

EPA Water Regulations, Guidance and Policy

Schedule description

Activity	Schedule description		Staff Contact
Rulemakings			
Office of Wastewater Management (OWM)			
NPDES Updates Rule	Proposed: May 18, 2016 Extended Comment Deadline: Aug. 2, 2016 Final: early summer 2017	EPA is proposing to update the NPDES regulations in order to eliminate inconsistencies between regulations and application forms, improve permit documentation and transparency, and provide clarifications to the existing regulations. Likely updates include: definition updates, application requirements for vessels and pesticides, effluent limit bases--max daily/average monthly for POTWs, reasonable potential, conflicts of interest, fact sheet requirements, public notice requirements, §401 certification process, antibacksliding, antidegradation, and objection to administratively continued permits. The proposal has been published in the Federal Register at: https://federalregister.gov/a/2016-11265	Sean Rolland
MS4 Remand Rule	Final: December 2016	EPA finalized changes proposing changes to the regulations governing small municipal separate storm sewer system (MS4) permits to respond to a remand from the 9th Circuit Court of Appeals legal decision (<i>Environmental Defense Center, et al. v. EPA</i> , 344 F.3d 832 (9th Cir. 2003)). The final rule is intended to ensure that the permitting authority determines the adequacy of BMPs and other requirements and provide public notice and the opportunity to request a public hearing on the requirements for each MS4. Copy of the final rule can be found here: https://www.epa.gov/npdes/npdes-stormwater-final-ms4-general-permit-remand-rule	Sean Rolland
Office of Wetlands, Oceans and Watersheds (OWOW)			
Waters of the U.S. Rule	Draft Guidance sent to OMB: Feb. 2012 Proposed Rule Sent to OMB: Sept. 17, 2013 Draft version of rule leaked: Nov. 17, 2013 Proposed: April 21, 2014 Comment Deadline: Nov. 14, 2014 ACWA Comments: Nov. 12, 2014 Final: June 29, 2015 Effective Date: Aug. 28, 2015 Stay: October 9, 2015	In May 2011, EPA and the Army Corp of Engineers (Corps) released for public comment draft guidance for determining whether a waterway, waterbody, or wetland is jurisdictional as a Water of the U.S." ("WoUS") under the CWA. EPA received 230K comments on the draft "WoUS" guidance document. On 9/17/13, EPA and the Corps announced that they had withdrawn the guidance from OMB and sent to OMB a proposed rulemaking instead. Existing 2008 guidance remains in place. On 11/7/2013, a version of the draft proposed rule was leaked to the press. EPA indicated that the leaked version is not the final version sent to OMB. On 4/21/14, EPA published the proposal in the Federal Register, along with an associated "Interpretive Rule" on exemptions from CWA jurisdiction for certain agricultural conservation practices. On Jan. 9, 2015, EPA and the Corps withdrew the Interpretive Rule. The final rule was published in the Federal Register on 6/29/15 and made effective on 8/28/15. On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the WoUS Rule. The EPA and Corps resumed using the previous regulations and case law defining "WoUS." ACWA will work with EPA/Corps on coordinating opportunities for states to discuss implementation questions and training needs. Procedural litigation concerning venue is ongoing.	Julian Gonzalez

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Office of Science and Technology (OST)			
Water Quality Standards Rule	<p>Sent to OMB: Jan. 2012 Released from OMB: July 23, 2013 Proposed: Sept. 4, 2013 Comment Deadline: Jan. 2, 2014 ACWA Comments: Jan. 2, 2014 Final: Aug. 21, 2015 Effective Date: Oct. 20, 2015</p>	<p>The proposed rule provides clarity in the following six key areas: (1) antidegradation, (2) Administrator's determination, (3) uses, (4) variances, (5) triennial review scope and requirements, and (6) compliance schedule authorizations. ACWA hosted EPA-State calls, and a Nov. 6-7 Workshop (Washington, DC) for states and EPA to discuss aspects of the proposal. ACWA submitted comments and participated in a post-proposal "Roundtable" with EPA to discuss and provide state feedback on options identified in public comments. The rule was sent to OMB on Jan 8, 2015 and their review was completed on July 8, 2015. The final rule was published in the Federal Register on Aug. 21, 2015. ACWA anticipates working with EPA and states on implementation of the rule beginning in Fall 2015. More details on the final rule are available on the Federal Register Notice: http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm</p>	Patrick McGuire
Effluent Limitations Guidelines for Wastewater from Unconventional Oil and Gas (Shale Gas) Extraction	<p>Proposed: April 7, 2015 Public Hearing: May 29, 2016 Comment Period Closed: July 17, 2015 Final: June 28, 2016</p>	<p>Because of the market overlap in the extraction of shale gas and coalbed methane (CBM), in 2011 EPA originally combined these two in into a single rulemaking. Subsequently, new information obtained on the declining presence & economic viability of CBM lead to a proposed delisting of CBM in the Preliminary ELG Plan (published Aug. 2013) and the CBM component was dropped from this rulemaking leaving just shale gas. An EPA-State workgroup met periodically in 2013 to provide input in the pre- rulemaking stage. In December 2013, EPA indicated it would be involved in its internal rulemaking process and interagency review from January -September 2014. The rule became final on June 28, 2016. However, on December 7, 2016 the compliance date for certain facilities was extended until August 29, 2019.</p>	Patrick McGuire
Effluent Limitation Guidelines and Standards for the Dental Category	<p>Proposed: Oct. 22, 2014 Public Hearing: Nov. 10, 2014 Comment Period: Closed Feb. 20, 2015 ACWA and Quicksilver Caucus Comments: Feb. 20, 2015 Final Rule Signed: December 15, 2016 (Awaiting Federal Register publication)</p>	<p>EPA is proposing technology-based pretreatment standards under the CWA for discharges of pollutants into POTWs from existing and new dental practices that involve the discharge of dental amalgam. The proposal would require dental practices to comply with requirements for controlling the discharge of dental amalgam pollutants into POTWs based on the best available technology or best available control technology and Best Management Practices. EPA Administrator Gina McCarthy signed the final rule on December 15, 2016. Publication in the Federal Register is pending. Once the rule is published in the Federal Register it will become final after 30 days. View the pre-publication version here: https://www.epa.gov/sites/production/files/2016-12/documents/dental-office-category_final_prepub_12-15-2016.pdf</p>	Patrick McGuire
Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater	<p>Draft Rule: July 2015 Response to 2015 Public Comments: June 30, 2016 Final: July 13, 2016</p>	<p>The 2016 criterion document is the final update of EPA's 1999 recommended national chronic aquatic life criterion for selenium. The 2016 criterion reflects the latest scientific knowledge, which indicates that selenium toxicity to aquatic life is primarily based on organisms consuming selenium contaminated food rather than by being exposed only to selenium dissolved in water. The link to the Federal Register is here: https://federalregister.gov/a/2016-16585 The link to the fact sheet is here: https://www.epa.gov/sites/production/files/2016-06/documents/se_2016_fact_sheet_final.pdf</p>	Patrick McGuire

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Analytical Methods Rule	Final: December 2016	Analytical methods are used by industries and municipalities to analyze the chemical, physical, and biological components of wastewater and other environmental samples that are required by regulations under the CWA. Specific CWA examples of where these analytical methods show up include: (1) applications for NPDES permits, (2) sampling or other reports required under NPDES permits, (3) other requests for quantitative or qualitative effluent data under the NPDES regulations, (4) State CWA 401 certifications and (5) sampling and analysis required under EPA's General Pre-Treatment Regulations for Existing and New Sources of Pollution 40 CFR 136.1 and 40 CFR 403.12(b)(5)(v). EPA indicated the final changes were designed to increase flexibility for the regulated community, improve data quality, and update CWA methods to keep current with technology advances and analytical methods science. Final rules can be found here: https://www.epa.gov/cwa-methods/methods-update-rule-2016	Sean Rolland
Office of Enforcement and Compliance Assurance (OECA)			
Select Non-Rulemaking Efforts & Guidance			
2012, 2014, and 2016 Final and Preliminary Effluent Guidelines Program Plan	2012 Final: Sept. 16, 2014 2014 Preliminary: Sept. 16, 2014 Comment Period: Closed Nov. 17, 2014 ACWA filed comments: Nov. 17, 2014 2014 Final: Aug. 4, 2015 2016 Preliminary Proposed: June 27, 2016 Comment Deadline: July 27, 2016 Expected: TBD 2017	ACWA filed comments in November 2014 on EPA's Final 2012 and Preliminary 2014 Effluent Guidelines Program Plan. The EPA released the final plan for 2014 on August 4, 2015. On June 27, 2016, EPA released the Preliminary 2016 Effluent Guidelines Program Plan. See more on the Plans here: http://water.epa.gov/scitech/wastetech/guide/304m/index.cfm	Patrick McGuire
Other Policy Developments			
EPA Memo on Considerations for the Development of Multijurisdictional TMDLs	Draft: Mar. 22, 2012 ACWA Comments: May 11, 2012 Final Expected: 2015	Memorandum is intended to provide key considerations for TMDL practitioners concerning challenges specific to the development of multijurisdictional TMDLs.	Julian Gonzalez
EPA Memo on Considerations for Revising and Withdrawing TMDLs	Draft: Mar. 22, 2012 ACWA Comments: May 11, 2012 Final Expected: 2015	Memorandum identifies circumstances involving withdrawing a TMDL or revising and re-submitting a TMDL to EPA, as well as those situations that would not be considered TMDL revisions.	Julian Gonzalez
Assumable Waters Subcommittee	Meeting 1: Oct. 6-7, 2015 Meeting 2: December 1-2, 2015 Meeting 3: March 15-17, 2016 Meeting 4: June 7-9, 2016 Meeting 5: October 2016 Meeting 6: December 2016 Finalized Recommendations Expected: February 2017	The Assumable Waters Subcommittee has been convened under the National Advisory Council for Environmental Policy and Technology (NACEPT) to provide advice and recommendations on how the EPA can best clarify which waters a state or tribe assumes permitting responsibility for under an approved Clean Water Act (CWA) section 404 program. CWA Section 404 establishes a program to regulate the discharge of dredge and fill material into waters of the United States. Currently the U.S. Army Corps of administers the program in 48 states. The CWA allows states and tribes to assume the administration of the 404(g) program. No tribes and only two states have assumed these permitting responsibilities to date. The committee has met 6 times and is due for a final in person meeting. In 12/2016 ACWA, ECOS, ASWM issued jointly authored letter to USACOE concerning the likelihood of the subcommittee not reaching a consensus due to differences of opinion held by USACOE.	Julian Gonzalez

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<p>A Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program ("303(d) Vision")</p>	<p>EPA/States calls & meetings on draft vision and goals: Feb. - June 2012 Draft Released: July 2012 ACWA Letter of Support: Oct. 9, 2012 Final: December 2013 Implementation calls & meetings: Spring 2014 - Present</p>	<p>As the TMDL program has matured, EPA is looking towards its future. Some of the areas the Agency plans to explore are: conceptualization, evaluation, and delivery of additional/alternative CWA 303(d) program performance measures to better measure development; policies regarding the pace of TMDL development; and exploration of the implications of adopting other TMDL metrics. This Vision was the focal point of an April 2013 workshop. Following an additional round of state feedback, EPA shared key elements of the final Vision at ACWA's Annual Meeting in August 2013. EPA released final version in Dec. 2013 here: https://www.epa.gov/tmdl/new-vision-cwa-303d-program-updated-framework-implementing-cwa-303d-program-responsibilities. ACWA continues to advance the six vision goals with regular calls and webinars.</p>	<p>Julian Gonzalez</p>
<p>Other Policy Developments, cont.</p>			
<p>EPA Office of Research and Development (ORD) Hydraulic Fracturing Study</p>	<p>Progress Report: Dec. 21, 2012 Draft Report: June 4, 2015 Final Report Issued: Dec 2016</p>	<p>EPA ORD has been developing a study on the potential environmental and human health implications of hydraulic fracturing with special emphasis on the relationship between hydraulic fracturing and drinking water resources. On June 4, 2015, a draft assessment was released by the agency. The study will be finalized after review by the Science Advisory Board and public review and comment. The Federal Register Notice with information on the SAB review and how to comment on the draft assessment was published on June 5, 2015: https://federalregister.gov/a/2015-13674. The Final Report, as well as companion statements and summaries, was published in December 2016 and is available here: https://www.epa.gov/hfstudy</p>	<p>Julian Gonzalez</p>