



Overview of Responses Submitted to Clean Water Act 303(d) Vision Alternatives Questionnaires (December 2013 – February 2014)

In December 2013, U.S. EPA released a new framework for managing Clean Water Act 303 (d) program responsibilities, entitled “*A Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program,*” which was largely informed by a lengthy EPA-state collaborate process launched in 2011. ACWA hosted a series of calls from December 2013 – February 2014 devoted to state discussion of the Vision’s Prioritization, Engagement, and Alternatives Goals. Following each call, ACWA distributed a related online questionnaire to state participants. The below highlights comprise just some key preliminary results of the three questionnaires. ACWA plans further analyses and will provide additional information in the near term as we sort through the narrative responses. If your state would like an additional opportunity to respond to any of the questionnaires, please contact Susan Kirsch (at email: skirsch@acwa-us.org) to request the online link(s).

Alternatives Questionnaire: Updated as of March 2014

A total of 30 states¹ responded, and one additional state² indicated its responses are forthcoming. Some states provided responses from multiple jurisdictions within their state. The following are preliminary key findings:

- The use of TMDL alternatives plays a large roll currently for states and will continue to do so in the future. Most states (83%) already use some form of TMDL alternative and most (75%) plan to use alternative approaches moving forward.
- The use of alternatives does not seem to be limited to a particular group of issues or sources. States are interested in using alternatives for a wide variety of sources (point, nonpoint, mixed) and causes (pollutant, non-pollutant).
- At least half of the states have used watershed-based plans, 319 funding without a TMDL or NPDES permitting without a TMDL to address impaired waters.
- There is a wide variety of other approaches which states have used including finding other funding sources, establishing cooperative agreements, working through non-NPDES regulatory programs for site remediation and developing CSO Long Term control plans.
- States are interested in learning how to use cooperative agreements to address impaired waters.
- At least half of the states indicated that they would use an alternative approach to protect unimpaired waters
- States use the same types of alternative approaches to address unimpaired waters as they use for impaired waters.
- Two-thirds of the states report that their EPA Region is supportive of alternative approaches to TMDLs, which mostly centered on watershed based plans and direct to permitting initiatives.
- Approximately 23% of the states have not yet had conversations with their regions about the use of alternatives.
- Half of the states report that stakeholders do not regularly favor the use of TMDLs over alternative approaches. It depends upon the specific circumstances. In about 17% of the states, stakeholders have not expressed an opinion of the use of alternatives.
- Only about 21 % of the states indicate that stakeholders prefer TMDLs to alternatives, usually because they want the allocations. While about 6% of the states report that stakeholders prefer alternatives to TMDLs.
- States do not always include load allocations in TMDL alternatives. Half the states report it depends on the circumstance. Of the remaining states, there is an equal split between those that allocate loads and those that do not.

¹ States that have submitted responses as of March 7, 2014: AL, AK, AZ, CA, CO, CT, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MO, MT, NE, NV, NH, NJ, NM, NY, OH, PA. UT, VT, WY.

² MN

- Similarly, half of the states may or may not include a TMDL-like analysis as part of an alternative approach, although 43% said that they would while only 6% said they would not.
- Most states (80%) are still interested in using 4B as a means to address impaired waters.
- Most states (64%) have used 4C for impaired waters.
- Only 22% of the states have used another listing category (other than 4B or 4C).
- Most states (59%) feel that the current listing categories are not helpful to track impaired waters.
- Most states (67%) incorporate adaptive management into their TMDLs and feel that alternative approaches facilitate adaptive management better than traditional TMDLs.
- Most states (74%) feel their region is supportive of adaptive management approaches. No states felt their region did not support adaptive management but 26% say they have not yet spoken to their regions about it.
- States most often use the Integrated Water Quality Report to provide information on alternative approaches to the public and EPA, although many states use project reports, websites and briefings to also convey this information.
- Establishing the burden of proof is the barrier most reported (63%) for the use of alternatives although about 40% of the states also indicate that lack of EPA support, threat of litigation, the need for WLA during permitting and divisiveness between point and non-point sources are also barriers to the use of alternatives.