



Alternatives under the CWA 303(d) Program Vision -- a Few Key Reminders

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Key Reminders on Alternatives under CWA

303(d) Vision

- Main criterion:
 - Near-term plan, or description of actions, with a schedule and milestones, that is more immediately beneficial or practicable to achieving WQS

- Key Messages from the 2016 Integrated Report Memorandum
 - Important to consider circumstances (e.g., importance of WLA, public support)
 - Considerations to help tell story/logic how alternative approach is designed to meet WQS
 - Alternative descriptions → not one-size fits all
 - May or may not have to address all elements for consideration when explaining how alternative is designed to meet WQS

Key Reminders on Impaired Waters with Alternatives

- Impaired Waters with Alternative Restoration Approaches
 - Shall remain on the CWA 303(d) list (except for 4b waters)
 - Alternatives are not in lieu of TMDLs
 - 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

Relationship between Subcategory 5-alt and WQS-27 and WQ-28 measures

- Subcategory 5-alt:
 - Provides transparency to the public on the purpose of using alternative
→ getting to WQS more rapidly
 - Facilitates stakeholder engagement

- For measure purposes, 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 included under the measure

- Timing of when WQS need to be achieved:
 - Expect state to periodically evaluate if there is sufficient progress in water quality or in implementation towards meeting WQS
 - If not on track to meeting WQS, state may re-prioritize for TMDL development
 - In 2022, EPA to evaluate whether to continue to include under measure

Appendix

The Devil's in the Details 😊

- 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?

- Elements to consider to help explain that alternative plan is designed to meet WQS:
 - Identification of water segments/waters and sources
 - Analysis showing that implementing alternative would achieve WQS
 - 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
 - Funding opportunities to immediately implement the alternative
 - Identification of all parties committed, and/or additional parties needed
 - Date upon which WQS are expected to be achieved
 - 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!
 - WQS

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