31 each year)

PCR class C; 427 cfu/100mL (in effect from April 1 through October 31 each year)  
PCR class C; 3,843 cfu/100mL (in effect from November 1 through March 31 each year)

A Secondary Contact Recreation (SCR) ‘not to exceed’ standard derived from a geometric mean calculated from at least five *E. coli* samples collected from separate 24-hours periods within a 30-day period for SCR classes is as follows (K.A.R. 28-16-28e (c)(7)(E)(table 1i)):

SCR class A; 2,358 cfu/100mL (in effect January 1 through December 31)  
SCR class B; 3,843 cfu/100mL (in effect January 1 through December 31)

KDHE routine stream monitoring protocols to date do not collect data to evaluate compliance with the minimum five-sample geometric mean criterion, therefore these designated uses cannot be assessed by any stream monitoring site within the state. However, there were 14 streams identified by the 2008 303(d) list under Category 3 for bacteria because they were previously listed before the water quality standard changed. These 14 streams were sampled intensively (5 times in a 30 day period) four times in 2008 or 2009 to determine if they were impaired under the new standard. Those that violated the applicable geometric mean just once are listed as impaired by bacteria in the 2010 303(d) list. Those that did not exceed the geometric mean in any of the four seasonal samplings (Apr-May, Jun-Jul, Aug-Sept, & Oct-Nov) are identified as Category 2 waters. A total of forty seven stations were sampled intensively in 2008/2009, with those recording a violation going in Category 5 or remaining in Category 4a if a TMDL exists for bacteria. New Category 3 waters for bacteria are identified based on binomial analysis of the routine monitoring data, if they showed at least 10% of individual samples with counts higher than the criteria value for *E. coli* bacteria.

#### 4.2.3 DRINKING WATER, IRRIGATION AND LIVESTOCK WATERING USES

Kansas has a suite of parameters used to protect water supply uses (K.A.R. 28-16-28e(d) table 1a). The nitrate standard assessment levels by percent excursion will be:

Not impaired:  $N = 0$  or 1  
Impaired:  $N > 1$

All other parameters will be reviewed at assessment levels by binomial analysis:

Not impaired  $\leq 10\%$   
Impaired  $> 10\%$

#### 4.2.4 FOOD PROCUREMENT

Kansas has a variety of parameters used to protect food procurement use. Assessment will be made by fish tissue levels and consumption advisories.

#### 4.2.5 GROUNDWATER RECHARGE AND INDUSTRIAL USES

Not assessed by surface water.

### 4.3 STATISTICAL METHODS FOR LISTING ASSESSMENT – STREAM CHEMISTRY

In evaluating water body monitoring data associated with stream chemistry sites using EPA's historical 305(b) guidelines, no more than 10% of the samples obtained from the water body should exceed a regulatory standard for conventional pollutants. This method, called the raw score method, simply sets an upper bound on the percentage of measurements at a monitoring site that may violate a standard. Unfortunately, the raw score method does not provide sufficient information to properly deal with the uncertainty concerning impairment, especially when dealing with smaller sample sizes (National Research Council, 2001).

For the Kansas 2010 303(d) list, candidate water bodies will be screened for impairment based on a nonparametric analysis of a confidence limit on a percentile of interest. Where applicable that percentile of the distribution is given by the assessment level of the review above, again based on EPA's 305(b) guidelines of not more than 10% of the samples allowed to exceed a regulatory standard.

Conceptually, an assessment level of 10% excursion is really the same as the upper 90th percentile of the sample distribution. The question to answer in this evaluation is whether the true concentration for a particular constituent in a candidate water body meets or exceeds the assessment level of a regulatory standard. With only a certain number of samples to analyze from a monitoring site, the population's true concentration can never be known with certainty. However, it is possible to create an interval that will contain a particular percentile of the true concentration distribution with a given level of confidence. The confidence interval approach allows the incorporation of uncertainty in the true parameters of the distribution into a comparison to the regulatory standard.

In evaluating a stream's monitoring site data for impairment this confidence interval for the upper 90th percentile of the distribution can be used to determine, with a certain level of confidence, if a particular pollutant has exceeded the regulatory standard. This determination is based on whether or not the entire confidence interval exceeds the regulatory criterion. More conservatively, a one-sided lower bound on the true 90th percentile of the concentration distribution can be computed as a 100(1 -  $\alpha$ )% Lower Confidence Limit (LCL), where for 90% confidence,  $\alpha = 0.1$ . Doing so tests the null hypothesis that the true 90th percentile of the concentration distribution is less than or equal to the regulatory criterion. If we reject the null hypothesis, the pollutant level in the water body is deemed to be an impairment to that water body's designated use(s) (Gibbons, 2001).

#### 4.3.1 BINOMIAL ANALYSIS IN DETERMINATION OF IMPAIRMENTS

(Based on Gibbons, 2001 and Lin, 2000)

To construct a nonparametric confidence limit for the 90th percentile of the concentration distribution from a monitoring site, the fact that the number of samples falling below the  $p(100)$ th percentile of the distribution (in this case,  $p = 0.9$ , where  $p$  is between 0 and 1) out of a set of  $m$  samples will follow a binomial distribution with parameters  $m$  and success probability  $p$ , where success is defined as the event that a sample measurement is below the  $p(100)$ th percentile. The

cumulative binomial distribution ( $Bin(x; m, p)$ ) represents the probability of getting  $x$  or fewer successes in  $m$  trials with success probability  $p$ , and can be evaluated as

$$Bin(x; m, p) = \sum_{i=0}^x \binom{m}{i} p^i (1-p)^{m-i} \quad \mathbf{E4.1}$$

The notation  $\binom{m}{i}$  denotes the number of combinations of  $m$  things taken  $i$  at a time, where

$$\binom{m}{i} = \frac{m!}{i!(m-i)!}$$

and the factorial  $m!$  is given by

$$m! = m(m-1)(m-2)\dots 1$$

Where applicable, KDHE will use a 90% LCL on the 90th percentile of a concentration distribution ( $LCL_{0.9,0.9}$ ) from a stream chemistry monitoring site.

As an example, find the minimum number of successes needed to keep a water body off an impaired water body list (or, more importantly, determine the critical number of failures needed to list a water body as impaired), where the number of samples  $m$  from a monitoring site is 12. Based on the 90th percentile and with as close to a LCL of 90% as possible, then from E4.1 starting with  $i = 12$  as the first candidate and repeating additional candidates by  $i - 1$  until the cumulative probability is as close to 90% as possible,

$$\binom{12}{12} 0.9^{12} (0.1)^0 = 0.282$$

$$\binom{12}{11} 0.9^{11} (0.1)^1 = 0.377 \quad (\text{cumulative probability is } 0.282 + 0.377 = 0.659)$$

$$\binom{12}{10} 0.9^{10} (0.1)^2 = 0.230 \quad (\text{cumulative probability} = 0.282 + 0.377 + 0.230 = \mathbf{0.889})$$

$$\binom{12}{9} 0.9^9 (0.1)^3 = 0.085 \quad (\text{cumulative probability} = 0.282 + 0.377 + 0.230 + 0.085 = 0.974)$$

Comparing cumulative probabilities with an objective of getting as close to 90% as possible we choose the 0.889 option from the above. From this choice, the minimum number of successes out of 12 trials to keep a water body off an impaired list is 10 (or, conversely, 2 failures out of 12 trials).

This is the same as saying that 3 failures out of 12 trials will get a water body listed as impaired (or finding only 9 successes out of 12 trials).

In practice, it is a nuisance calculating binomial probabilities by hand. The Microsoft Excel functions BINOMDIST does most of the work for the analyst. Table 2 was created using this Excel BINOMDIST function. Table 2 shows, using the BINOMDIST function to get as close to 90% confidence as possible, for  $m = 3$  to 150 the minimum number of excursions needed to list a water body as impaired and the confidence level associated with that number.

#### 4.3.2 SPECIAL CONSIDERATIONS IN BALANCING OF TYPE I AND TYPE II ERROR

In the case of determining whether or not a water body is impaired, two different kinds of errors can be made. The first is when an unimpaired water body is mistakenly determined to be impaired, called a Type I error. The second is if an impaired water body is erroneously determined to be unimpaired and is called a Type II error. Of special concern to KDHE is Type I error, which could lead to the dedication of time and resources in developing and implementing a TMDL for a water body that was determined to be impaired when it actually is not impaired. In a policy decision, KDHE has chosen to set the acceptable Type I error rate in advance. The 90% confidence limit used by KDHE in its nonparametric method of assessing water bodies for impairment simply means that about 10% of the time a Type I error will occur.

KDHE also has concerns about Type II errors because failure to detect an impairment in a water body when one actually exists also has negative consequences through potential unabated environmental damage stemming from delayed TMDL implementation, and this delay can lead to greater marginal fiscal costs to restore waterbodies. In an effort to reduce the Type II errors associated with the nonparametric method of assessing water bodies, KDHE has added additional balances to minimize it; the choice of  $\alpha = 0.1$  rather than 0.05, minimum sample size requirement and recent trend weighting (explained in 4.3.3).

#### 4.3.3 EMPHASIS OF RECENT TRENDS IN STREAMS

Table 2 shows with as close to 90% confidence as possible for  $m = 3$  to 150, the minimum number of excursions needed to list a stream as impaired and the confidence level associated with that number. A final step in the listing methodology will be a check of recent excursions in the samples from a monitoring site. If the number of excursions is within one of the critical number of excursions needed to list a steam as impaired from Table 2, and any one of those excursions occurred in the most recent year of sampling, then that water body will also be placed on the 303(d) list in category 5. Doing so emphasizes recent impairments in the sample data and creates the final step to minimize Type II errors. If the last excursion did not occur in the last year of sampling the water will be put in Category 3 for follow up assessment in the next 303(d) cycle.

#### 4.3.4 CASES WHERE ALTERNATE BACKGROUND CONCENTRATIONS EXIST

In some cases streams have established and approved alternate background concentrations. These alternate background concentrations are identified in Table 1h of the Kansas Surface Water Quality Standards: Tables of Numeric Criteria. These alternate background concentrations were established in each case through the development of a TMDL and subsequent adoption into the water quality standards. In each case a TMDL exists for a site with an alternate background concentration. For the purposes of developing the 303(d) list Kansas shall assess streams with approved alternate background concentrations in table 1h by use of the median value for data from the period of record for the monitoring site, as specified in section 4.1.1 of this document. A stream shall be considered impaired if the median value exceeds the alternate background concentration in table 1h. The stream shall be considered unimpaired if the median concentration for the site is less than the alternate background concentration in table 1h.

#### **4.4 OVERVIEW OF 2010 LISTING METHODOLOGY – STREAM CHEMISTRY**

All categories as defined in the EPA Guidance (category definitions available in Table 1) will be submitted as the Kansas 2010 303(d) List. Category 5 waters will be submitted as the Kansas 2010 303(d) list. While all readily available data will be assessed, prior years 303(d) lists have resulted in a suite of parameters for which listings are more likely. These pollutants and the specific assessment methodology used to determine impairment are detailed in the table below.

Impairment	Assessment Method	Notes	Data Source Note
Alachlor	Binomial		
Ammonia	Acute - >1 exceedence/3 years data		
Aquatic Plants	Best Professional Judgment		Lake
Arsenic	Binomial	Annual Average Also	
Atrazine	Binomial		
Boron	Binomial		
Beryllium	Binomial		
Biology	Best Professional Judgment		Biology
Biology/Sediment	Best Professional Judgment		Biology
Cadmium	Chronic - Binomial		
Cadmium	Acute - >1 exceedence/3 years data		
Chlordane	Best Professional Judgment		Fish Tissue
Chloride	Binomial	Alternate Background May exist	
Copper	Chronic - Binomial		
Copper	Acute - >1 exceedence/3 years data		
Diazinon	>1 detection		
Dissolved Oxygen	Acute - >1 exceedence/3 years data		
<i>E. coli</i>	Flag Binomial, GeoMean for confirmation		
Eutrophication	By chlorophyll A concentration	As outlined in 303(d) methods	Lake
Fluoride	Binomial	Alternate Background May exist	
Gross Alpha	Best Professional Judgment		Separate Monitoring
Lead	Chronic - Binomial		
Lead	Acute - >1 exceedence/3 years data		
Mercury	Acute - >1 exceedence/3 years data	Typically Fish Tissue	Fish Tissue
Nitrate	>1 exceedence		
PCB	>1 detection	Typically Fish Tissue	Fish Tissue
Perchlorate	>1 detection	Typically Fish Tissue	Fish Tissue
pH	Binomial		
Selenium	Chronic - Binomial	Alternate Background May exist	
Siltation	Best Professional Judgment		Lake
Sulfate	Binomial	Alternate Background May exist	
Temperature	Acute - >1 exceedence/3 years data		
Total Phosphorus	Median >201ug/L		
Total Suspended Solids	Median >50 mg/L		
Uranium	Avg >30 ug/L		
Zinc	Chronic - Binomial		
Zinc	Acute - >1 exceedence/3 years data		

#### 4.4.1 STREAM CHEMISTRY ASSESSMENT UNITS - CATEGORIZATION

The following ordered steps will apply:

- 1) Screen for the domestic water supply nitrate criteria where a greater than one excursion provides support for listing in Category 5.
- 2) Screen for acute aquatic life violations for each monitoring site. If more than 3 samples from a fixed monitoring site (2000-2009 data) exceed acute aquatic life criteria and more than 1 or 2 samples (depending on number of years of data) from a rotational monitoring site (1990 to 2009 data) exceed acute aquatic life criteria, then the monitoring site's AU will be listed on the 2010 303(d) List (Category 5). Table 3 provides information on the exact number of exceedences needed for a given set of monitoring years.
- 3) The 10% raw score will provide the next screen for the pollutant data from monitoring sites. Those sites that fail the raw score test (>10% excursion) will be subject to the binomial test described in Section 4.3.1.

- 4) If the binomial test indicates impairment then the AU will be placed on the 2010 303(d) List (Category 5).
- 5) If the binomial test indicates full support, those sites will be subject to the final screen, a check for evidence of recent excursions in the sample data. If the number of excursions is within one of the critical number of excursions (Table 2) needed to list an AU and any one of those excursions occurred within the most recent year of sampling at the monitoring site, then that AU will also be listed on the 2010 303(d) List in Category 5. If the last excursion occurred earlier, the AU will be placed in Category 3 for follow up assessment in 2010.

#### **4.5 STREAM CHEMISTRY PRIORITY METHOD (CATEGORY 5) FOR TMDL DEVELOPMENT**

Those AUs found to be impaired by a pollutant and placed on the 2010 303(d) List within category 5 will be prioritized for TMDL development. Priorities will be finalized after consultation with appropriate BACs (Basin Advisory Committees) in the six basins that will have TMDL development from this list over 2010-2012 [Kansas-Lower Republican, Lower Arkansas, Upper Arkansas, Cimaron, Marais des Cygnes and Missouri] and specific WRAPS (Watershed Restoration and Protection Strategy) groups in those basins. Additional factors determining priority will be matching priority among coincidental impairments, interrelations with other impaired waterbodies, relative importance of the waterbody, frequency of excursions and the overall magnitude of those excursions. The impairments from TSS and phosphorus, using median values, were initially ranked and priorities were assigned after dividing each basin's stations into tri-sections. The third worst median values were initially assigned high priority.

#### **4.6 STREAM CHEMISTRY ASSESSMENT UNITS - CONSIDERATIONS FOR DELISTING**

##### **4.6.1 GENERAL DELISTING CONSIDERATIONS**

A preliminary assessment of water quality monitoring data from January 1<sup>st</sup>, 2000 forward indicated that KDHE may have reason to delist a number of existing stream/pollutant impairments through the 2010 303(d) listing cycle. In general these delistings are concentrated in the permanent KDHE stream monitoring sites, which provide data yearly, increasing the sample size available for assessment. Rotational sites may show signs of improved water quality, but generally do not have adequate sample sizes at this time to propose delistings. These delistings can be grouped into a number of categories, with all delistings assessed on the basis of both monitoring data and approved water quality standards. A delisting shall be signified in the 303(d) list as a Category 2 water, indicating a water formerly listed as impaired, with or without a TMDL, but now no longer assessed as impaired. In general, if a water was previously listed as a Category 5 water, and no longer meets the listing requirements as discussed in Section 4 of this document, the stream may be delisted. Other specific cases shall be assessed as follows.

#### 4.6.2 DISCONTINUED SUBSTANCES

The first group of potential delistings relate to substances that are no longer produced or used in the United States. Because these substances should have no new loading sources they are expected to decline in concentration over time until they no longer pose a human health risk. These substances are assessed through the use of fish tissue analysis, and may be delisted if ongoing monitoring no longer supports KDHE designated consumption advisories and the advisory is withdrawn.

#### 4.6.3 SUBSTANCES WITH APPROVED BACKGROUND CONCENTRATIONS

Kansas Surface Water Quality Standards provide that “In stream segments where background concentrations of naturally occurring substances, including chlorides and sulfates, exceed the water quality criteria listed in table 1a of the ‘Kansas surface water quality standards: tables of numeric criteria,’ as adopted by reference in subsection (d) of this regulation, at ambient flow, the existing water quality shall be maintained, and the newly established numeric criteria shall be the background concentration, as defined in K.A.R. 28-16-28b(e).”

These alternate background concentrations are found in table 1h of the water quality standards, and shall be used to assess the presence of impairment on waters where such alternate background concentrations exist for the most recently approved Kansas Surface Water Quality Standards.. In cases where monitoring data from the period of record assessed for 303(d) listing purpose has a median concentration less than the alternate background concentration, the stream/pollutant combination shall be delisted.

#### 4.6.4 METALS

KDHE has listed a number of waterbodies as impaired by cadmium, copper, lead and zinc for both chronic and acute aquatic life impairments. While some specific locations in the state with historic mining impacts continue to show ongoing impairment, other locations statewide have shown a generally declining trend with regard to metal impairments, particularly copper and lead. Without attributing the decline to specific actions, KDHE believes that many of these listings are likely to show no ongoing impairment based on the monitoring data for the 2010 303(d) listing cycle. These metal impairments can be divided into two groups, those with approved TMDLs and those that have been 303(d) listed, but do not have a TMDL developed. In the case of the former, a delisting assessment shall be based on the preponderance of evidence from all available sources of no impairment present in the stream. In the case of the later a delisting shall be implemented if the monitoring data no longer fails the binomial assessment procedure outlined in section 4.3 of this document.

#### 4.6.5 BACTERIA

In 2003 Kansas altered the water quality standards for bacterial contamination in surface waters. Prior to the change, streams were assessed and listed based on fecal coliform bacteria concentrations, and data analysis was similar to other pollutants with binomial assessments. After the adoption of new water quality standards the indicator was changed to *E. coli* and the requirement for listing became the geometric mean for five samples collected over 30 days

exceeding the applicable criterion. Because this standard cannot be assessed with the regularly collected water sampling programs implemented by KDHE an alternative method of assessment was adopted. In this method streams with either existing TMDLs for bacteria or previous 303(d) listings for bacteria were targeted on a rotating basin approach outlined in section 4.2.2 of this document. Where none of the intensive sampling events generated geometric mean violations the stream will be delisted from either the existing TMDL or the 303(d) listing.

#### 4.6.6 4B WATERS PREVIOUSLY IMPAIRED BY PERMITTED DISCHARGERS

Following the methodology used with the 2008 303(d) list, KDHE will seek to delist a group of streams originally identified as impaired by sole point source causes on the 1998 303(d) list. These streams were primarily listed based on modeled discharge dilution calculations, and were grouped as Category 4b waters, impaired but addressed by a means other than a TMDL. The associated treatment plants were placed on compliance schedules for upgrades to their wastewater treatment process and have reporting requirements for effluent data as a condition of their NPDES operating permits. In cases where the effluent data, as well as all other readily available data relevant to the site, indicate that wastewater produced by current treatment processes no longer impair the stream, the stream will be delisted. KDHE will continue to hold some streams in category 4b, primarily those using lagoon treatment technology, and will assess their status at a future date upon completion of a special study on the efficacy of lagoon treatment on the pollutants of concern.

#### 4.6.7 OTHER IMPAIRMENTS THAT MAY BE DELISTED

In addition to those parameters already specified, there exist a group of likely candidates for delisting based on ongoing monitoring data. These sites include some listed for low dissolved oxygen and excessive nitrate concentrations. Because these impairments represent acute risks to either human health or aquatic life they shall be subject to a more rigorous standard. In the case of these streams, a delisting will occur if the stream has no more than one exceedence during the period of record, or in cases where a treatment plant upgrade has occurred and both effluent data and ambient water quality data indicate no impairment exists the stream shall be delisted.

#### 4.6.8 TYPOGRAPHICAL ERRORS AND OTHER CORRECTIONS

Typographical errors and listing errors from the 2008 303(d) List will be corrected in the 2010 303(d) List. In cases where an impairment was previously reported, but the impairment reporting was based on typographical errors the site will be delisted if the monitoring data indicates that no impairment exists. Other corrections to the list will be made as needed to most accurately reflect the status of Kansas waters.

## **5.0 STREAM BIOLOGY METHODOLOGY**

### **5.1 SAMPLE SIZE REQUIREMENTS AND TEMPORAL BOUNDS OF DATA - BIOLOGY**

A minimum of 3 samples will be required to assess biological and fish tissue data. For data

collected from biological and fish tissue surveys, the same assessment period that is used in the 2010 305(b) Report will be used for the 2010 303(d) List.

**5.2 STREAM BIOLOGY - CATEGORIZATION FOR LISTING**

- 1) Determine if the stream biological impairment appears on 2008 Section 303(d) list and has not had a TMDL developed. If so, list in Category 5.
- 2) For biological monitoring stations with three or more samples over the latest five years, if one or more of the biological metrics indicate partial or non-support, list in Category 5.
- 3) If fish tissue samples show excessive amounts of bio-accumulative pollutants (PCB, chlordane, mercury, etc.) for three or more years over the latest five years, list in Category 5.

**5.3 STREAM BIOLOGY PRIORITY METHOD FOR TMDL DEVELOPMENT**

Use the following biological metrics to assess fully supporting streams from those that are partially supporting or non-supporting:

<b>Table 1</b>	<b>MBI</b>	<b>KBI-NO</b>	<b>EPT %</b>	<b>Mussel Loss</b>
<b>Fully Supporting</b>	≤ 4.5	≤ 2.60	≥ 48%	≤ 10%
<b>Partially Supporting</b>	4.51-5.39	2.61-2.99	31%-47%	11%-25%
<b>Non-Supporting</b>	≥ 5.4	≥ 3.0	≤ 30%	≥ 26%

Apply the following criteria on data over the latest five years to determine the priority:

- 1) First (High) priority goes to streams with three of the above metrics showing non-support. In addition, for basins with only one or two stations reflecting impairment(s), those stations shall also be designated as first priority.
- 2) Second (Medium) priority goes to streams with two of the above metrics showing non-support or impairments appearing through fish tissue analysis. In the event of multiple partial support designations, best professional judgment may be used to move a station from low priority to medium priority.

- 3) Third (Low) priority goes to streams with three or more categories designated as partial support or full support.
- 4) Streams that have only one to two biological samples from the latest five years and show any designation of less than full support that has not previously had a TMDL developed, will be deemed Category 3.
- 5) Streams that are listed as fully supporting in the 2008 305(b) list and listed as partially supporting in the 2010 305(b) report, where the impairment is potentially drought linked, shall be listed as Category 3.

#### **5.4 STREAM BIOLOGY ASSESSMENTS- CONSIDERATIONS FOR DELISTING**

- 1) For 2008 listed biological monitoring stations, if the latest five years have three or more samples and indicate full-support for all of the biological metrics, delist.
- 2) For 2008 listed fish tissue samples, if the latest five years have three or more years of monitoring and indicate compliant amounts of bio-accumulative pollutants (PCB, chlordane, mercury, etc.), delist.

## **6.0 LAKE AND WETLAND METHODOLOGY**

### **6.1 SAMPLE SIZE REQUIREMENTS AND TEMPORAL BOUNDS OF DATA – LAKE/WETLAND**

There are not a minimum number of samples needed for assessing lake/wetland data. For data collected from lakes and wetlands, the assessment period from 2000-2009 will be used in the 2010 303(d) List.

### **6.2 CONTACT RECREATION – LAKE/WETLAND**

As applied to classified lakes and wetlands, Kansas has a Primary Contact Recreation (PCR) ‘not to exceed’ standard derived from a single sample maximum or a geometric mean calculated from at least five *E. coli* samples collected from separate 24-hour periods within a 30-day period for PCR classes as follows (K.A.R. 28-16-28e(c)(7)(B) (table 1j)):

PCR Swimming Beach; 160 cfu/100mL or single sample maximum of 732 cfu/100mL (in effect from April 1 through October 31 each year)

PCR: Swimming Beach; 800 cfu/100mL or single sample maximum of 3655 cfu/100mL (in effect from November 1 through March 31 each year)

PCR: Public Access; 262 cfu/100mL or single sample maximum of 1198 cfu/100mL (in effect from April 1 through October 31 each year)

PCR: Public Access; 1310 cfu/100mL or single sample maximum of 6580 cfu/100mL (in effect from November 1 through March 31 each year)

PCR: Restricted Access; 427 cfu/100mL or single sample maximum of 1950 cfu/100mL (in effect from April 1 through October 31 each year)

PCR: Restricted Access; 2135 cfu/100mL or single sample maximum of 9760 cfu/100mL (in effect from November 1 through March 31 each year)

A Secondary Contact Recreation (SCR) ‘not to exceed’ standard derived from a single sample maximum or a geometric mean of at least five samples collected during separate 24-hour periods within a 30-day period for SCR classes are as follows (K.A.R 28-16-28e (c)(7)(c) (table1j)):

SCR: Public Access and Restricted Access; 2135 cfu/100mL or single sample maximum of 9760 cfu/100mL (in effect from January 1 through December 31 each year)

### **6.3 LAKE AND WETLAND ASSESSMENT UNITS - CATEGORIZATION FOR LISTING**

- 1) Determine if the lake or wetland assessment unit appears on the 2008 Section 303(d) list and has not had a TMDL developed or qualify for Delisting for its specified impairment(s). If a TMDL has not been developed and the impairment does not qualify for Delisting, list in Category 5.
- 2) For lakes not listed in 2008 for eutrophication, if the lake has a designated use of primary contact recreation but is not an active public water supply and the overall chlorophyll a average concentration is greater than 12 ppb or if the chlorophyll a concentration is greater than 12 ppb for more than one sample since 2000 and one of the excursions has been obtained during the two most recent sampling dates, list in Category 5.
- 3) For lakes not listed in 2008 for eutrophication, if the lake has a designated use of secondary contact recreation and the overall chlorophyll a average concentration is greater than 20 ppb or if the chlorophyll a concentration is greater than 20 ppb for more than one sample since 2010 and one of the excursions has been obtained during the two most recent sampling dates, list in Category 5.
- 4) For lakes not listed in 2008 for eutrophication, if the lake has an existing use of domestic water supply and the overall chlorophyll a average concentration is greater than 10 ppb, list in Category 5.

- 5) If the lake or wetland, for any other parameter, exceeded water quality standards or regional norms for more than one year since 2000 and one of the excursions has been obtained during the two most recent sampling dates, list in Category 5.
- 6) For Lakes previously listed for Eutrophication, but there are no new data since 2000, the lake will be removed from Category 5 and listed as Category 3.

#### **6.4 LAKE PRIORITY (CATEGORY 5) DETERMINATION METHOD FOR TMDL DEVELOPMENT**

- 1) For lakes located outside the five basins that will have TMDL development from this list over 2010-2012 [Lower Arkansas, Upper Arkansas, Cimaron, Marais des Cygnes and Missouri] the priority shall be low priority. For lakes located within these basins the priority for TMDL development shall be as follows.
- 2) For lakes with an active public water supply use and average chlorophyll A concentrations greater than 10 ppb the priority shall be high priority.
- 3) For previously and newly listed lakes and wetlands for Eutrophication, priorities will be established based on a comprehensive data evaluation to include a comparison between the overall number of samples over 12 ppb (20 ppb for Secondary Contact Recreation), the recent chlorophyll a averages since 2000 and the overall chlorophyll a average for all available samples. In general, first priority goes to lakes and wetlands with the lowest average chlorophyll a concentrations since 2000 and has existing primary contact recreation uses, generally in the range of 12-18 ppb. Second priority will generally be assigned to lakes with chlorophyll a averages around 18-28ppb. Third priority will generally be assigned to lakes with the highest chlorophyll a averages within their basin. These priorities may be adjusted upon consultation with the applicable BACs and WRAPS.
- 4) Should any lakes with new eutrophication impairments also have a problem with deficient dissolved oxygen, their priority will be moved up one priority rank.
- 5) Should any lakes with new eutrophication impairments also have a problem with elevated pH or siltation, their priority will remain based on the level of chlorophyll a present over the evaluation period.
- 6) For other pollutants, if excursions appears in three or more years since 2000, place in first priority; if excursions appears in two years since 2000, place in second priority.

#### **6.5 LAKE AND WETLAND ASSESSMENT UNITS - CONSIDERATIONS FOR DELISTING**

- 1) For lakes designated for primary contact recreation and listed for eutrophication on the 2008 list, if the two latest sampling dates have chlorophyll a concentrations less than 12 ppb and no TMDL has yet been developed, delist.
- 2) For lakes and wetlands designated for secondary contact recreation and listed on the 2008 list for eutrophication, if the two latest samples have chlorophyll a concentrations less than 20 ppb and no TMDL has yet been developed, delist.
- 3) For lakes and wetlands, if the two latest samples, for any other parameter, attain water quality standards or regional norms, delist.

## **7.0 ADDITIONAL CONSIDERATIONS**

### **7.1 ADDITIONAL CONSIDERATIONS IN PRIORITY**

Domestic water supply nitrate impairments within category 5 will also be placed in the 1st priority level. For the primary basins that will have TMDLs written within 2010 – 2012: (Kansas/Lower Republican, Lower Arkansas, Upper Arkansas, Cimaron, Marais des Cygnes and Missouri), priorities for TMDL development will be displayed in the 303(d) list. For the other basins that will not have TMDLs developed until after the 2010 303(d) list is prepared, all impairments will be set as low priority and will be re-evaluated during preparation of the 2012 list.

### **7.2 CATEGORY 3 WATERS**

In addition to streams that are identified as needing more intensive bacteria sampling over the next listing cycle, a number of stream biology and lake stations are identified as Category 3 because they have insufficient data. In the case of stream biology, one additional seasonal sample is necessary to determine its listing status for 2012. For lakes, no data has been collected since 1997, though the data from prior to 1998 indicated some degree of impairment. Contemporary sampling will determine the listing status for these lakes. Streams placed in Category 3 because of binomial analysis came one excursion short of listing and the last excursion occurred prior to the last year of sampling will be reassessed as part of the 2012 listing process.

### **7.3 BASIN ADVISORY COMMITTEE INPUT**

In some cases, Basin Advisory Committees associated with the State Water Plan and comprising individuals residing within each of the twelve river basins will offer input to revise the priority listing of certain waters within their basins. Typically, this input serves to elevate a waterbody that was originally not scheduled to have a TMDL developed in the next cycle and direct its TMDL be prepared. Similarly, input from watershed and lake specific WRAPS groups may offer input on priorities of listed waters.

## **8.0 PUBLIC PARTICIPATION**

The public was invited to comment on this methodology and the draft list generated through this methodology. A draft of this methodology was posted on the KDHE TMDL Web site <http://www.kdheks.gov/tmdl/index.htm>. The draft list will be released on February 22, 2010 for public review and comment. The priorities within the list may be modified based on feedback provided by the Basin Advisory Committees (BACs). BACs set priorities within their basins and these priorities may influence which TMDLs will be developed within the basin.

## **8.1 PUBLIC HEARING DATES AND LOCATIONS**

KDHE will hold three public hearings to receive comments on the proposed 2010 Section 303(d) List. The three hearings will be in Bern, Huchthinson & Great Bend on March 2-3.

## **8.2 PUBLIC COMMENTS AND AGENCY RESPONSE**

Public comments will be taken at the three public hearings through March 19, 2010. Late interest in commenting on the list of impaired waters and the methodology may prompt KDHE to extend the open period. After the public record closes, KDHE will consider the received comments, formulate a response to those comments and will post the comments and responses on its TMDL Web site.

## **9.0 SUBMITTAL TO EPA REGION 7**

The finalized Section 303(d) List for 2010, public comments received by KDHE regarding the 303(d) List, and KDHE response to public comments is submitted to EPA Region 7 on April 1, 2010.

## **10.0 REFERENCES**

National Research Council. 2001. Assessing the TMDL Approach to Water Quality Management. Committee to Assess the Scientific Basis of the Total Maximum Daily Load Approach to Water Pollution Reduction. Water Science and Technology Board. Division on Earth and Life Studies. Washington D.C. Page 41.

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USEPA, Office of Water, 1995. *Guidelines for Preparation of the 1996 State Water Quality Assessment (305(b)) Reports*. Washington, DC. p. (3-(18)). EPA 841 B-95-001.

## Table 1

### *Five EPA Reporting Categories and Kansas Interpretation*

**Category 1:** All designation uses are supported, no use is threatened; **Kansas:** Water has never been listed

**Category 2:** Available data and/or information indicate that some, but not all of the designated uses are supported; **Kansas:** Water use was previously listed but now has water quality sufficient to support designated uses

**Category 3:** There is insufficient available data and/or information to make a use support designation; **Kansas:** No recent data to indicate use support, water falls short of statistical impairment, bacteria data

**Category 4:** Available data and/or information indicate that at least one designated use is not being supported or is threatened, but a TMDL is not needed

**Kansas:**

4a: TMDL has been developed for water

4b: NPDES permits addressed impairment or watershed planning is addressing atrazine problem

4c: Pollution (typically insufficient hydrology) is causing impairment

**Category 5:** **Available data and/or information indicate that at least one designated use is not being supported or is threatened, and a TMDL is needed; Kansas: 303(d) list**

Table 2  
Binomial Listing Criteria Critical Values

Samples	Exceedences	Confidence Level %
3	3	0.999
4	3	0.996
5	3	0.992
6	3	0.985
7	3	0.977
8	3	0.967
9	3	0.955
10	3	0.943
11	3	0.929
12	3	0.915
13	3	0.900
14	4	0.965
15	4	0.957
16	4	0.949
17	4	0.940
18	4	0.930
19	4	0.920
20	4	0.910
21	5	0.962
22	5	0.956
23	5	0.949
24	5	0.943
25	5	0.935
26	5	0.928
27	5	0.920
28	5	0.913
29	6	0.958
30	6	0.953
31	6	0.947
32	6	0.941
33	6	0.936
34	6	0.930
35	6	0.924
36	7	0.961
37	7	0.956
38	7	0.952
39	7	0.947

Samples	Exceedences	Confidence Level %
40	7	0.942
41	7	0.937
42	7	0.932
43	7	0.927
44	8	0.960
45	8	0.956
46	8	0.952
47	8	0.948
48	8	0.944
49	8	0.940
50	8	0.936
51	9	0.964
52	9	0.960
53	9	0.957
54	9	0.954
55	9	0.950
56	9	0.946
57	9	0.943
58	9	0.939
59	9	0.935
60	10	0.961
61	10	0.958
62	10	0.955
63	10	0.952
64	10	0.949
65	10	0.946
66	10	0.942
67	10	0.939
68	11	0.962
69	11	0.960
70	11	0.957
71	11	0.954
72	11	0.951
73	11	0.948
74	11	0.945
75	11	0.942
76	12	0.963

Samples	Exceedences	Confidence Level %
77	12	0.961
78	12	0.959
79	12	0.956
80	12	0.953
81	12	0.951
82	12	0.948
83	12	0.945
84	13	0.965
85	13	0.963
86	13	0.960
87	13	0.958
88	13	0.956
89	13	0.953
90	13	0.951
91	13	0.948
92	14	0.966
93	14	0.964
94	14	0.962
95	14	0.960
96	14	0.958
97	14	0.955
98	14	0.953
99	14	0.951
100	15	0.967
101	15	0.965
102	15	0.964
103	15	0.962
104	15	0.960
105	15	0.958
106	15	0.956
107	15	0.953
108	15	0.951
109	16	0.967
110	16	0.965
111	16	0.963
112	16	0.961
113	16	0.960

Samples	Exceedences	Confidence Level %
114	16	0.958
115	16	0.956
116	16	0.954
117	16	0.952
118	17	0.967
119	17	0.965
120	17	0.963
121	17	0.961
122	17	0.960
123	17	0.958
124	17	0.956
125	17	0.954
126	18	0.968
127	18	0.966
128	18	0.965
129	18	0.963
130	18	0.962
131	18	0.960
132	18	0.958
133	18	0.957
134	18	0.955
135	19	0.968
136	19	0.966
137	19	0.965
138	19	0.963
139	19	0.962
140	19	0.960
141	19	0.959
142	19	0.957
143	20	0.969
144	20	0.968
145	20	0.966
146	20	0.965
147	20	0.964
148	20	0.962
149	20	0.961
150	20	0.959

Table 3  
Acute Listing Criteria Critical Values

**1 Year of Data- 1 exceedence shall be Category 3, 2 or more exceedences shall be Category 5 unless a TMDL already exists, in which case the station/pollutant combination shall be 4a**

**2-5 Years of Data- More than 1 exceedence shall be Category 5, unless a TMDL already exists, in which case the station/pollutant combination shall be 4a**

**6-8 Years of Data- More than 2 exceedences shall be Category 5, unless a TMDL already exists, in which case the station/pollutant combination shall be 4a**

**9-10 Years of Data- More than 3 exceedences shall be Category 5, unless a TMDL already exists, in which case the station/pollutant combination shall be 4a**