

**FY 2016-2017 EXTERNAL COMMENTS AND RESPONSE TO COMMENTS**

Submitted March 23, 2015 by:  
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Comment from State, Tribe, or Other Stakeholder	Commenter(s)	Location in Draft Guidance	NPM Response	Action Taken in Final Guidance
<b>Issue Area: General Comments</b>				
<p><i>ACWA appreciates the opportunity to review and provide feedback on the NPM Guidance. We also greatly appreciate EPA's efforts to improve and streamline the process, including implementing a two-year cycle. However the process is still cumbersome and difficult to navigate for effective review and feedback. In previous cycles, the Agency often merely acknowledged the comment and did not provide a substantive answer in the subsequent response document. Going forward, ACWA encourages EPA to provide more meaningful responses to co-regulator comments.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>General Comment</i></p>		
<p><i>ACWA questions the value for states in participating in the development of these national targets, or in meeting them, as</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>General Comment</i></p>		

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<i>doing so requires time and resources, however states do not directly benefit from the work (e.g., the targets do not serve as the basis for disbursement of grant funds.)</i>				
<i>ACWA is not providing comments on many of the regionally-specific portions of the NPM Guidance. ACWA encourages EPA to work directly with states in the affected regions for changes with impacts specific to their regions.</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>General Comment</i>		
<b>Issue Area: Providing Safe and Sustainable Water Resources and Infrastructure</b>				
<i>ACWA wishes to stress the need for continued investment of resources for the core Clean Water Act (CWA) programs. The success of the CWA programs relies on continued investment in the basic program elements of the CWA.</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>General Comment</i>		
<i>As stated in the NPM Guidance, recent emergencies and large scale-contamination events have highlighted the need to raise awareness of risks to drinking water. Along these lines, ACWA was and continues to be closely involved in the development and promotion of a Toolkit entitled "Opportunities To Protect</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>Section II-C, p. 14</i>		

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<p><i>Drinking Water Sources And Advance Watershed Goals Through The Clean Water Act”, and is also working with EPA’s Source Water Collaborative to promote “A Call to Action: A Recommitment To Assessing And Protecting Sources Of Drinking Water.”</i></p>				
<p><i>With respect to integrated wastewater and stormwater planning, ACWA is generally supportive of this effort, but also recognizes it has resource implications. It would be helpful if EPA committed resources to assist a few of the interested states with developing an integrated permit that could serve as a model for other states.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section II-C, p.14 &amp; Section III-C-1-a-iv, pp.50-51</i></p>		
<p><b>Issue Area: Assuring High Quality and Accessible Water Information</b></p>				
<p><i>ACWA urges EPA to include in the final Office of Water NPM Guidance a clear reference to the E-Enterprise for the Environment initiative between states and the Agency. We ask the Office of Water to include language regarding how E-Enterprise concepts are being incorporated into the Office’s work, to explicitly</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>General Comment</i></p>		

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<p><i>recognize that states need flexibility to adjust their work commitments to incorporate E-Enterprise aligned activities, and to discuss that states may use categorical grant dollars to advance E-Enterprise projects. We also ask the Office of Water to provide examples in the final NPM Guidance of E-Enterprise aligned work it is undertaking.</i></p>				
<p><b>Issue Area: Climate Change</b></p>				
<p><i>States generally agree that climate variability could have significant impacts on water resources. EPA however must recognize the difficulty for many states to engage in dialogue on the risks/concerns when framed in the context of a discussion on “Climate Change.”</i>  <i>ACWA encourages EPA to engage in a dialogue with state water quality managers and staff to further discuss implementation of EPA climate initiatives in the water program.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-A-3, p. 24</i></p>		
<p><i>With respect to EPA’s goal to work with state governments to operationalize climate-related adjustments to water programs,</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-A-3, p. 24</i></p>		

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<p><i>including considering climate change impacts in triennial reviews of state water quality standards, ACWA does not believe that water quality standards programs should intentionally “operationalize” climate change any more than capturing effects of climate change (e.g., ocean acidification, drought or poverty) during implementation of those standards. In addition, altering water quality standards to account for climate change could make effects of climate change more difficult to document and track.</i></p>				
<p><b>Issue Area: Improving Water Quality on a Watershed Basis</b></p>				
<p><i>As EPA mentions, the 303(d) Program Vision reflects a successful EPA-state collaborative effort that first began in 2011. ACWA has facilitated numerous EPA-state discussions over the years in furtherance of the Vision and enjoys a strong working relationship with EPA in this arena. ACWA looks forward to continued discussion as states move forward with implementation of the six Vision goals. Overall, the treatment of</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-C-1-a-iii, p. 46-47 &amp; Appendix A, WQ-27, WQ-28</i></p>		

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<p><i>WQ-27 and WQ-28 in the NPM Guidance is consistent with the EPA-state dialogue on those measures. However, with respect to the national target for WQ-27, it is unclear how EPA arrived at the 8% figure for the national target. ACWA also encourages EPA to provide added clarity in the Final NPM Guidance on whether this means collectively 8% of <u>all</u> <u>priority</u> waters. ACWA also encourages EPA to engage with states early and often on the use of catchments in these and other performance measures.</i></p>				
<p><i>ACWA and states look forward to working with EPA on an alternative approach to using 2002 baselines to document progress on SP-10, SP-11 and SP-12 for the FY18 EPA Strategic Plan.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-C-1-c, p. 54-55 &amp; Appendix A, SP-10, 11&amp; 12</i></p>		
<p><i>ACWA encourages EPA-state dialogue on the distinction between SP-13 and WQ-29. SP-13 uses probabilistic monitoring results as a long-term budget measure, while WQ-29 is strictly an indicator measure from statistical surveys. This distinction</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Appendix A, SP-13 &amp; WQ-29</i></p>		

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<p><i>should be made clear in the final NPM Guidance. ACWA also cautions that the SP-13 measure of “no statistically significant increase in the percentage of waters rated ‘poor’” could have the unintended consequence of misrepresenting state progress in improving overall water quality. As states sample more waters through probabilistic surveys they will ultimately identify additional impairments. Thus it may translate under SP-13 as an increase in the percentage of waters with impairments, but may actually be an artifact of a sampling strategy.</i></p>				
<p><i>ACWA encourages further collaboration between, and cross-pollination with, the EPA-state 303(d) Program Vision efforts and the Healthy Watersheds Initiative.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-C-1-b, p. 53-54</i></p>		
<p><i>ACWA supports a new strategic planning initiative for the NPDES program. The program continues to grow while resources have remained static or even dwindled. EPA should strive to design regulations and permits that are readily implementable, which will</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-C-1-a-iv, p. 48</i></p>		

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<i>result in increased compliance rates and improved environmental outcomes.</i>				
<i>Close EPA-state collaboration is critical to the development of any new priority permit framework. The Office of Wastewater Management should consider reviewing Category 5 of the draft New Enforcement Framework for a mechanism that addresses state, regional, national, sector, or community prioritization. EPA should not consider the new measure as a Key Performance Indicator (KPI) until the Agency pilots the new measure for at least one year.</i>	Association of Clean Water Administrators (ACWA)	Section III-C-1-a-iv, p. 49		
<i>EPA should work with states to identify and mitigate all barriers/challenges associated with incorporating green infrastructure in state Clean Water Act programs.</i>	Association of Clean Water Administrators (ACWA)	Section III-C-1-a-iv, p. 49; and Section II-C, p. 13 & 15		
<i>EPA highlights the need to work with states on the long-standing issues related to overflows and bypasses, but makes no mention of the terms “mixing zone” or “blending.” EPA should address</i>	Association of Clean Water Administrators (ACWA)	Section III-C-1-a-iv, p. 50		



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<i>this oversight in the final NPM Guidance. Likewise, EPA should make “mixing zone” and “blending” issues a priority in FY16-17.</i>				
<i>States remain concerned that the Agency is pushing for more prescriptive NPDES MOAs than is necessary. EPA Headquarters should closely monitor individual state feedback on this issue.</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>Section III-C-1-a-iv, p. 51</i>		
<i>With regards to measures WQ-1a and WQ-1d, ACWA supports the addition of measurement WQ-1d, but remains concerned that EPA is only measuring numeric nutrient criteria (NNC) for TN and TP, and only for “all waters within the state.” ACWA encourages EPA to revise these measures to allow states to receive credit for <u>all</u> NNC efforts, e.g., if the criteria cover a subset of waters within a state, or if a state adopts chlorophyll-a (Chl-a) criteria. This more iterative approach is consistent with the March 2011 Stoner Framework, and one can model TN and TP reductions needed to meet Chl-a criteria. Additionally, it is unclear how EPA will treat joint criteria based on TN/TP and a</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>Section III-C-1-a-i, p. 42-43; and Appendix A, WQ-01a &amp; WQ-01d; see also Section II-D, p. 17</i>		

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<p><i>response variable, especially if an exceedance of a response variable is required before assessment of TN or TP is triggered. ACWA also requests that the Agency provide clarity on whether EPA approval of a state's NNC is required in order to receive credit for WQ-1a. Finally, ACWA urges EPA to consider establishing a measure targeted at reductions in nutrient loading/export, and to allow for more flexibility in addressing nutrient pollution, especially since NNC do not necessarily equate to improved water quality, while nutrient reductions do.</i></p>				
<b>Issue Area: Grants Management</b>				
<p><i>When EPA issues a new or updated order (e.g., 5700.5A1) that could affect a current grantee, EPA should consider emailing the new or revised order to all EPA grantees.</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-A-5, p. 26</i></p>		
<b>Issue Area: The Gulf of Mexico</b>				
<p><i>Regarding GM-02, ACWA supports the promotion of environmental education and outreach to the residents of the Gulf of Mexico. However, this should not be solely</i></p>	<p><i>Association of Clean Water Administrators (ACWA)</i></p>	<p><i>Section III-D-3, p. 65-66; and Appendix A, GM-02</i></p>		

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<i>focused on the value of reducing nutrient loadings in the Mississippi River. A holistic framework that includes the effects of wetland restoration and hydrological alterations, especially in the southern coastal states, is important.</i>				
<i>Regarding GM-03, ACWA encourages EPA to include in this measure restrictions on development in the coastal areas.</i>	<i>Association of Clean Water Administrators (ACWA)</i>	<i>Section III-D-3, p. 65-66; and Appendix A, GM-03</i>		