



**Association of State and Interstate  
Water Pollution Control Administrators**

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Benjamin H. Grumbles  
Assistant Administrator, Office of Water  
United States Environmental Protection Agency  
Mailcode 2822T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

March 25, 2008

Dear Mr. Grumbles:

In July of 2007, ASIWPCA, in coordination with EPA's Office of Water, formed a workgroup of States to identify opportunities, within (and potentially outside of) the current regulatory framework, to reduce the workload burden for States associated with their biennial development and submission of Section 303(d) lists/Integrated Reports (IR), while maintaining the quality and completeness of those reports. John Goodin, (Chief) and Mike Haire of the Watershed Branch within OWOW served as our points of contact to EPA. Simultaneously, the Watershed Branch undertook a companion effort to identify impediments within the EPA Regions leading to delayed approvals in the past, and to suggest options that would assure timely reviews and approvals by EPA Regional offices once lists were submitted by States.

As you are aware, there have been significant delays in both the submission of these lists by the States and in the final decision making on the lists by the Regions. A number of the identified impediments were addressed by EPA in its October 12, 2006 memorandum entitled *Information Concerning 2008 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions*. However, the problem of the workload burden to meet various Federal reporting mandates of the Section 303(d) process continues to be a significant concern to State environmental agencies. To address this issue, the ASIWPCA - State work group has identified and developed several options that we feel, if supported by EPA and implemented by the States, could provide significant relief with regard to the growing workload burden.

Approximately 15 potential options were originally identified by the workgroup. This initial list was first presented at the August 2007 Annual Meeting of ASIWPCA in Wisconsin. As a result of follow-up responses from approximately 40% of the States, a sub-set of the initial list was developed. It should be noted that no single option emerged as providing relief to all States. Depending on a given State's approach to 305b, 303d listing and TMDL obligations, each of the options varied in their degree of utility in decreasing State reporting burdens and expediting State submissions and EPA approval of Integrated Reports. The workgroup agreed that a "short-list" of options might first be tried on a pilot basis in specific States during the development of the 2008 IR documents. Based on the success of these trials, a national application of the most promising options could be used for the 2010 assessment cycle.

The attached power point presentation summarizes the findings of the workgroup through the State surveys. Notable points include:

- Many States use their own assessment databases. To varying degrees those databases provide information for EPA to compile into its Assessment Database (ADB). The additional burden for States to populate EPA's Assessment Database is of questionable utility to all but EPA. Therefore, one option is for EPA to assume responsibility for populating its ADB.
- The concept of applying a rotating basin approach within the construction of the IR and 303d lists is used in varying fashion among the States. However, strict adherence to the requirement for considering "All Existing and Readily Available Data" can cause constraints in identifying and managing impaired waters on a rotating basis.
- Liberal use of Category 3 (insufficient data) as a means to house "debatable" impaired waters in dispute between States and Regions may expedite list submissions and approvals.
- While the watershed concept is prevalent throughout the TMDL process, listing and assessment on a segment-by-segment basis remains a mainstay approach in constructing IR's.
- Category 4B holds great promise as alternative and, in many cases, more effective means of addressing certain impairments. However, the burdens of proof/justification demanded by the Regions and Headquarters has considerably quelled use of 4B by the States.
- While State calls for expanding the listing cycle to 4 or 5 years has been ongoing since 2000, this advocacy is split among those charged with 305(b) assessment, who are statutorily required to report biennially and those charged with 303d listing and TMDL development, who support an expanded cycle. In the case of expanding the cycle, adoption of the other options might preclude the need to alter the timing of list submissions.

A major conclusion that emerged during the workgroup's process was the importance of more timely reviews and decision making by the EPA Regions. It was widely held by the States that this single action might bestow the greatest benefit upon the IR process.

There were a number of other minor points and options that are described in the power point. We believe that certain States will be using these options in developing their 2008 IRs, and we will compile the results this summer regarding benefits of applying these alternative approaches.

As we continue this State/EPA partnership, we respectfully request that you direct your staff at EPA to undertake certain tasks as well, especially as we move closer to the April 1<sup>st</sup> submission date. Specifically, we ask EPA to:

- Survey the States as to the workload and resources expended in transitioning to ADB for 2008 reporting. In preparing the 2010 guidance regarding Integrated Reports, evaluate those costs and any benefits in using ADB in the assessment/reporting process. Costs and benefits include those of States

transitioning or using ADB, as well as EPA use of contractors to assemble and interpret State reports and databases into a national report to Congress. Until this analysis is made, refrain from imposing further requirements of ADB on the States.

- Given that EPA has consistently encouraged States to adopt a rotating basin approach, EPA should formally acknowledge that State watershed-based submittals made in rotation constitute an acceptable “rationale for any decision to not use existing and readily available data”, as prescribed under 40 CFR 130.7 (b) (6) (iii).
- Compile a list of Category 4B waters that have been successfully vetted through the 303d process and involve more than NPDES permits. *Point source only* waters dominate the current inventory of examples of 4B waters. These successful examples should also indicate the timeline between State submission to EPA and approval and what documentation was necessary for EPA to approve 4B status.
- Evaluate the policy and programmatic implications of expanding the entire IR process (both 305b and 303d) to a 4 or 5-year cycle.
- Track Region review and approval performance for the 2008 303d lists.

These efforts along with those of the States should provide EPA with ample information to shape the guidance of the 2010 IR cycle and transfer the suggested options into real opportunities to reduce workloads on the States in developing future Integrated Reports. We continue to look forward to working with your Watershed staff in advancing the TMDL process towards restoring the integrity of the Nation’s waters. We greatly appreciate their cooperation and contributions to this most important effort.

Sincerely



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President

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Enclosure