

CWA 303(d) Program Vision – Alternatives



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TMDLs

Overview

- Alternatives in the context of the CWA 303d Vision
- Elements to consider to support use of an alternative restoration approach
- Distinction between alternatives under category 5 and category 4b
- Alternatives under the new measures
- Sub-category 5-alt

Alternatives under CWA 303(d) Vision

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Alternative Restoration Approach

- Intended for impaired waters
- Plan pursued in the near term that in its totality is designed to attain WQS
- Under certain or unique circumstances, may be more effective tool to achieve WQS more rapidly than TMDLs
- States and EPA to work together to determine which is the more effective tool to pursue in near-term to achieve WQS

Impaired Waters with Alternative Restoration Approaches

- Shall remain on the CWA 303(d) list
 - Except for 4b waters – more on that later
- Shall require TMDLs until WQS are met
 - May be assigned lower priority for TMDL development but TMDL development not deferred indefinitely
 - Expect to address impairment more rapidly than TMDL

The Devil's in the Details ☺

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- Main challenge → Description supporting alternatives to show:
 - How alternative is designed to meet WQS; and,
 - How alternative is expected to address impairment more rapidly

- Why is this important?
 - Provides transparency to the public on the purpose of using alternative → getting to WQS more rapidly
 - Facilitates stakeholder engagement

But What Details -- Is there a Recipe?

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- Suggested elements of alternative approach to consider:
 1. Identification of water segments/waters and sources
 2. Analysis showing that implementing alternative would achieve WQS
 3. Action Plan or Implementation Plan with: a) commitments that address all sources; and, b) a schedule of actions to meet WQS with clear milestones and dates
 4. Funding opportunities to immediately implement the alternative
 5. Identification of all parties committed, and/or additional parties needed
 6. Date upon which WQS are expected to be achieved
 7. Plans for effectiveness monitoring to: a) demonstrate water quality progress; b) identify needed improvement for adaptive modification, and, c) evaluate the success of actions and outcome.

- That's a lot of ingredients! -- But, wait, it is not a checklist.
 - Likely to be case-specific
 - Length and scale of description depends on the severity of pollution; impaired designated uses; nature of impairment, sources, and pollutants; and other factors
 - Not one size fits all!

Distinction between Alternatives under Category 5 and Category 4b

Alternative under Category 5

- Water remains in category 5, and TMDL is still required
- No demonstration of 'other pollution control requirements' to meet WQS
- EPA review of list is not affected by EPA review of alternative

Category 4b

- Water is not listed or delisted
- Sufficient demonstration that there are 'other pollution control requirements' to meet WQS
- EPA reviews and approves water's delisting from category 5

Alternatives under the new measures

- For measure purposes only, EPA reviews description that alternative plan is designed to meet WQS
 - Note: this is separate from EPA review of the list

- If EPA agrees, plan is given credit under the measure

- EPA will work with the state to evaluate whether to continue to give credit under measure
 - Evaluate if there is sufficient progress in water quality or in implementation towards meeting WQS
 - Case-specific evaluation
 - If not, re-prioritize for TMDL development (again, cannot indefinitely defer TMDL development)

Subcategory 5-alt

- Subcategory 5 alt for plans in place designed to meet WQS
- Relationship between subcategory 5-alt and WQS 27 and WQ 28 measures

Discussion