



## **Strengthening Collaboration with the Office of Water: Feedback from ACWA Members**

To foster a stronger partnership with the Office of Water and respond to Assistant Administrator (AA) Nominee Kramer's invitation to bring forward concerns directly, the Association of Clean Water Administrators (ACWA) asked its leadership to answer a series of questions related to EPA oversight of state Clean Water Act (CWA) implementation.

While ACWA members generally report productive working relationships with their EPA regional counterparts, some states requested anonymity for their responses. The intent is not to conduct a "gotcha" exercise but to surface persistent challenges in the spirit of cooperation, with the goal of improving the federal-state partnership.

### **Water Quality Standards Review**

#### ***Missed Deadlines***

Multiple states cited significant delays in EPA's review and action on water quality standards submitted during triennial reviews. In several cases, reviews exceeded the 60- or 90-day regulatory deadlines by wide margins—taking as long as 196 or even 816 days. Some states are still awaiting decisions, which impedes their ability to incorporate new standards into permits and, in at least one case, has delayed considerations for nutrient trading.

#### ***Timely Input***

States expressed concern that meaningful EPA feedback is often provided only after a state's regulatory process is well underway—for example, after public notice of workshops or commission hearings—making it difficult to adjust without disrupting the process. States emphasized that EPA is regularly informed of proposed changes through workplans, meetings, and status updates. The lack of early engagement undermines efficient regulation development and implementation.

#### ***Clarity of Feedback***

Several states noted confusion over whether EPA's feedback represents legal requirements, strong recommendations, or individual reviewer preferences. Greater clarity on this distinction would improve state capacity to finalize water quality standards confidently and efficiently.

For example, one state's effort to update antidegradation procedures was derailed when EPA raised concerns unrelated to the proposed changes (e.g., CAFO language), implying a potential disapproval and federal promulgation. This led the state to abandon the update. Despite significant efforts to revamp the UAA process and improve submissions, the lack of clear criteria from EPA continues to cause delays—ultimately postponing needed updates to NPDES permits and water quality improvements.

## **Section 303(d) Listing and TMDL Approvals**

### ***Approval Delays***

States reported frequent delays in the informal review and formal approval of TMDLs. One example cited an 84-day delay in approving an E. coli TMDL, well beyond the 30-day deadline. Although some states provide EPA with draft models before public notice to expedite the process, delays still persist. For instance, approval of dissolved oxygen TMDLs took 66 to 92 days and required multiple submittals and notices due to late feedback.

Delays not only stall permit implementation but also disrupt the alignment of watershed plans and TMDLs, creating mismatches in load reduction targets that must be resolved later.

### ***Overlisting and Methodological Disputes***

Several states raised concerns about EPA overlisting waters on the 303(d) list, often using data or standards the states argue are either outdated, of questionable quality, or not applicable. For example, one state's 2020 list was submitted in June 2022, but EPA did not begin review until September 2023—483 days later. EPA ultimately added seven segments based on standards the state contends do not apply. The state's objections and new supporting data were dismissed by EPA as untimely, even though they addressed EPA's proposed rationale directly.

While states appreciate that EPA acted timely on the 2022 303(d) list, past overlistings consumed state resources and delayed permitting and legal negotiations.

### ***ATTAINS Database Challenges***

Several states cited difficulties working within the rigid structure of EPA's ATTAINS database. One state emphasized that required information had already been submitted through its own systems in a compliant format, yet EPA requested fixes within ATTAINS, treating the corrections as a revised submission. The resulting 180-day review period exceeded statutory limits and caused frustration, as ATTAINS is not a legal requirement.

States recommended that EPA empower regional staff to make more changes directly in the system and reduce reliance on headquarters support to expedite list approvals.

### ***Permitting Program Oversight (PQR)***

One state raised issues with EPA's Permit Quality Review (PQR) process, stating that EPA frequently cites guidance documents—not enforceable laws or regulations—when identifying “deficiencies.” This creates confusion, as states are not required to follow non-binding guidance. For example, under 40 CFR 122.44(d)(1)(i), states must consider the reasonable potential for pollutants to exceed water quality standards—but EPA critiques often stem from expectations found only in the 1991 Technical Support Document, not the rule itself.

A few states believe the PQR process has shifted toward a paperwork exercise rather than a constructive, collaborative review aimed at improving water quality. That said, some states did report positive outcomes from the process, noting improvements in permit quality.

### ***Nonpoint Source Programs and Reporting Burden***

Although not a primary focus of the survey, one state highlighted inefficiencies in EPA’s 319 grant reporting. The need to report load reductions across multiple platforms (grant workplans, annual reports, GRTS) creates redundancy. Additionally, strict adherence to the contents of 9-element plans can limit flexibility in funding worthwhile nonpoint source reduction projects.

### **Conclusion**

ACWA appreciates the opportunity to share these concerns and hopes they are received in the constructive spirit intended. Our goal is to identify areas where state-EPA coordination can be improved—particularly in terms of timeliness, clarity, and collaboration—to enhance implementation of the Clean Water Act and ultimately improve water quality outcomes across the nation.

