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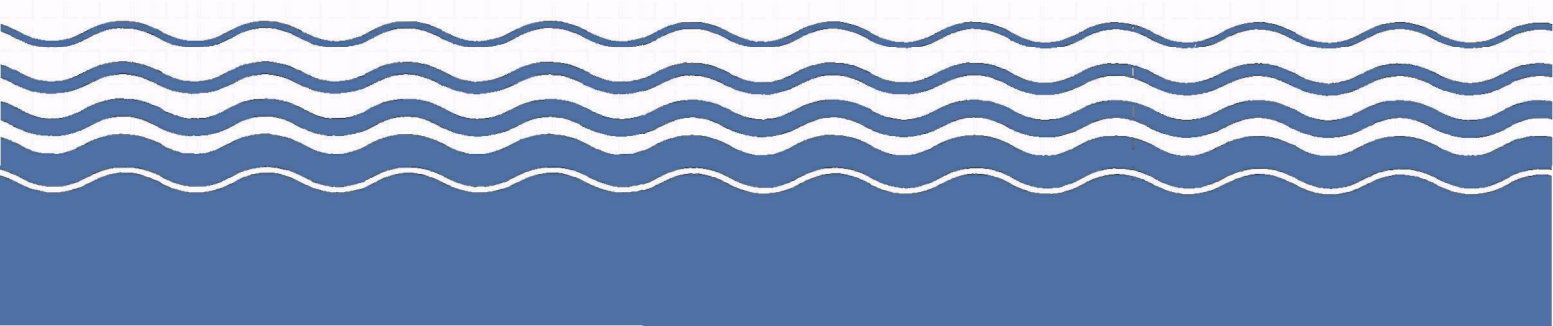
EPA

Supplemental Water Quality Management Program Guidance for FY 81



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D C 20460

JUN 9 1980

Office of Water
Program Operations

TO: Participants in the Water Quality Management (WQM) Program

Attached is the final Supplemental Water Quality Management Guidance for FY 81. The purpose of this supplemental guidance is to consolidate and clarify the national guidance for the water quality management (WQM) program, which EPA administers under sections 106, 208 and 303(e) of the Clean Water Act. The guidance discusses the goals, objectives, priorities, and philosophy of the WQM program for FY 81. It also presents an overview of the problem-solving process for water quality and a management framework for the WQM portion of the process. Although the potential audience for the guidance is quite broad, it is primarily for the use of State and areawide participants in the WQM program and the EPA Regional Office project officers.

The Supplemental Guidance is part of the Water Planning Division's annual policy development process. The guidance package is published each year to incorporate and reflect changes, updates and additions. The FY 81 supplemental guidance builds and expands upon the FY 80 guidance package (September 1979), particularly in the areas of work program guidance and policy memoranda. To facilitate its use changes are underlined in Chapter IV and V.

As always, we welcome your comments and suggestions on the content, format, and approach of the guidance package. Please address your comments to David Ziegler, Water Planning Division (WH-554), 401 M Street, S.W., Washington, D.C., 20460.

Sincerely yours,

Henry L. Longest, II
Deputy Assistant Administrator for
Water Program Operations

WATER QUALITY MANAGEMENT PROGRAM

SUPPLEMENTAL GUIDANCE FOR FY 81

U.S. Environmental Protection Agency

Office of Water Program Operations

Water Planning Division

June, 1980

TABLE OF CONTENTS

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

Section A -- Funding

Section B -- Program Requirements and Criteria

Section C -- Coordination

SUPPLEMENTAL WQM GUIDANCE FOR FY 81

I. INTRODUCTION

A. Purpose

The purpose of this supplemental guidance is to consolidate and clarify the national guidance for the water quality management (WQM) program, which EPA administers under sections 106, 208, and 303(e) of the Clean Water Act. The FY 81 supplemental guidance builds and expands upon the FY 80 guidance package (September 1979), particularly in the areas of work program guidance and policy memoranda.

Two current Water Planning Division (WPD) publications relate to this guidance. The first is the WPD work program [1]*, which the Division uses to program, monitor, and evaluate activities and to coordinate with other offices. The second is the FY 81 Baseline WQM Strategy [2], which sets forth long-range WQM program direction.

B. Contents

Sections II and III of this guidance discuss the goals, objectives, priorities, and philosophy of the WQM program for FY 81. Section IV presents an overview of the problem-solving process for water quality -- of which the WQM program is a component -- and section V presents a management framework for the WQM portion of the process. Section VI contains the series of WQM policy memoranda.

C. The Problem-Solving Process

The discussion of the problem-solving process for water quality problems, section IV, shows how the various aspects of the water quality program fit together. In the past, persons working in water pollution control programs have often lost sight of the overall problem-solving process because of such factors as administrative burden, fragmented legislation, and professional and organizational specialization.

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* This guidance makes frequent references to legislation, EPA regulations, guidance documents, and other related documents. For convenience, a list of references is attached. Where the text refers to one of these documents, the number of the reference appears in brackets. Where the reference is to a WQM policy memorandum in Section VI, the number of the memo is noted, e.g., A-2.

The description of the problem-solving process touches on many programs for the prevention of water pollution--permits, enforcement, construction grants, planning, nonpoint source control, monitoring, evaluation, and others. The description presents an overview and contains over 40 references to other more-detailed documents.

D. The Management Framework

The discussion of the WQM program in section V places the program in a management perspective, focusing on State and areawide management procedures, and identifying required outputs. The purpose is to promote active, rather than reactive, management of the program at all levels. It stresses the importance of a strong inter-governmental partnership for the success of the WQM program.

The management framework is a streamlined management process which should minimize paperwork and duplication of effort. Management of the program is a straight-forward process which, under the WQM regulations [3], dovetails with other environmental efforts under the State/EPA Agreements.

II. GOALS, PRIORITIES, AND OBJECTIVES FOR WATER QUALITY MANAGEMENT

The WQM program is one of several EPA programs contributing to the achievement of the water quality goals of the Clean Water Act [4], including "protection and propagation of fish, shellfish, and wildlife and provision of recreation in and on the water by 1983 wherever attainable . . . ." Specifically for the WQM program, the goal is:

> To assist State and local agencies and the public develop and implement a decision-making process for solving point and nonpoint source pollution problems to meet the water quality goals of the Act.

Management Priorities. The three highest management priorities for the WQM program in FY 81 and beyond are improved program management, completion of the 208 grant program, and building and transferring an information base for nonpoint source control.

EPA will continue several management activities initiated in FY 79 and 80, such as the WQM needs assessment, and pursue new activities which will also result in improved program management. Some of the new activities are a review of the 106 program, nationwide follow-up on evaluation of EPA Regional Office management, better integration and coordination through State/EPA Agreements, and development of a management information system.

In FY 81 and beyond, State and areawide agencies will move from nonpoint source planning into management of nonpoint source control programs. At the same time, EPA will shift its emphasis from individual grant programs (e.g., 208) into a consolidated process which combines all aspects of the overall problem-solving process. The WQM program has made much progress in cleaning up the nation's waters and, in FY 81-83, will continue to fill gaps in 208 plans, build up the information base, and move to implementation of controls. Given adequate funding, EPA anticipates completion of the 208 grant program in FY 83. But to ensure that WQM activities continue after FY 83, EPA is already beginning to develop recommendations for a restructured WQM program, closely coordinated with the upcoming 1990 construction grants strategy [5].

Finally, the WQM program will avoid duplication and save time and expense for States and local governments by providing reliable information from one area to another and helping adapt this information to local situations. Information transfer will not be limited to technical information, but will also include institutional and financial aspects.

Oversight of the information transfer efforts is the responsibility of the Water Planning Division, which will take several actions during FY 81 to enhance the prospects for successful transfer: (1) develop and maintain an information system for handling transferable technical information, (2) prepare summaries of the results of the problem-solving projects, (3) utilize contract resources for ground water, agriculture nonpoint source, urban storm runoff, advanced waste treatment, and financial management to help transfer information to agencies with specific needs, (4) hold meetings for WQM participants to discuss transferable results, and (5) conduct courses throughout the country. EPA anticipates that transfer of information will increase steadily in FY 81-83.

State Program Priorities. The status of the 106 program grants is becoming increasingly important. Funding from the Congress is down from past levels and, in some States, State funding is also dwindling. Inflation is also causing problems. While funding is sagging, State program needs are increasing, since they have several new responsibilities, such as toxic and nonpoint source controls and spill prevention.

For the most complete information on State program priorities, readers should see the EPA Operating Year Guidance for FY 81 (February 1980) [6], the FY 81 Baseline WQM Strategy [2], and WQM policy memorandum A-2.

National 208 Priorities. The national priorities for 208 grants are nonpoint source problems, with the greatest emphasis on urban storm runoff, agriculture, and ground water contamination. In addition, EPA will use 208 grants to address the lack of financial and managerial techniques to implement WQM plans. The WQM program also supports Regional, State, or local nonpoint source priorities which differ from the national priorities if they will lead to implementation and have a major impact on water quality. For details, see the FY 81 Baseline WQM Strategy [2].

Public Participation. Since the start of the WQM program, public participation has been a high priority. All aspects of the program are governed by the recently revised public participation regulations [7] and the WQM regulations [3]. In FY 81, EPA will gear public participation activities to specific problem-solving projects and implementation activities that State, areawide, and local agencies undertake. Thus, public participation efforts will be project- and problem-specific, and will help to assure that technical solutions to nonpoint source problems, for example, are understood and have local support and political acceptance for implementation.

III. WATER QUALITY MANAGEMENT PHILOSOPHY

As the WQM program has evolved since FY 73, its philosophy has changed as a result of external events and experience within the program. Below are three important directions for the WQM philosophy in FY 81:

A. Emphasis on Implementation and Problem-Solving

From the start of the WQM program, EPA has emphasized the importance of plan implementation, so that taxpayers would realize their investment in WQM planning in water quality improvements. In FY 81, EPA will continue to place more emphasis on problem-solving through its 106 and 208 grant policies.

EPA urges all the participants in the WQM program to move beyond planning to the implementation of controls since planning, per se, does not improve water quality. One way to accomplish this objective is to use State 106 grants to support administration of State regulatory programs or cost-sharing programs for nonpoint source problems, since States may not use 208 funds for such purposes.

At the same time, EPA is directing 208 funds toward problem-solving projects designed to fill gaps in WQM plans and identify cost-effective controls for nonpoint source problems. For example, EPA is funding urban runoff projects in its Nationwide Urban Runoff Program (NURP). When these projects have tested best management practices (BMPs) for urban runoff, States and areawides can use the results to help solve similar problems in other urban areas.

For agriculture, EPA is cooperating with USDA on funding and managing several types of pilot projects, including Model Implementation Projects (MIPs) and Agricultural Conservation Program (ACP) special projects in which States or local agencies test BMPs in different types and sizes of agricultural watersheds. EPA also participates in an experimental implementation program for nonpoint sources, the 1980 Rural Clean Water Program (RCWP), administered by the Agricultural Stabilization and Conservation Service (ASCS/USDA) in coordination with other USDA agencies and EPA. The RCWP provides cost-sharing for owners and operators of rural lands to implement BMPs which are consistent with the WQM planning process.

In the area of ground water, WPD has contracted with a national team of ground water technical experts to assist in the development of EPA and WQM ground water strategies. These experts also assist in the development and management of 208 ground water prototype projects to develop BMPs, State management programs, and aquifer protection programs.

In addition, EPA will participate through section 208 grants in about 20 financial management assistance projects, which will provide WQM planning efforts specialized assistance, develop from the projects a set of implementation techniques, and make these techniques available to a broad spectrum of local government officials.

B. Changing Role of State/EPA Agreements

The requirement that the States and EPA Regions prepare annual State/EPA Agreements first appeared in the WQM regulations in 1975 [8]. Under those regulations, the Agreements covered the detail, timing, content, and sequence of State WQM planning.

Beginning with the development of FY 81 State/EPA Agreements, States and Regions will consider all EPA programs for inclusion, not just those under the Clean Water Act (CWA), Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act (SDWA), as required in FY 80. Areawide agencies, interstate commissions, and the public participate in the Agreement process. To support the SEA concept, it is WQM policy that both 106 and 208 priorities for FY 81 grants be covered in the FY 81 State/EPA Agreements.

The Agreements are management tools to maximize the effectiveness of resources for implementing solutions to environmental problems. They respond to EPA priorities and the States' problem assessments and strategies. For more information, see the Handbook for FY 81 State/EPA Agreements [9].

C. Roles of State, Areawide, and Local Agencies

During the first phase of the WQM program (FY 73-75), the States and designated areawide agencies conducted three separate programs under sections 106, 208, and 303(e) of the Act. With 106 grants, the States managed their work programs and did basin planning under section 303(e). Meanwhile, 149 areawide agencies received 208 grants in FY 74-75 for three-year comprehensive areawide planning.

After a court decision in 1975 [10] opened up 208 funding to the States, and after two revisions of the WQM regulations, EPA has now integrated the requirements of 106, 208 and 303(e) into a single State and areawide process. The new regulations [3] set forth a streamlined program, with the State at its focus. Each Federal, State, or local unit of government performs those activities which it is best-suited to handle.

Regarding relationships among States and designated areawide agencies, the regulations call for a strong State management role, but at the same time they maintain a link between EPA and the areawide agencies. The States set the policy framework, and have a major role in the review of areawide priorities and work programs. They must, however, consider areawide priorities in the policy framework. EPA approves areawide work programs, with consideration of State comments, and generally funds the areawides directly. Any conflicts that arise between States and areawide agencies are resolved by conflict resolution procedures which the regulations require.

Local governments play a major role in both planning and implementing controls, since they support the areawide agencies with staff and resources and since they often are the agencies designated to manage selected control programs. Therefore, States must ensure that local governments participate in problem identification, priority setting, and plan development so that necessary local support for control is there when needed.

EDITOR'S NOTE

Much of the material in the next two chapters of the Supplemental WQM Guidance for FY 81 is substantially the same as the FY 80 Supplemental Guidance (September 21, 1979). To facilitate understanding of the changes, staff has underlined all other-than-editorial changes in the text.

IV. SUMMARY OF THE WQM PROBLEM-SOLVING PROCESS

This portion of the guidance is a summary of the overall problem-solving process of which the WQM program is a part. In keeping with the Agency's emphasis on program integration, the summary describes a broad program incorporating many authorities and sources of funds. Each section makes reference to other more-detailed documents.

The problem-solving process consists of four elements: defining problems, developing solutions, implementing solutions, and evaluating results. Federal, State, and local funds all support the problem-solving process. Two major sources of Federal funding are section 106 and 208 grants under the WQM program.

A. Defining Problems

The first step in the problem-solving process, problem definition, consists of setting water quality goals and standards, assessing the causes of water quality problems, and setting priorities for action.

1. Water Quality Standards (WQS)

Water quality standards are one major basis for judging the existence of water quality problems. The States set WQS, based on EPA guidance, and EPA approves them. The States must review the standards, and revise them if necessary, at least once every three years. The WQS consist of use designations, numerical criteria to support the use, and a Statewide anti-degradation statement.

Some current concerns in the water quality standards area are (1) application of water quality criteria for toxic pollutants in water quality standards, (2) evaluation of WQS attainability based on environmental, technological and economic factors; (3) flow maintenance and mixing zone policies; and (4) implementation of anti-degradation provisions in State WQS.

For more guidance on water quality standards and related topics, see references [11] through [16]. The Advance Notice of Proposed Rulemaking of July, 1978, [12] discusses many WQS issues in detail.

2. Problem Assessment

Problem assessment is a process of EPA, States, areawide agencies, and others to identify water quality problems and connect them with the causes of pollution. The assessment process identifies existing water quality problems and future problems by anticipating population, land use, and economic changes.

A major part of the assessment process is water quality monitoring, which is a cooperative effort of EPA and other Federal, State, areawide, and local agencies. Monitoring must meet the specific needs of a State or local area, must be useful, cost-effective, non-duplicative, and must build on existing information.

The first step in the problem assessment process is to define problems. Are beneficial uses of streams being denied? Are criteria not being met? Are there other indications of problems, such as unsightly conditions, fish kills, severe erosion, or strong odors? The second step is then to identify the pollutant or pollutants causing the problem, usually through new data collection and review of existing data.

Identification of the sources of the pollutants is the third step in the process. Some tools for identifying sources are discharger inventories, self-monitoring reports from NPDES permits, and on-site surveys or inspections. Then, the final step in the assessment process is to determine what is controllable. Pollution from some sources (e.g., benthic deposits) is difficult, if not impossible, to control.

Another aspect of the assessment process is the determination whether base-level technology for point sources and feasible controls on nonpoint sources will allow streams to meet water quality standards in the present and future. If a stream will meet standards, it is classified "effluent limited." If it won't meet standards without additional controls, it is classified "water quality limited." These classifications later affect the calculations of point source effluent limits.

For further guidance on monitoring and the problem assessment process, see references [17] through [24].

3. Identification of Priority Problems

Since resources to solve water quality problems are limited, the agencies involved must set priorities. The priorities should flow logically from the problem assessments.

For construction of municipal facilities, each State has a priority system which governs preparation of a five-year construction priority list. For other problem areas, such as nonpoint sources, urban runoff, wetlands protection, toxics hot spots, or ground water protection, the States, areawide agencies, and EPA negotiate long-term priorities in the process of developing State strategies, work programs, and State/EPA Agreements.

The States, areawides, and EPA may also address priorities for institutional, financial, or other problems delaying water quality improvements. Sources of information for such problems include institutional assessments in certified/approved WQM plans and management agency evaluations which the States conduct.

The States should also develop priorities for the development of total maximum daily loads (TMDLs) and waste load allocations (WLAs) for water quality limited segments. These priorities depend in part on where advanced waste treatment decisions are unresolved.

For further guidance on priority determinations, see references [25] through [28].

B. Developing Solutions

The second step in the problem-solving process, developing solutions, is essentially the planning phase. It includes development of permit conditions and planning for both point and nonpoint source controls.

1. Waste Load Allocations (WLAs)

For all water quality limited stream segments, the States must develop waste load allocations in order of priority. WLAs allocate the maximum daily load for particular pollutants among the dischargers on the segments. They serve as the basis of point source permit conditions on these segments.

One aspect of the allocations is point source/nonpoint source tradeoffs in situations involving nutrient loads and downstream euthrophication. In some instances, application of best management practices (BMPs) for nonpoint sources can make possible less-expensive treatment for point sources, while maintaining in-stream beneficial uses.

Recently, EPA has scrutinized, at Congressional request, existing waste load allocations for municipal dischargers and has found, in many instances, that they lack a firm technical and water quality basis. All WLAs for municipal and industrial discharges must accurately represent the maximum loads that the stream can assimilate without impairment of the designated or proposed beneficial uses. The Agency has issued technical guidance pertaining to development of WLAs for publicly-owned treatment works [B-8]. For more information on modeling and waste load allocations, see the list of publications in reference [29].

2. Permit Conditions

With the information from preceding steps, the next step in the problem-solving process is to set permit conditions. NPDES permits for point sources under section 402 of the Clean Water Act typically include effluent limits for various pollutants, expressed in concentrations or total loads; schedules of compliance for dischargers not already in compliance; and requirements for self-monitoring and reporting. In the case of publicly-owned treatment works, the permit also includes requirements for residuals disposal under section 405 of the Act.

EPA, or the State if it has permit authority, calculates NPDES permit conditions for industry based on EPA's effluent guidelines and any applicable waste load allocations. Permits vary depending on the type of industry, whether it is a new or existing source, and whether it is on a water quality limited segment. Permits for POTW's are calculated similarly, based on EPA's definition of "best practicable waste treatment technology" (BPWTT). Point sources which don't lend themselves to traditional end-of-pipe treatment, such as discharges from storm sewers, receive general NPDES permits. The permit conditions may include required management practices, general guidelines, or monitoring and reporting requirements.

In addition to the NPDES permits which the States or EPA administer under the CWA, EPA also administers dredge and fill permits under section 404 and is developing permit programs for underground injection (SDWA) and hazardous waste disposal (RCRA). To streamline the permit process, EPA has recently promulgated regulations [32] for integration of surface, underground, residual, dredge and fill, and hazardous permits for point sources. For more information, see references [30] through [33].

3. Planning for Municipal Systems

At the project level, owners/operators of publicly-owned municipal treatment works conduct necessary planning with Step 1 construction grants. The Step 1 facility plans -- which include public participation -- investigate the cost-effectiveness of various engineering alternatives, select the most cost-effective options, and investigate other technical matters such as preteatment requirements, user chargers, operations and maintenance costs, industrial cost recovery, and infiltration/inflow. Facility plans may cover large, complex geographic regions or small rural communities and may involve very large flows (e.g., 1 BGD) or small systems covering only a single town or community.

State and areawide WQM planning agencies, also with public participation, look at municipal waste treatment problems from a broader perspective -- financially, geographically, technologically, and institutionally. In the initial phases of the 208 grant program, from FY 74-79, many areawide agencies used 208 grants to study areawide treatment issues for municipal point sources. Now, in the continuing planning phase (FY 80 and beyond) 208 grants are directed toward nonpoint source planning, but the States and designated areawide agencies still have an interest in planning for treatment works. Several 208 grants EPA awarded in FY 79 have multi-year periods of performance, and the States may use other-than-208 funds to support areawide planning activities.

Fiscal/financial management analysis is an important part of planning for sewage treatment facilities. Structural controls are expensive, and must be economically feasible in the communities they serve. Recent EPA thrusts in planning for municipal systems -- land treatment, water conservation, innovative/alternative technology -- are partially intended to mitigate the monetary costs of treatment or to advance technology which will eventually be more economical. Water Planning Division is also providing financial management technical assistance to selected State and areawide agencies through a contract.

For further guidance on planning for municipal systems, see references [34] through [42].

4. Nonpoint Source Control Requirements

In accordance with their problem assessments and nonpoint source control priorities, States and areawide agencies develop best management practices (BMPs) for controlling nonpoint source pollution. BMPs are defined as the most practical means of controlling or reducing pollution from nonpoint sources, considering technological, economic, and institutional factors. They may include structural controls, nonstructural controls, or a combination.

Fiscal/financial and management analysis is also an important part of BMP development, since BMPs will not be accepted, and may be counterproductive, if they are too burdensome on the person or entity required to implement them.

Although cost-effective BMPs exist for some problems, such as construction runoff and failing septic systems, BMPs for such problems as urban storm runoff, ground water contamination, and agricultural runoff are not fully tested. For this reason, designated State and areawide WQM planning agencies are testing BMPs in prototype or pilot projects. When complete, these prototypes will provide a technological basis for control which EPA can then transfer to States and areawides nationwide.

The prototype projects also test the financial, institutional, and political aspects of controls. State, areawide, and local planners work with local elected officials and the public on institutional arrangements, public support, and sources of funding for selected controls.

For more information on BMPs, see references [43] through [63] and WQM Policy Memorandum B-3.

C. Implementing Solutions

This part of the problem-solving process involves agreements on duties, incorporation of problem-solving into budget processes, administration of regulatory programs, and other related efforts.

1. Agreements on Institutional Responsibility

The first step for State and areawide agencies in implementing solutions to water quality problems is developing agreements on institutional responsibility. State and areawide WQM plans identify agencies with authority and capability to implement all aspects of the plan, and the Governor designates these agencies as WQM management agencies. The planning agency and the management agency develop a long-term agreement detailing the steps each agency will take to implement the plan, and a schedule for doing so.

Generally, different institutions handle different problems. Cities, counties, special service districts, or interjurisdictional compact agencies normally handle municipal waste treatment problems, while soil conservation districts or county governments are more likely to handle rural nonpoint source problems.

For more information on management agencies, see references [64] and [65].

2. State and Local Budget Processes

Incorporating management of water quality in State and local budgets is another basic implementation activity. State and local management agencies must develop systematic approaches to financial management and budgeting. Ad hoc requests for funding, or over-reliance on Federal funding, are not suitable long-term substitutes for effective financial planning.

State and areawide planning agencies incorporate fiscal/financial planning in their WQM plans. They identify cost-effective solutions to problems, determine the costs to local taxpayers, develop sound plans to defray the costs, and attempt to motivate community action to implement the plan.

In response to the need to improve financial planning and analysis for water quality management at all levels of government, the Water Planning Division has instituted a Financial Management Assistance Project (FMAP) to provide State, areawide, and local agencies with tools and techniques to finance implementation.

For further information on the FMAP and this subject area, see references [66] through [70].

3. Permit Issuance and Enforcement

As discussed above, EPA issues different types of permits (surface discharge, residuals disposal, dredge and fill, underground injection, and hazardous waste disposal) which are being integrated to steamline the permit process. Some States and local governments also have permit programs.

Enforcement is generally the responsibility of the permit-issuing agency, and is a critical part of implementation. As with other aspects of the process, it is necessary to set enforcement priorities. As a rule, enforcement aims first at chronic violators, major discharges, and potential dischargers of toxic substances.

For further information on permit issuance and enforcement, see references [30] through [33].

4. Other Regulatory and Non-regulatory Programs

In addition to permit-based regulatory programs for point sources, there are other regulatory and non-regulatory approaches for nonpoint sources. Such programs are generally State or local initiatives, and many States and local governments are planning such programs through the WQM planning process.

For EPA to approve a nonpoint source regulatory program in a WQM plan, such as a permit, license, or bond program, it must include authority to control the problem, monitor activity, and enforce the program. Also, the designated management agency must have adequate expertise, staff, funding, and authority.

In the absence of regulatory programs, voluntary compliance programs may work (or be already working) to control pollution. Such programs usually depend on education, citizen involvement, and self-monitoring. For EPA to approve a non-regulatory program in a WQM plan, the Regional Administrator must determine that it will result in implementation of needed controls and achievement of water quality goals.

For more information on these regulatory and non-regulatory programs, see WQM Policy Memorandum B-2 and references [71] and [72].

5. Structural Solutions

Although there are many non-structural solutions to water quality problems, in some instances construction is appropriate. Since 1973, EPA's construction grants program has awarded $32.5 billion in grants for construction of treatment plants, interceptors, sewers, and appurtenances (including projected FY 80 awards of 4.50 billion). The 1977 Amendments to the Clean Water Act [4] provided an incentive for innovative and alternative treatment works, by raising the Federal share of the cost of such projects from 75 to 85 percent. According to section 201(g) of the Act, innovative and alternative processes are those which provide for reclamation and reuse of water, otherwise eliminate the discharge of pollutants, or utilize recycling, land treatment, new or improved methods of waste treatment managment, and the confined disposal of pollutants. For more details on the distinction between innovative and alternative processes, see reference [75].

There are, in addition to treatment plants and sewers and various systems for small communities, other structural solutions: detention basins for urban storm runoff, recharge systems for ground water, irrigation systems which reclaim wastewater, and erosion control barriers. In general, States, local agencies, or private concerns must fund these structures themselves, or obtain funding from outside EPA.

If a structural solution involves multiple purposes, one of which is wastewater treatment, part of its costs may be eligible for a construction grant. The purposes most often combined with wastewater treatment are urban drainage, reclamation of effluent, and disposal of refuse.

For more information on structural solutions to water quality problems, see references [73] through [75].

6. Cost-Sharing for Agriculture

EPA is currently participating in a new demonstration implementation program for controlling rural nonpoint source pollution, the 1980 Rural Clean Water Program (RCWP). Congress appropriated $50 million in FY 80 for an experimental RCWP, similar to the program called for in section 208(j) of the Act. A RCWP appropriation of $20 million is requested in the President's Budget for FY 81.

Under the 1980 RCWP, USDA is cost-sharing the application of BMPs by owners or operators of rural lands. Some States, such as Wisconsin, Iowa, and Minnesota, also have their own cost-sharing programs. The RCWP projects are of a three-to-ten year duration and are administered by the Agricultural Stabilization and Conservation Service (ASCS), USDA.

For more information on cost-sharing for agriculture, see references [76] through [79].

7. Sanctions and Incentives

Where other attempts to solve water quality problems have failed, EPA or a State may apply sanctions. Sanctions may be against a single discharger, a local or areawide agency, or the State itself.

If a municipal or industrial discharger violates its NPDES permit, the resulting sanction is permit enforcement. Dischargers may be subject to both civil and criminal penalties for polluting. (Note that EPA or the States will not usually impose sanctions against municipalities that are too far down the priority list to receive construction grants to correct their problems.)

If a management agency designated to implement a certified/approved WQM plan fails to carry out its agreed-upon duties, the State may withdraw the management agency designation and transfer the authority to another agency or the State itself. In extreme cases, EPA could rule any agency not deserving of public trust, which would exclude it from all Federal funding.

Finally, if a Regional Administrator feels a State is not implementing its certified and approved WQM plan, he or she may rule that the State's continuing planning process is inadequate and withhold State assistance or revoke its NPDES delegation, if any.

Some incentives exist as possible alternatives to sanctions. One example is the "payment in lieu of a fine," where a discharger/operator faced with a fine may contribute to the solution of an environmental problem in lieu of, or in addition to, a fine. Other examples are Small Business Asministration (SBA) loans; accelerated tax write-offs for industrial/commercial pollution control; awards and honors; and grants from discretionary funds as rewards for superior performance.

For more information on sanctions and incentives, see references [80] and [81].

D. Evaluating Progress

Evaluation establishes the feedback loop in the problem-solving process to keep management, planning, and implementation moving in the right direction. Results of various evaluations affect State and areawide budgets, work plans, and detailed problem-solving activities. Theoretically, evaluation is the comparison of actual performance or status to an idealized system model. Thus, evaluation depends on an understanding of what is required and desirable.

Evaluation activities weave through the problem-solving process, and break down into four general areas: evaluation of outputs, water quality, trends, and institutional aspects.

1. Evaluating Outputs

The States, EPA, and others must evaluate permits, construction grants, WQM plans, facility plans, and other plans (such as State Implementation Plans for air quality) to ensure they are consistent with each other and with all relevant laws and regulations. EPA, the States, and areawide agencies should have procedures for evaluating such outputs, such as formal A-95 review, work groups, and task forces. Outputs must be consistent not only with the Clean Water Act, but also with Presidential directives and other major environmental legislation.* Many laws have build-in consistency requirements, such as the requirements of sections 176(c) and 316 of the Clean Air Act and sections 208(d) and (e) of the Clean Water Act.

Evaluation of construction outputs is an important aspect of the Construction Grants program. EPA has made arrangements with the Corps of Engineers to conduct inspections at construction sites and to evaluate plans and specs to ease the burden on EPA and provide expert evaluation of construction progress.

Also, the EPA Regions meet annually with the States and areawide agencies receiving section 208 grants to determine how all parties have performed against the commitments they made in their work plans and State/EPA Agreements. These reviews focus on completion of quantifiable outputs, and lead to mid-course corrections or adjustments to subsequent years' work plans.

2. Evaluating Water Quality

The ultimate test of any environmental program is whether it meets its overall objectives of environmental protection. For water programs, this means protecting or improving water quality in such a way that problems aren't simply transferred to other media -- the air and the land.

Through monitoring and other observations, EPA, the States, areawide agencies, local agencies, and the public continuously evaluate water quality. Is water quality improving, staying the

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*For example: Clean Air Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, Toxic Substances Control Act, National Environmental Policy Act, Wild and Scenic Rivers Act.

same, or going downhill? Are numerical criteria being met? Are designated uses being met, or are they denied? Are designated stream uses justified -- or are they too optimistic or pessimistic? Is stream biology healthy? Is ground water being protected from overdrafting and contamination? Are residuals properly disposed of, recycled, or reused? And finally, where problems exist, what is causing them?

3. Evaluating Trends

Because pollution is a dynamic problem, trend analysis is a key part of evaluation. A key variable in trend analysis is population and economic growth or decline. It is possible that, in some instances, population and economic growth could cancel out improvements in water quality which the problem-solving process achieved.

Through their planning processes, State, areawide, and local agencies evaluate the impacts of population/economic growth on domestic waste generation, industrial waste generation, sediment production and transer, pollution from nutrients and pesticides, ground cover, land use, water demand and withdrawals, or other factors. One trend which they monitor is the build-up of toxic pollutants in the environment and in aquatic life, particularly fish and shellfish.

4. Evaluating Institutional Aspects

When assessing the cause of water pollution, it is sometimes impossible to separate the technical problems from the related institutional and political problems. Thus, agencies must evaluate the institutional aspects of their programs. Some mechanisms for doing this are WQM plans, the mid-year reviews of States and areawide agencies, and the management agency evaluations which the States perform. (See State and Areawide Management of the WQM Process, below).

The WQM regulations [3] set up criteria for making institutional evaluations. Some important considerations are:

Do management agencies have adequate authority to control pollution? Do they have adequate fiscal/financial expertise? Are staffing, training, and salary scales adequate? Do the agencies perform adequate monitoring and enforcement? Are activities coordinated? Do the responsible agencies understand the laws and regulations? Is EPA guidance adequate? Is the agency encouraging and providing for public participation, is the public involvement broad-based, and does the public support the agency's actions?

Questions such as these set the tone for institutional evaluations. Depending on the answers, the agencies involved may take corrective action in the areas of management, planning, legislation, and training.

V. STATE & AREAWIDE MANAGEMENT OF THE WQM PROCESS

The problem-solving process depends on the coordinated efforts of many programs and agencies for its success. This section of the guidance recommends management procedures for the WQM portions of the process, that is, those activities the States and areawide agencies conduct under sections 106, 208, and 303(e) of the Act and the WQM regulations.*

This portion of the guidance augments the regulations with descriptions of management procedures, identification of required outputs, and references to detailed guidance. The thrust of this portion of the guidance is to promote active, rather than reactive, management of the WQM program on the part of all participants.

Many of the activities the States and areawide agencies undertake each year relate to refinement of the WQM plans, which these agencies prepared during initial planning in FY 74 and beyond with section 208 and other funds. Thus, the plans are a key aspect of the management process, intertwined throughout the process. Data from the initial WQM plans serve as a base from which to identify additional needs and collect additional data. Furthermore, the institutional and financial components of the plans lay the groundwork for implementation of plan recommendations.

The State/areawide management process for the WQM program breaks down into seven annual components, discussed in detail immediately below. The seven components are:

(1) assessing water quality problems

(2) developing the five-year State strategy

(3) developing the WQM portion of the draft State/EPA Agreement

(4) developing detailed State and areawide work programs

(5) developing the WQM portion of the final State/EPA Agreement

(6) implementing the work program and the State/EPA Agreement

(7) evaluating progress

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*Although this guidance is geared toward State and areawide agencies and their management of 106 and 208 grants, it also applies generally to interstate commissions which receive grants under section 106. The interstate commissions participate in problem assessment, develop work programs and implement them, evaluate their progress, and participate in the development of State/EPA Agreements for the States in their basins or areas. For details on the role of the interstate commissions, see the WQM regulations (35.1540) and WQM Policy Memorandum B-1. The affected interstate commissions are NEIWPCC, ISC, DRBC, INCOPOT, SRBC, and ORSANCO.

EPA is making every effort to manage the WQM program on a rational annual cycle, geared toward obligations of 106 and 208 grants early each fiscal year, with no carry-over of unobligated funds past the fourth quarter.

To promote the concept of a predictable, annual planning cycle for the WQM program, the guidance below contains certain deadlines and recommendations on the timing of various steps. The relationships of the steps appear in the WQM time-line, Figure 1.

A. Assessing Water Quality Problems

1. Discussion

The first task in State and areawide management of the WQM program is to establish a process for assessing water quality problems. Agencies must assess both existing conditions and anticipated conditions resulting from changes in land use, population, and the economy. The assessment process includes both point and nonpoint sources.

The WQM regulations [3] require no hard outputs from the assessment process except for the biennial 305(b) report, but the process builds a basis for subsequent work on State/EPA Agreements, State strategies, and work programs. Each State/EPA Agreement should include a brief problem statement [9].

Assessing water quality problems is generally a State responsibility, although EPA also has a role, especially in the monitoring and assessment of toxic pollutants. Areawide agencies also may conduct portions of the assessment with the approval of the Regional Administrator. State monitoring programs provide most of the data. Some States have begun to employ environmental indices to assist with the critical assessment functions of ranking segments and discerning trends.

In keeping with EPA's emphasis on integration, State and areawide agencies should attempt to integrate their various problem assessments and review data from all relevant sources, for example, approved WQM plans and Clean Lakes Assessments (CWA*), the Open Dump Inventory (RCRA*), and the Surface Impoundment Assessment (SDWA*).

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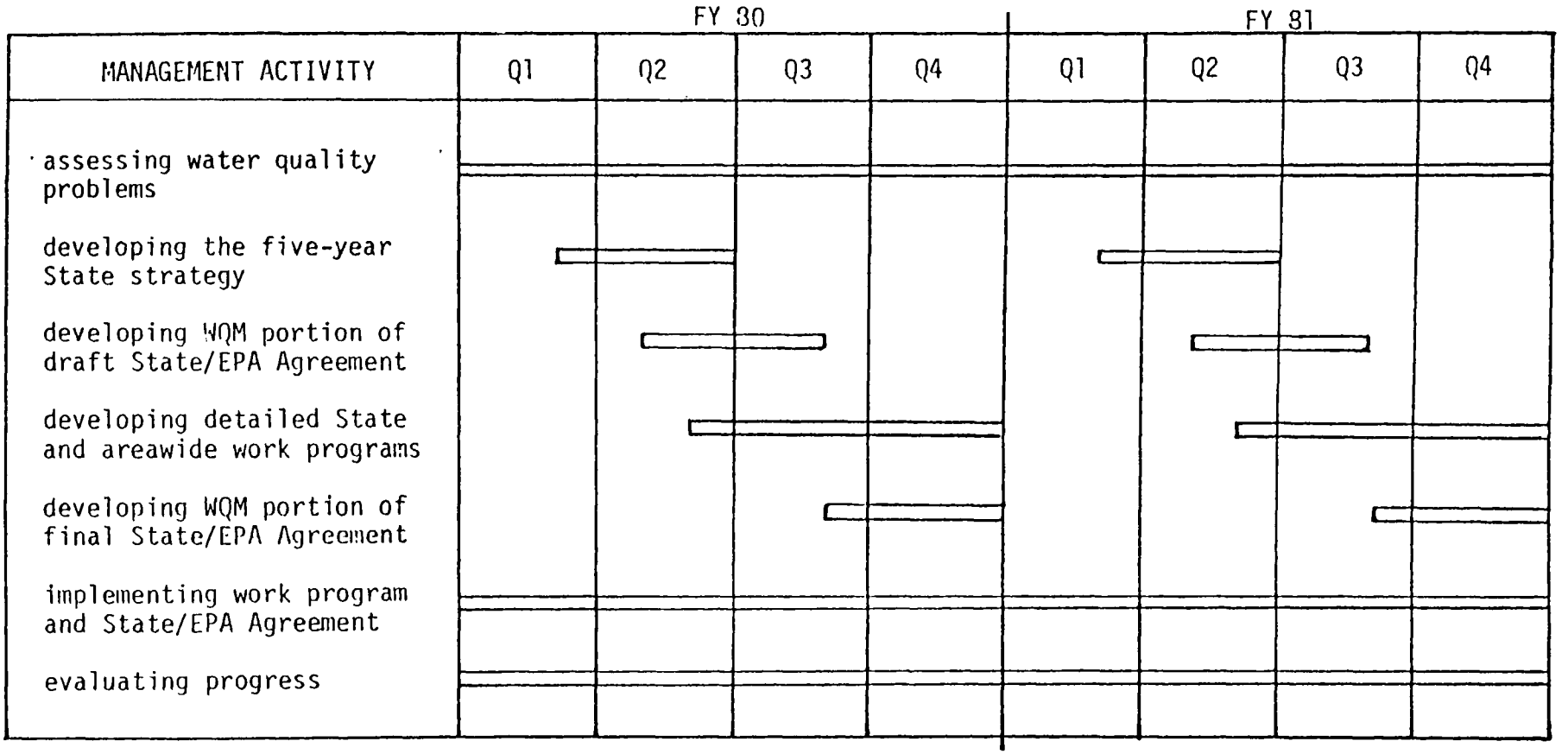
*CWA -- Clean Water Act
RCRA -- Resource Conservation and Recovery Act
SDWA -- Safe Drinking Water Act

FIGURE I

RECOMMENDED WQM MANAGEMENT TIME-LINE



2. Recommended Management Procedures

The States and areawide agencies should manage the problem assessment process in accordance with the regulations and appropriate guidance. Each State should review EPA assessment guidance, work with the Regional Office to agree on review procedures and assistance, analyze the data and develop the State position on where problems exist, and review the State's position with the Region. Recommended steps for the process are:

- o The States should review EPA Headquarters guidance on assessments [17-24] and additional guidance the Regional Offices provide for the particular Region or State.

- o The States should work with the Regional Office to agree on assessment process review procedures, including format, timing, and annual v. biennial requirements. They should also agree on necessary technical assistance the Regions will provide.

- o States should analyze available data and develop information on attainability of beneficial uses; appropriateness of existing standards and stream classifications; sources of pollution; projected loads; and current and projected abatement. Based on these findings, the States may make recommendations for further assessment work in upcoming work programs.

- o The States should review the results of their assessments with the Regions and agree upon desired changes in methods, procedures, or content.

- o Areawide agencies should, after negotiations with the States and EPA, conduct assessment activities crucial to their area.

3. Required Outputs

STATE OUTPUT -- biennial 305(b) report in even-numbered years

B. Developing the Five-Year State Strategy

1. Discussion

According to the WQM regulations [3], each State must prepare and undate annually a strategy for controlling pollution from point and nonpoint sources. Long-term strategies are an essential component of the State WQM programs, where they drive subsequent efforts on work programs and State/EPA Agreements.

The strategies include environmental goals for a five-year period, priority water quality problems, estimated costs of activities to control the problems, identification of responsible entities, and a summary of anticipated funding. They should address the problems and priorities which certified/approved WQM plans have identified, other problems the State has identified in its problem assessment process, and any needs related to problems with management agency performance.

A major emphasis of the strategy should be on solving specific environmental problems in specific locations, consistent with EPA guidance and current EPA policy expressed in the WQM FY 81 Baseline Strategy [2]. The strategies should also discuss long-range objectives for those areas the States fund with their 106 grants -- such as monitoring, enforcement, permitting, and management -- and explain how these activities contribute to the solutions of priority problems.

The States must involve areawide agencies and interested publics in the development of the strategies, and the Regional Administrators will use the State strategies in their reviews of areawide work programs. Also, in accordance with EPA's emphasis on integration, the Regional Administrator has flexibility to allow a State to develop an integrated water quality/drinking water/solid waste strategy or more comprehensive integrated strategy.

2. Recommended Management Procedures

The State strategy, like the problem assessment process, is primarily a State responsibility, although the areawide agencies and others have important inputs. The recommended process for developing the State strategies is for the States to review EPA criteria and guidance with the Regions to agree on expectations, analyze alternative strategies, select a State strategy, and -- throughout the process -- involve areawide agencies and the public.

The specific recommended management steps are:

- The States should review the WQM regulations and additional guidance the Regions provide for the particular Region or State. The States should work with the Regional Offices to agree on review procedures, timing, the roles of the various parties, and what constitutes approval.

- o Public participation: The States must inform the public about the proposed goals and scope of the State strategy early in the process of its development and schedule opportunities to consult with the public and the State WQM advisory committee. Consultation with the public could occur simultaneously with advisory committee consultation, or it could be accomplished by a separate meeting or other less-formal means.

- o The States should identify possible alternative strategies and -- to the extent time and resources allow -- analyze them for cost-effectiveness, funding needs, consistency with national strategies, and other factors. The States should then select strategies and submit them to the Regions.

3. Required Outputs

STATE OUTPUT -- annual five-year State strategy with public responsiveness summary

-- summary of areawide involvement and comments

C. Developing the WQM Portion of the Draft State/EPA Agreement

1. Discussion

With consideration for the problem assessment process, and based on their five-year strategies, each State should begin to develop draft State/EPA Agreements and WQM work programs by February or March for the following fiscal year. Development of draft State/EPA Agreements and WQM work programs is simultaneous, with much interaction between the two efforts. The final State/EPA Agreement includes the State's programs for its 106 and 208 grants.

In keeping with EPA's policy of conducting the 106 and 208 grant programs on a rational annual cycle with grant awards early in the fiscal year and no carry-over of unobligated funds, State/EPA Agreements must address the use of funds for the same fiscal year the Agreements cover. For example, FY 81 Agreements must include plans and priorities for the use of FY 81 208 grants.

The States must involve the areawide agencies and interested members of the public in the preparation of the draft Agreements and submit summaries of their participation with the drafts. The areawide agencies may also comment directly to EPA. The draft Agreement usually sets forth high-priority problems, goals, and objectives for the upcoming year and serves as a basis for negotiation.

According to the Administrator's Guidance for FY 81 State/EPA Agreements, contained in the EPA Operating Year Guidance for FY 81 [9], all EPA programs are candidates for coverage by EPA and the States when they negotiate the State/EPA Agreement priorities.

It is important to note that the WQM program is just one of many programs the Agreements cover. States, areawide agencies, and the EPA Regional Offices should consider opportunities for integration involving the WQM program, as well as possibilities for conflicts, during this stage of their management process.

2. Recommended Management Procedures

Through the State's designated State/EPA Agreement contract, the State WQM staff should work with the EPA Region to assure inclusion of priority WQM problems in the Agreement. State WQM staff should then help the State SEA contact develop and review the WQM portion of the draft Agreement. The State WQM staff should involve the areawide agencies and the public in the process.

Some specific recommended steps follow:

- Through the State contact person, the State WQM staff should agree with the EPA Region on reporting, accounting, timing, responsibility, commitments, public participation, and other details for those items in the State/EPA Agreement relating to the WQM program.

- The States should develop and implement procedures for obtaining areawide agency input into the draft Agreements in accordance with the regulations and EPA guidance [9].

- Public Participation: The State must inform the public of proposed goals and scope of the Agreement early in the process of its development and schedule opportunities to consult with the State WQM advisory committee and the public on the contents of the draft.

- Finally, the State should develop a position based on the State strategy (i.e., a framework of priorities for a one-year period) and prepare a draft State/EPA Agreement.

3. Required Outputs

STATE OUTPUTS -- information to assist public participation in State/EPA Agreement development

-- summary of areawide involvement, comments, and State responses with the draft Agreement

-- public responsiveness summary

-- draft State/EPA Agreement

D. Developing Detailed State and Areawide Work Programs

1. Discussion

General. States and areawide agencies develop their detailed work programs on approximately the same schedule as their State/EPA Agreements. The WQM regulations [3] call for draft WQM work programs on June 1, and final work programs September 1. Conceptually, the WQM work program has close ties to both the State/EPA Agreement and the State Five-Year Strategy. Although these documents have different purposes and audiences, together they represent the whole WQM program within a State.

State and areawide work programs should stress quantifiable objectives and outputs so that EPA, the public, and the grantees themselves can accurately assess their progress. The work programs should also reflect the problem-solving emphasis of the WQM program, especially for section 208 grants. It is EPA policy, starting in FY 80, that 106 and 208 grants will be based on actual needs, rather than arbitrary formulas. (For more details on funding policies, see the WQM Strategy [2] and WQM Policy Memo A-2.)

With respect to section 208 grants, Water Planning Division has recently adopted a policy of reviewing each Region's needs for 208 funds prior to allocating funds to the Region. For FY 81 grants, the Division will review draft 208 grant concepts from the Regions in about July, 1980, after the States and EPA and others have developed the draft FY 81 State/EPA Agreements. Headquarters review will be prompt, so as not to delay final Agreements. The Headquarters review involves brief project proposals or descriptions, and focuses more on overall approaches and strategies than the merits of individual projects. These proposals are the basis for developing more detailed work programs.

The work programs should not be overly long. In the past, the tendency of many grantees has been to provide too much detail, obscuring the important objectives and outputs. The revised WQM regulations [3] represent a significant simplification over the old regulations [8] in terms of the number of documents they require each year and the detail they must contain.

Water Planning Division is developing more detailed guidance for WQM work programs, which will become an appendix to this Supplemental WQM Guidance. The Division anticipates a draft of the advisory-nature guidance in May 1980.

Scope. State work programs cover the 16 program elements found in 40 CFR 1513-5(c), although they need not necessarily be organized along the same lines. The State work program covers all activities the State will fund with 106 and 208 grants, as well as Clean Lakes grants (section 314) and permitting actions they are funding with 205(g) grants. To give the State and areawide agencies an idea how much 106 and 208 funds are available, the WQM FY 81 Baseline Strategy [2] provides funding targets which they should use to determine the scope of their work program.

Areawide work programs, which are separate from State work programs, cover only water quality management activities under section 208, unless the State passes through 106, 205(g), or other funds to the areawide agency to perform specific tasks.

Contents. According to the regulations [3], work programs must contain a summary of the current year's program including the status of outputs planned for the year, and an identification of outputs the agency will produce in the upcoming year. For each output, the work program must show the cost, the sources of funds, important milestones, the name of the responsible agency or department, and certain other information the regulations require.

The Regions and States have flexibility in deciding on work program formats and on how much detail they need to manage the WQM program effectively. For example, although the regulations do not require it, many Regions will continue to require separate work programs for each problem-solving project they support with 208 grants. However, State and areawide work programs should assume more of a problem orientation than a program orientation in keeping with the WQM problem-solving strategy. The upcoming work program guidance will discuss, among other topics, effective formats for work programs.

Public participation activities must be integrated into WQM planning activities and reflected in the work program for each activity. However, a separate public participation work program must also be included. This work program must provide for an advisory committee which meets the requirements of 40 CFR 25.7 and 35.1507 and must contain all of the information required in 40 CFR 25.11 [7]. The public participation work program has four major objectives:

-- to assure the development of a program for involving the public in substantive and technical policy decisions

-- to assure that the program is ready to begin at the onset of the grant-supported activity

-- to assist EPA and the public to determine whether the total public participation effort is adequate

-- to inform the public of their specific opportunities to be involved in decision-making

The public participation work program should state, in clear language, the decisions which will be made in the course of the planning process, with a schedule which indicates, at least approximately, when the decisions will be made. The schedule should indicate the types of opportunities the public will have to contribute their views, e.g., public hearings, opportunities to make written comments, and public meetings.

In general, public participation programs should not focus on general education, but should be directed toward informing and involving the public in specific decisions.

Approval. By regulation, EPA may not award a 106, 208, or 314 grant to any agency without an approved work program including a public participation work program. Conditional work program approvals are allowed, however.

2. Recommended Management Procedures

The management procedures for work program development involve coordination of State and areawide work programs, comparison of past performance and proposed actions, and involvement of technical experts in work program formulation. The recommended steps in the management process are:

o Each State should notify the areawide agencies of the elements of the State's proposed program early in the process of work program development, generally by April 1. Likewise,

the areawide agencies should inform the States of the proposed elements of their work programs to give the States an opportunity to review and comment.

- The States and areawides should consider Regional Office comments concerning problems, priorities, activities, and funding. They should also factor in the results of the Water Planning Division (HQ) review of 208 funding needs before finalizing their work programs.

- The States and areawides should develop internal work program review procedures and work with each other and the EPA Region to agree on expectations for review, updating, approval, and timing.

- The States and areawides should consider variation between the previous year's work program commitments and actual progress and address these variations during work program development.

- Public Participation: The States and areawides must provide the public with information about the proposed goals and scope of the work program early in the process of its development, consult with the public and the agency's advisory group, hold a public meeting on the draft work program, prepare a responsiveness summary describing the agency's action with respect to public comments, and distribute the responsiveness summary to the public.

- The States and areawides should identify alternative outputs, in keeping with the State strategy and State/EPA Agreement and -- to the extent that time and resources allow -- analyze the alternatives for cost-effectiveness, resource commitments, conflict potential, relationship to national priorities, and other factors. Based on this analysis, the agencies should select the most appropriate outputs.

- States and areawides should request the assistance of national technical assistance contractors for work program development as appropriate.

- States and areawides should submit their draft work programs to the Regions by June 1, or another date the Regional Administrator agrees to. See <u>required outputs</u>, below.

Required Outputs

STATE OUTPUTS
- policy framework for areawides, approximately April 1
- comments on draft areawide work programs to EPA and areawide agencies within 45 days of receipt
- draft work program to Regional Administrator by June 1 (or other date suitable to RA) with responsiveness summaries
- modified work programs, as necessary, after conditional approval
- conflict resolution procedures for FY 81 work program per 35.1517 (b)
- final work program, September 1
- distribute public participation work program to the public

AREAWIDE OUTPUTS
- proposed work program elements to State early in the process of work program development
- draft work programs to State and Region by June 1 (or other date suitable to RA) with responsiveness summaries
- modified work programs, as necessary, after conditional approval
- final work program, September 1
- distribute public participation work program to the public

E. Developing the WQM Portions of the Final State/EPA Agreements

1. Discussion

The final State/EPA Agreements represent commitments of the States and EPA to perform environmental management activities including the WQM program and other programs. According to EPA guidance [9], the final Agreements should include (1) an executive summary, if the Agreements are longer than 25 pages, (2) a clear identification of priority problems based on problem assessments and multi-year strategies, (3) annual grant work plans (work programs (4) documentation of tasks and resources needed to meet priority commitments, (5) a description of public involvement, and (6) a procedure for management tracking.

After the final Agreement is signed, the Regions and States cooperate on preparing grant applications. The Agreements may constitute the narrative portions of the State's WQM grant applications (i.e., for 106, 208, and 314 grants) to save paperwork and repetitious applications.

The areawide agencies generally apply directly to EPA for grants after the State/EPA Agreements are signed. In some States, however, the States pass funds through to the areawides, eliminating the need for them to apply to EPA.

2. Recommended Management Procedures

The management procedures for developing final State/EPA Agreements are straightforward. The States and areawides review EPA comments on draft Agreements and work programs, negotiate changes, finalize the Agreements, and work with the Regions on grant applications. Recommended management steps are:

- State and areawide agencies should review EPA Regional Office comments on the draft State/EPA Agreements and work programs and negotiate changes from the drafts.

- Public Participation: States and areawide agencies should consult with their advisory groups and the public if changes envisioned in the final Agreements will depart substantially from public comments on the draft.

- Based on negotiations and public participation, the States and EPA should finalize the Agreements and sign them.

- States and areawides then work with the Regional Office to develop procedures for grant application, administration, and evaluation to the extent these topics are not covered in the Agreements themselves.

- States and areawides prepare grant applications in accordance with the agreed-upon procedures.

3. Required Outputs

STATE OUTPUTS	-- final State/EPA Agreement
	-- grant application based on signed Agreements
AREAWIDE OUTPUTS	-- grant applications based on signed Agreements

F. Implementing the Work Programs and State/EPA Agreements

1. Discussion

Once State/EPA Agreements are signed, program participants implement the Agreements and the work programs they include. EPA, as well as the States and areawides, is responsible for carrying out its commitments under the Agreements.

Implementing the work programs and Agreements amounts to implementing the problem-solving process described in section IV, above. States, areawide agencies, and local units of government participate in planning, permitting, and enforcement, construction grants, water quality standards, waste load allocations, nonpoint source management, wetlands protection, monitoring, training, lake restoration, and other efforts.

The specific priorities of the 208-funded portions of the WQM program are solving the problems identified in the initial WQM plans, particularly urban runoff, agriculture, and ground water pollution. The overall program goal is to help States and local governments manage the decision-making process to meet the water quality goals of the Act.

To assist State and areawide agencies, the Water Planning Division has contracted with expert consultant consortia in the areas of urban runoff, advanced waste treatment, ground water protection, and fiscal/financial management. These contractors assist EPA in the areas of work program development, project management, and evaluation of results.

EPA is placing increasing emphasis on the use of site-specific nonpoint source prototype projects to develop a data base which all the States and areawides can use to solve their nonpoint source problems. (For further discussion of this topic, see the WQM FY 81 Baseline Strategy [2].) Thus, the State and areawide agencies both manage prototype projects in such areas as urban runoff, ground water protection, and agricultural nonpoint source control, and use the results of other prototype projects, which EPA provides, to solve problems.

2. Recommended Management Procedures

Management of this phase of the WQM program involves managing the flow of information and resources to and from the State and areawide agencies and the public. The States and areawides receive assistance from EPA and tap into EPA information exchange mechanisms. They also provide information useful to other agencies on control techniques and institutional aspects. The public participates in the various activities of the State and areawide agencies, providing feedback and participating in the decision-making process.

The recommended management procedures for implementing the work programs and State/EPA Agreements are:

- The States and areawides should identify assistance requirements, if they did not already do so in the State/EPA Agreements; review Regional operations manuals; and attend technical workshops which EPA organizes -- to the extent that time and resources allow.

- The States and areawides should tap EPA's information exchange mechanisms. They should use the information EPA provides to plan controls in their own areas, and provide EPA with information on their own projects which may be of use to others.

- Public participation in carrying out work programs and Agreements must be in accord with the public participation work program and any requirements in the Agreement. A public hearing must be held on draft WQM plans which are ready to enter the certification/approval process. A responsiveness summary must be prepared following the hearing and made available to the public.

- The States and areawides should take advantage of Regional Office and Headquarters technical assistance, especially the national experts under contract with Water Planning Division to provide assistance on urban runoff, ground water, waste treatment facilities, and fiscal/financial management.

- The States, with assistance from the Regional Offices, should manage a cost-effective monitoring program. The program should serve as a "floor" for all other actions, and is essential to the execution of State and areawide work programs.

3. Required Outputs

STATE OUTPUTS -- public hearings on draft WQM plan revisions*

-- draft plan revisions and public responsiveness summaries to EPA within 60 days of public hearings*

-- certification letter to Regional Administrator within 120 days of receipt of plan*

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*NOTE: This is not an annual requirement; this output is required only as plan revisions occur, as agreed upon in State and areawide work programs and State/EPA Agreements.

-- waste water treatment facility needs inventory and construction grant priority list; draft May 1, final July 15, each year

-- water quality standards review and revision, at least every three years

-- where appropriate, proposed RCWP projects, in priority order, to USDA

-- management agency letters of commitment, with WQM plan revisions as appropriate

AREAWIDE OUTPUTS

-- public hearings on draft WQM plan revisions*

-- draft plan revisions and public responsiveness summaries to EPA within 60 days of public hearings*

G. Evaluating Process

1. Discussion

Evaluation is a key part of the management of the WQM program. State and areawide agencies must evaluate the consistency of their actions with WQM plans, the adequacy of the State Continuing Planning Process, progress against work programs, performance of designated management agencies, and their own internal performance.

States and areawides should have a process to evaluate draft permits, construction grant applications, water quality standards revisions, and other plans for consistency with WQM plans. Consistency with State Implementation Plans (SIPs) for air pollution control is important, since section 316 of the Clean Air Act mandates consistency.

The State Continuing Planning Process description (CPP) required of each State is a relatively static document. However, the State should evaluate the CPP description to determine whether it needs to be changed to reflect changes in State or Federal laws, State organization, or State procedures for the WQM program.

State and areawide agencies participate in periodic evaluations with the Regional Offices of their progress against commitments in work programs. The regulations [3] call for a mid-year evaluation meeting to consider the need for mid-course corrections in current work programs or for adjustments to upcoming work programs. The mid-year evaluation must include a review of the agency's compliance with its public participation work program and the requirements of 40 CFR Part 25 [7], especially 25.12(a)(2).

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*See footnote, previous page

Given the WQM program's emphasis on implementation of controls for specific problems, evaluation of designated management agencies is a key component of a State's evaluation system. Management agency evaluation is a State responsibility, and should be included in work programs. Management agency evaluation should focus on certified and approved WQM plans and management agency letters of commitment. Where the Regional Office feels it necessary, it may also evaluate the performance of management agencies.

Finally, although the regulations do not require it, each State and areawide agency should conduct an internal evaluation to determine where to raise skills, improve efficiency, or change the distribution of resources. State or areawide advisory committees should play a key role in such internal evaluations.

To ensure that EPA's management of the WQM program effectively supports the activities of the State and areawide agencies, the Water Planning Division has recently initiated a WQM program review. The review will cover progress toward implementation of WQM plans, development of operational nonpoint source controls, and improved management of the 106 grants. It will provide a qualitative evaluation of Headquarters and Regional Office effectiveness, identify problems and issues, recommend alternative solutions, and disseminate information on problems, issues, and solutions to other Regions. A summary of the program review process and the criteria EPA will use are attached, in Appendix B.

2. Recommended Management Procedures

The recommended management procedures which the States and areawides should use in the evaluation area are:

- The State and areawide agencies should establish procedures in cooperation with the Regional Offices for evaluating draft permits, construction grant applications, water quality standards revisions, and other plans which affect them for consistency with certified/approved WQM plans.

- The States should from time to time assess the need for CPP revisions, identify the necessary changes, review them with the Regional Office, modify the CPP description as required, and obtain EPA approval.

- The States and areawide agencies should prepare for mid-year reviews by working with the Regions on timing and procedures for evaluation and by identifying schedule slippage and the reasons for it prior to the meetings. During the meetings, they should discuss recommendations for work plan revisions.

- With the EPA Regions, the States should formulate evaluation plans for designated management agencies and incorporate the plans into their work programs. The State should delegate activities as appropriate. When evaluations are made, the State should provide feedback to the management agencies and/or make recommendations to the Governor and the Regional Office to change a management agency designation, impose sanctions, or take other corrective action.

- The States and areawides should review internal performance, possibly through the use of individual performance contacts and similar management tools. The agencies should make internal recommendations for improvement through training, additional resources, or redefinition of duties. Advisory committees should have a major role in internal evaluations.

3. Required Outputs

STATE OUTPUTS	--	participation in mid-year evaluations with EPA Regional Office; modifications to work programs as appropriate
	--	CPP revisions, as appropriate
	--	management agency evaluations, as appropriate
AREAWIDE OUTPUTS	--	participation in mid-year evaluations with EPA Regional Office; modifications to work programs as appropriate.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

SECTION A -- FUNDING

WQM Policy Memorandum A-1

INTERIM GUIDANCE, MINIMUM STANDARDS FOR PROCUREMENT UNDER SECTION 208

[rescinded, see page iii]

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

SECTION A -- FUNDING

WQM Policy Memorandum A-2

FY 81 and 82 WQM Funding Policy --
Sections 106 and 208

I. Purpose

The purpose of this memorandum is to set forth FY 81 funding policies and procedures for grants to State, interstate and areawide agencies under sections 106 and 208 of the Clean Water Act. Also a preliminary schedule for FY 82 grant awards is presented.

II. Policy--106 Grants

The funding policies of the WQM program are based on several overall objectives--stewardship of grant funds, direction of funds to problem-solving efforts whenever possible, and integration and coordination of programs to the extent feasible. It is the general policy of the WQM program to allocate 106 and 208 funds on the basis of program needs and national priorities. For a more complete discussion of 106 and 208 objectives refer to the WQM FY 81 Baseline Strategy.

EPA will allocate FY 81 106 funds to the Regions using the formula in 40 CFR 35.553 (April 27, 1976). The WQM FY 81 Baseline Strategy provides target amounts from the formula for each State and interstate basin commission. These targets are neither entitlements nor commitments, but guidelines for the Regions and States to use in negotiating programs based on needs. To receive a 106 grant, each State must provide State funds at a level not less than the amount the State spent on its water pollution control program in 1971. Where the State has received a construction grants management delegation under section 205(g), it must contribute funds at a level not less than its contribution in 1977, unless there is an across-the-board cut of all the State's environmental programs. If a State does not contribute its required share of program support funds, it may not receive a 106 grant, and the Regional Administrator will reallocate the funds to other States and interstate agencies within the Region.

The Regional Administrator is responsible for negotiating with each State and interstate commission, its needs, priorities, and program commitments and for allocating funds appropriately among them. In addition, 106 grants to interstate commissions must be consistent with the provisions of WQM Policy Memorandum B-1.

Regional Administrators and program managers should ensure that national 106 priorities are reflected in State/EPA Agreement negotiations and 106 funding decisions. The EPA Operating Year Guidance for FY 81 (February 1980), articulates agencywide priorities which should be considered.

The national 106 priorities for FY 81 are:

- o Improve management of the Construction Grants program

  EPA stresses improved State management of obligations, outlays, project completion, priority lists, and facility plans. An additional priority is State assumption of pretreatment authority and 205(g) delegation. States should maximize the use of 205(g) funds to minimize the burden on 106 funding from construction management assistance.

- o Develop a framework for toxics control

  States should place priority on incorporating toxic criteria in their water quality standards. States with NPDES authority should control toxic substances by issuing second-round permits to primary industries, major secondary industries, and major POTWs, by implementing the pretreatment program and by enforcing pretreatment regulations.

- o Build water quality management capability

  States should develop their toxic analytic capability, including the purchase of laboratory equipment. Quality Assurance procedures are mandatory in all projects in which the participants gather environmental data. States should also develop operational control programs for nonpoint source problems with EPA technical assistance, especially for ground water, agriculture, and urban runoff, with special attention to the financial management aspects.

- o Conduct effective permit and enforcement programs

  In addition to permit and enforcement efforts aimed at strengthening the framework for toxics control, States should simplify the permit process through the consolidated permit program; process section 301(h) marine waivers; issue energy-related permits; implement the National Municipal Policy and Strategy; conduct inspections in support of enforcement cases and emergency situations; and implement Discharge Monitoring Report (DMR) quality assurance programs.

- o Conduct waste load allocation/AWT reviews

  Using EPA guidance (see, for example, INFO 79-98), the States should establish programs for waste load allocations. States should prepare priority lists of wasteload allocations necessary to substantiate inadequate AST/AWT effluent limitations in accordance with WQM policy memorandum B-8 (PRM 79-11).

- o Respond to major environmental emergencies

  To receive a section 106 grant, each State must have an emergency response program consistent with section 504 of the Act, including a contingency plan, necessary response capability, authority to establish a contingency fund and a program to prevent emergencies from occurring. For further guidance, see upcoming WQM Policy Memorandum B-5.

o Protect sensitive ecosystems

To protect sensitive wetland areas, States should develop their section 404 dredge and fill programs as resources allow and work toward assuming 404 program delegation. In the 404 program, States should focus on the most environmentally sensitive projects, emphasizing pre-permit applications, planning, and analysis. States should also operate a Clean Lakes program to protect or restore publicly-owned fresh water lakes, in accordance with the section 314 Clean Lakes strategy.

Water Planning Division, with Regional Office assistance, will use the up-coming WQM Program Review to ensure that the Regions and States are incorporating the national 106 priorities in their FY 81 programs. The WQM Program Review (see INFO 80-49) is part of an overall OWWM priority of improved program management and will assess Headquarters and Regional Office management of the WQM process. Review teams will begin in May 1980 to visit the Regional Offices and conduct interviews. Regional Office management of 106 should include tracking 106 commitments and using the mid-year review of State programs to assess State management of 106 funds and observance of national priorities.

III. Policy--208 Grants

The highest management priorities for the WQM program under section 106 and 208 of the Clean Water Act are better, more active management of the WQM program, completion of the 208 portion of the program by the end of FY 83, and developing implementable nonpoint source programs through the building and transferring of a NPS information base. The major elements of EPA's funding policy for managing 208 grant funds and achieving the management priorities are as follows:

o Needs-Oriented Funding

As in FY 80, each Region must demonstrate, through the process outlined below, that it has sufficient needs which meet the funding criteria to receive its funding target. (The 208 Regional targets appear in the WQM FY 81 Baseline Strategy.) The 208 appropriation for FY 81 is estimated at $34 million. The Agency may allocate approximately $2 million of this total to complete the funding for approved urban storm runoff projects under the Nationwide Urban Runoff Program (NURP). Although the targets reflect application of the allocation formula set forth in the WQM regulations (35.1537-1(b)) to the remaining $32 million, Headquarters may allocate more or less than the target following review and discussion with each Region concerning its proposed FY 81 program. In addition, any money not obligated by March 1, 1981, reverts back to Headquarters for distribution among eligible Regions. Overtarget funding will be handled in the same manner as in FY 80 (see INFO 80-43 for details).

An important aspect of the needs-oriented policy is attention to priorities. Nationally, there is a need to fund the highest-priority problems and to establish a reasonable cause-effect technical data base with a minimum of duplication. The needs of the various

State and areawide WQM agencies should stem from completed WQM plans, the needs assessments, and State strategies. Since EPA based the selection of national priorities on data from the initial plans, these needs should generally conform with the national priorities expressed in the WQM Strategy.

Regions can demonstrate needs in three categories:

Category 1. National priority projects which Headquarters will track and provide technical assistance to during FY 81. This includes the continuation of Category 1 projects begun in FY 80 and projects started in FY 81 including: eight to ten new ground water projects, three new silviculture projects, and approximately three to five new agriculture projects with intensive monitoring and evaluation consistent with the EPA national agricultural nonpoint source strategy. Water Planning Division is also considering the possibility of starting additional Category 1 financial management projects in FY 81.

Category 2. National priority projects which Headquarters will not track in detail in FY 81. For a discussion of the national priorities see the FY 81 Baseline Strategy. Projects which utilize the results of WQM prototype projects to deal with nonpoint source control and financing problems identified in 208 plans are strongly encouraged. Headquarters will provide technical assistance to these projects as time and resources allow.

Category 3. Other nonpoint source problem-solving activities essential to filling a need in the State's WQM strategy.

o Annualized Work Planning Process

Regions, States, and areawide agencies will begin to develop work programs well in advance of the start of each fiscal year, so that soon after appropriations are available, the Regions can make awards based on approved, or conditionally approved, work programs. Development of 208 programs should follow the management framework presented in Chapter V of the WQM Supplemental Guidance (see INFO 79-114 and INFO 80-57), which ties the 208 program to the State/EPA Agreement. There should be an orderly project development process including a problem assessment and a State five-year strategy, and the 208 project concepts or proposals should stem from the State strategy. Headquarters will promptly review concepts/proposals following completion of the draft State/EPA Agreements, after which the Regions, States and areawides will generally proceed with detailed work program development. (For more details, see Process, below.) Any 208 funds which the Region does not obligate by March 1, 1981 will automatically revert to Headquarters for redistribution. In no case will a Regional Office carry-over an unobligated balance into FY 82. This timing will also allow for redirection of funds if initial grant agreements cannot be finalized.

o Emphasis on Implementation

The WQM regulations limit 208 funds to agencies which are implementing significant portions of their WQM plans. Projects must

result in specific outputs which are part of an overall implementation plan. (Note, however, that 208 grants are for planning purposes only and may not be used to pay for management agency functions which carry out specific implementation activities.)

o Restriction to Nonpoint Source Problems

In accordance with Administration Policy, the Annual Agency Guidance, and the WQM FY 81 Baseline Strategy, EPA will limit 208 funds in FY 81 to nonpoint source problem-solving efforts. Facility-related planning activities, such as waste load allocations, should be funded with Section 201 or 205(g) funds where necessary (see PRM 79-11 and WQM Policy Memo B-8). The Water Planning Division and the Office of Water Program Operations are dedicated to aggressively assist in the implementation of this policy.

In rare cases 208 funds may be used (subject to OMB approval) for waste load allocation work in non-201 and/or 205(g) eligible instances EPA will provide such funding only if both of the following conditions are met:

(1) EPA, the State and the areawide or local agencies involved have positively and conclusively found that no 106, State, local, or private funding is available to pay for the waste load allocation, and

(2) the projects meet these criteria and obtain Headquarters review and approval according to procedures in upcoming WQM guidance.

In FY 81 208 funds may not be used to update the facility portions of WQM plans.

o Limitations on Awards

The Regional Offices will assure that 208 grantees meet the conditions of the WQM regulations and EPA policy with respect to work plan approvals, State/EPA Agreement completion, and other limitations. These limitations are listed and explained in Criteria, below.

IV. Process for Awarding 208 Grants in FY 81

The following process guides the award of section 208 grants in FY 81. The process is designed to ensure compliance with funding criteria, below, and to promote grant awards early in the fiscal year. The process eliminates the possibility of carry-over of FY 81 funds into FY 82.

JULY -- AUGUST 1980 — Based upon Draft FY 81 SEAs, State Five-Year Strategies, needs assessments, and approved WQM plans, the Regional Offices submit lists of potential 208 projects to the Water Planning Division (WPD) for review. (If a Region wants an earlier review of its program, it may submit a pre-proposal package to Headquarters for comment. Based on our experience in FY 80, Regions should not over-commit themselves or their agencies until Headquarters has commented on their approach or strategy.)

-- WPD reviews each proposed list for consistency with national priorities and funding criteria and provides comments to the Regions within two weeks to assist with negotiation of final project proposals with States. WPD with the Regions, also identifies potential high priority projects WPD will track and provide assistance to.

AUGUST -- 1980 — After the Headquarters review, Water Planning Division staff follows-up with the Regional Offices, working with each Region to ensure that acceptable projects are developed. Regions revise their funding recommendations and work with potential grantees to further develop project concepts.

AUGUST -- 1980 - FEBRUARY 1981 — The Regions develop work programs with their proposed 208 grantees, conduct public participation, and award grants. It is WQM program policy that 208 grant awards should be made as early as possible in the fiscal year, preferably before January 30. Therefore, to accelerate the rate of grant awards, Regions must award at least half of their 208 funds within 30 days of receipt of their Advice of Allowance. Upon grant award, the Regions submit copies of the approved (or conditionally approved) work program to Water Planning Division for review, summarization, and information transfer.

MARCH -- 1981 — Advices of Allowance have an automatic reversion date (March 2). Funds are returned to Headquarters for re-distribution if not obligated.

V. Preliminary Process for Awarding 208 Grants in FY 82

The process for awarding FY 82 section 208 grants will be similar to the FY 81 process; however, the FY 82 schedule will be acclerated. As in FY 81, EPA will continue to stress the early award of 208 grants, preferably by January 1, 1982.

Upon receipt of their FY 82 Advices of Allowance from Headquarters, the Regions must award half their 208 funds within 30 days. Any portions of the Advice which the Region does not obligate by February 1, 1982 will automatically revert to Headquarters for redistribution. In no case will a Regional Office carry-over an unobligated balance into FY 83.

VI. Criteria for Developing 208 Projects

The following is a list of criteria that the Regions should use to develop and approve 208 projects. More specific criteria for the various problem areas appear in INFO 80-69 . Headquarters requests a copy of each Region's criteria/approach for funding projects. Headquarters will use this material for information transfer and will disseminate complete sets to all Regions.

- Project priorities should stem from national guidance and needs identified in certified and approved WQM plans. EPA, the States, and areawide agencies should negotiate appropriate priorities within the context of annual State/EPA Agreement negotiations.

- Project priorities, within a Region, should follow the national priorities expressed in the WQM FY 81 Baseline Strategy, so the limited 208 funds will have a major impact on such important problems as agriculture, urban storm runoff, and ground water by 1983. If any agency does not have an identified problem in these areas, projects should not be developed merely to ensure funding.

- Projects must lead to implementation. The intent of this criterion is to assure that projects lead to decisions regarding the establishment of operational nonpoint source control programs as opposed to studies which involve no commitment to implement. Projects must have hard outputs, and must be part of an overall approach for solving a problem.

- Selected projects will produce important cause-effect and cost-effectiveness data. The Regions should avoid duplication of effort in this regard. Headquarters will help to ensure that cause-effect and cost-effectiveness data is shared among all participants in the WQM program. Regions should not fund intensive montitoring and evaluation except on selected projects identified in cooperation with Headquarters staff.

- The Regional Offices may provide States with minimal 208 funding to produce 208-related portions of the required State/EPA Agreement, State problem assessment, five-year strategy, and WQM management agency evaluation.

- Integrated approaches to solving multiple nonpoint source problems are encouraged. For example, an agricultural project might include coordinated BMPs for on-lot disposal systems in the project area.

- Conservation of petroleum and natural gas must be considered, where appropriate, during the development of BMPs, consistent with Executive Order 12185.

- The Regions shall ensure that all proposed projects meet (or will meet by the time of grant award) the following limitations:

  -- No Region shall award 208 grants within a State for which there is not a signed FY 81 State/EPA Agreement. In addition, each work program must be included in the FY 81 State/EPA Agreements, either directly or by reference.

-- Prior to grant award, each State or areawide agency must have an approved, or conditionally approved, work program which identifies specific outputs the 208 funds will produce, including public participation elements and the fiscal and institutional elements identified in the Attachment to INFO 80-20.

-- Grantees, other than new designations, must have certified and approved plans to be eligible for 208 funds. Partial or conditional approvals meet this criteria.

-- No section 208 funds will be available to any agency with a certified and approved WQM plan unless a significant portion of the plan is being implemented. (See 35.1533-3(b).) Regions should have reached a written agreement with each grantee as to what implementation outputs were to be achieved prior to the FY 81 grant award. An evaluation of implementation must be undertaken for each grantee and the implementation agreement updated to reflect those implementation activities to be accomplished during FY 81 before an award of FY 82 grants can be made.

-- Grantees must be likely to be successful in their efforts, and meet the other eligibility criteria in 35.1537-3(b).

-- The Region shall not award a 208 grant where the Regional Administrator determines that (1) funding is to compensate for administrative mismanagement, (2) data collection is proposed which is not essential to problem solution and implementation, (3) the proposed work would be duplicative of another grant agreement, or (4) other funds are available and more appropriate to the task.

-- Regions will not fund projects by agencies that do not have sufficient management, technical, and grant-matching ability to perform the projects. In making such decisions, the Regions must consider an agency's past performance, its present staffing and funding, and the amount of work--possibly large--the agency must complete under the terms of previous FY 78, 79, and 80 grant awards.

-- Regions shall not fund projects if the start-up will not occur until the first quarter of FY 82, i.e., FY 81 funds should be limited to projects which will get results in a timely fashion.

-- Regions should fund projects sufficiently. It is better to fund a few projects completely than fund many projects insufficiently.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-1

EPA POLICY REGARDING INTERSTATE COMMISSIONS *

Purpose

This memorandum sets forth EPA's policy regarding existing and prospective interstate water pollution control commissisons, including EPA policy for funding these commissions under Section 106 of the Federal Water Pollution Control Act. This statement of policy is accompanied by a discussion of the background and rationale upon which the policy is based.

Background

The traditional issue of whether water pollution control programs are to be administered primarily on the basis of watershed or political boundaries has been resolved by the passage of P.L. 92-500 and by the subsequent issuance of EPA regulations governing the national water pollution control effort. The net effect of this Act and set of regulations is to establish a joint Federal-State program, which relies on the State as the basic administrative unit. With regard to the specific role of the interstate commissions, the Act is silent, but it does state that: "The Administrator shall encourage compacts between the States for the prevention of pollution." Thus some future role for interstate compacts is envisioned by the Act, although the specific role is not defined.

Because EPA has the responsibility to provide the direction for the national water pollution control program, and because EPA partially funds six interstate commissions from monies provided by Section 106 of the Act, the Agency has recognized the necessity of reassessing its policy toward the interstate commissions, particularly with regard to those functions of the commission for which EPA provides funds. A study entitled "Roles of Interstate Water Pollution Control Commissions Pursuant to P.L. 92-500" was conducted for EPA by a private contractor during the winter of 1974-75. This study, plus the experience of EPA in working with

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*Originally issued as SAM-24 (December 23, 1976) under the signature of the Deputy Assistant Administrator for Water Planning and Standards.

the interstate commissions, provides the information base for the policy review and decisions contained in this paper.

There are two major questions which EPA must address with regard to the interstate commissions. These are:

(1) Which activities of interstate commissions should EPA encourage by providing funding?

(2) What should be the division of Section 106 funds between the States as a group and the interstates as a group?

To determine the answers to these questions, several criteria were used. The first of these was the desirability of defining and establishing coordinated functions -- for EPA, the interstate and the States -- which do not conflict and which are not unnecessarily redundant. Related to this concern is the desire to establish the most cost-effective relationships. Another consideration was the need to allocate Section 106 funds in a manner that was fair to all States and interstates.

An important additional factor which was considered was the timing of implementation of the policy. Since this policy sets forth a definitive role for interstate agencies, which may be a significant departure from existing practice, a transitional period, not to extend beyond fiscal year 1979, is provided if a regional administrator determines that such a transitional period is necessary. During this interim period, the regional administrators will encourage each interstate to gradually shift its performed functions to those which EPA will fund in fiscal year 1979 and beyond or to those which the compact States are willing to fund.

POLICY

Prior to examining the related questions of (1) division of Section 106 funds between the States and the interstates or (2) division of these funds between the individual interstate commissions, EPA first had to determine its attitude toward the future role of all interstates receiving EPA funds. Both the provisions of P.L. 92-500 and the policy of EPA since October 1972 stress the primary role of the States in administering the water pollution control program. Although EPA continues to issue and enforce permits and to process grant applications for municipal wastewater treatment facilities, the Agency is firmly committed

to a goal of delegating virtually all functions to the States. Within the foreseeable future, EPA's role will be one of setting national objectives and policy, funding State agencies to perform the operational role and monitoring State performance. Given the prospect of this set of relationships between EPA and the States, what role will the interstate commissions play?

EPA can provide only a partial answer to this question. From the EPA perspective, it is the State agency, working with interstate and local agencies, which should plan and manage the spectrum of activities which constitute an integrated water pollution control program. The interstate commissions can play a valuable role in coordinating the programs of several States as they relate to a specific river basin or other body of water. This coordination is particularly valuable in the areas of standard setting, monitoring and water quality management planning - but may extend to other program areas as the need arises. Included in the coordination function is the facilitating of information exchange between States, for example, by arranging meetings focused on functional areas of concern to all States in a river basin.

In addition to the coordination role, there are several functions which are particularly suited to interstate agencies. One of these is the determination of wasteload allocations between States on a stream but not within those portions of a stream inside one State's boundaries. Another is the preparation or supervision of preparation of mathematical models of a stream. Additionally, an interstate agency is in the position to review monitoring data on a river, to point out major problem areas and to assist in holding an individual compact State accountable to the other States regarding a particular problem. Also, interstate agencies are able to fund and supervise contracts for special studies or projects which affect an entire stream or an interstate portion thereof which are of benefit to compact States.

These are the functions which appear particularly appropriate for interstates and which complement the EPA and State roles defined in P.L. 92-500 and in EPA's national water strategy and annual operating guidance. Additional functions may be assigned to the interstate agencies by EPA and the States according to changing needs and priorities consistent with EPA's national strategy. If a regional administrator wishes to provide funding in FY 79 and beyond for activities, which appear to be contrary to this guidance, he should refer the matter to Headquarters for an exception to the policy stated below. Beginning in FY 77, EPA will encourage a shift of function to those discussed above. Starting with FY 79, EPA will provide grant funding to interstates to carry out only these functions. At that time, EPA will pay the actual cost of these activities (up to the total funding allocation for each interstate), together with a proportional share of overhead costs.

In stating this policy, EPA is in no way precluding other activities by interstates. States are now funding and presumably will continue to fund interstate activities. State funding may include a pass through of a portion of a State's 106 funds to an interstate.

With regard to the question of the division of Section 106 funds between the State and interstate agencies, EPA's policy will be to determine in the annual operating guidance the level for interstate funding. Except in extraordinary situations, the funding level will be no less than the allocation in the previous fiscal year. The only exception to this policy will be in instances beginning in FY 79 where interstates propose to perform functions (to be funded by EPA) which are contrary to the functions specified in this memorandum and are not recommended by the Regional Administrator. In such cases, the Regional Administrators shall deny funds for these proposed functions and shall distribute the funds to other States in the region as they see fit.

With regard to the application of the foregoing policy to future interstate commissions or to current commissions, which have not yet applied for EPA funding, the policy is in effect upon issuance of this guidance.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-2

REGULATORY PROGRAMS FOR NONPOINT SOURCE CONTROL*

Statement of Policy

Regulatory programs are required for nonpoint source control where they are determined to be the most practicable method of assuring that an effective nonpoint source control program is implemented. Determinations of practicability shall be based on economic, technical, social and environmental factors. Non-regulatory programs may be approved only where such programs will result in implementation of a nonpoint source program which will result in the achievement of desired water quality goals. If, after a period of implementation, a non-regulatory program is determined by EPA not be effective, the appropriate planning agency will be responsible for developing a regulatory program to assure program implementation.

Purpose

This memorandum sets forth the requirements, under section 208 of the Clean Water Act, for the development of regulatory and other programs at the State and local level to control nonpoint sources of water pollution. It complements WQM Policy Memorandum B-3 "Developing and Implementing Best Management Practices". It defines the regulatory and other program requirements; establishes criteria for approval of the nonpoint source elements of a water quality management plan; and addresses the role of the State and EPA in ensuring development and implementation of effective nonpoint source control programs. It should be forwarded to Water Quality Management (208) agencies, to the Office of Regional Counsel, to the Regional Nonpoint Source Coordinator and to the Regional 208 Coordinator.

Background

Section 201(c) of the Clean Water Act requires that, to the extent practicable waste treatment management shall provide control or treatment

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*Originally issued as SAM-31 (November 14, 1978) under signature of the Deputy Assistant Administrator for Water Planning and Standards; minor editorial changes have been made by the Water Planning Division.

of all point and nonpoint sources of pollution. Section 208(b)(2)(C) requires that regulatory programs be established to implement the waste treatment management requirements of section 201(c). Section 208(b)(2)(F) - (K) requires that plans developed pursuant to that section set forth procedures and methods to control identified nonpoint sources of pollution. These sections of the Act provide the legal basis for requiring that regulatory and other programs be established to control water pollution problems from nonpoint sources.

Further authority is found in EPA's general authority to require that plans developed pursuant to section 208 be effective. Requirements are set forth in 40 CFR Part 35.1521. This guidance memorandum further defines those requirements.

The following materials are available to assist the States and EPA in implementing the policy established in this memorandum: "Compilation of Federal, State and Local Laws Controlling Nonpoint Pollutants" (EPA-440/9-75-011), SCAMP (Sediment Control and Manpower Project) issued under TECH MEMO No. 3, 5, 6, 7, 11, 12 and 16, and "Legal and Institutional Approaches to Water Quality Management Planning and Implementation" (EPA Contract No. 68-01-3564, March 1977).

Policy Guidance

(1) General

A regulatory program is required and shall be submitted for approval as part of a 208 plan in those cases where the 208 agency, in consultation with the affected State agencies and the Governor, has determined that such a program is the most practicable method of assuring that an effective nonpoint source control program is implemented. Such a determination shall be based on economic, technical, social, and environmental factors.

Regulatory programs should be designed to attain the 1983 water quality goals set forth in section 101(a) of the Act. The programs must be enforceable and administered by agencies with adequate legal authority and resources to ensure their implementation.

Regulatory programs are not required where the plan prepared under section 208 certifies that substantial water quality problems resulting from nonpoint sources do not exist or are not likely to develop in the foreseeable future.

There is a great deal of flexibility as to the particular regulatory program which is most appropriate to control a particular nonpoint source. The program may address a particular category of activity, such as construction or mining; a particular pollutant, such as sediment; or particular geographical areas which are determined to be sensitive or

critical. Choice of a regulatory program and the appropriate level of government (State, local or regional) to administer the program will depend on the type and extent of the nonpoint source problem, legal authorities, existing programs and existing intergovernmental relationships. However, where necessary to ensure an effective program, new relationships should be developed.

The type of control tools to be utilized, such as permits, licenses, contracts, notification, bonding, leases, plans, and various management techniques, will depend upon the intensity, scope and type of nonpoint source problem to be controlled, land ownership patterns, and such physical factors as rainfall, soil characteristics, geological conditions and topography.

(2) Regulatory Program -- EPA Approval

EPA will approve a regulatory program which includes the following:

(a) Authority to control the problem which the program addresses (i.e., an activity, pollutant, or geographical area).

(b) Authority to require the application of Best Management Practices* and their periodic revision.

(c) Monitoring and/or inspection authority.

(d) Authority to implement the chosen control tool(s) (i.e., permits, licenses, contracts, etc.)

(e) Enforcement authority.

(f) A designated management agency or agencies responsible for implementing the regulatory program with:

- expertise in the subject matter area to be controlled
- adequate staff
- adequate funding
- the relevant authorities pursuant to section 208(c)(2) and 40 CFR 35.1521-3(c)(1) and (3).
- a letter of commitment pursuant to 40 CFR 35.1521-3(c)(1) and (2).

To be approved by EPA, a regulatory program must have the necessary implementing regulations in effect and sufficient resources available to carry out the required activities.

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*Best Management Practices are defined in 40 CFR 35.1521-4(c)(1). See also WQM Policy Memorandum B-3.

The adequacy of a particular program to achieve compliance with water quality goals should be evaluated in light of the stage of development of the program. Where a program is fully established and has been in place for a period of time, it should be possible to determine its effectiveness and evaluate where changes need to be made. Approval shall be withdrawn if the program is not being adequately implemented or does not prove to be effective. (See section (7) Evaluation of Implementation)

(3) Regulatory Program -- Approval with Conditions

EPA will attach conditions to approval under the following circumstances:

(a) Where the legislative authority exists but means of implementation are not available or are not satisfactory, such as insufficient resources, lack of regulations, questions regarding designated agency capability, etc.; or

(b) Where the authorizing legislation has been introduced, but not enacted; or

(c) Where a specific legislative proposal has been developed and the plan contains a reasonable schedule for introduction to the legislative body.

In any of the above situations, EPA approval comments must specify the conditions for full approval. The planning agency and the State, in consultation with EPA, must agree on a schedule for meeting such conditions.

Periodic (at least annual) reporting to the Regional Administrator on progress being made in meeting the schedule shall be required. This reporting may be submitted under the States responsibility for monitoring implementation. Approval with conditions shall be withdrawn if the Regional Administrator finds the agreed to progress is not being made.

(4) Regulatory Program -- Disapproval

The Regional Administrator shall disapprove any regulatory program which does not meet the conditions set forth in this memorandum for approval with or without conditions.

(5) Other Program Approval (Non-Regulatory Programs)

Other approaches to nonpoint source control may be approved by the Regional Administrator as fulfilling the nonpoint source control requirements in section 208(b)(2)(F-K) only where, in his judgment, the program will result in implementation of nonpoint source controls which will result in achievement of the desired water quality goals. EPA will give full approval of

non-regulatory programs only when implementation efforts, such as hiring of personnel or budget allocations, have commenced. If implementation will occur in stages (i.e. only a portion of the total additional personnel or funding required will be in place in year one), and stage one has been implemented, and a definite schedule for implementing future stages has been agreed upon, full approval may be granted.

Approval with conditions may be granted where the conditions noted below have been met, and a schedule for implementation has been agreed upon; but actual implementation has not commenced. Approval with or without conditions shall be given only when the following requirements are met:

- Identification of Best Management Practices.
- Agreement on schedule of milestones for implementation.
- Provision of an effective educational program to inform and involve the affected public.
- Provision of adequate technical assistance and financial assistance, if needed.
- Agreement to reporting system (at least annual) to the Regional Administrator on progress made in implementation.

The Regional Administrator can require such information in these reports as is necessary to evaluate milestone progress. Milestone progress can be shown in terms of implementation measures, resource commitment, and water quality improvement.

Approval of non-regulatory approaches shall be withdrawn if the Regional Administrator determines that implementation milestones are not being met. Non-regulatory programs will retain approval only when continuing and substantial progress, including the application of Best Management Practices, is being made toward attaining water quality goals. Where such progress is not being made, approval of these approaches shall be revoked,. the appropriate agency will be responsible for developing a regulatory program to ensure attainment of water quality goals.

(6) Other Programs -- Disapproval

The Regional Administrator shall disapprove a proposed non-regulatory program as being inadequate when he has reason to believe it will not be effective and will not lead to the application of Best Management Practices. Factors to consider in making that determination include: the severity of the nonpoint source problem; past experience of the involved governmental unit with the proposed approach; and the type of program that is proposed.

Specific and realistic funding sources must be identified to implement at least a significant portion of the proposed non-regulatory program, or the program will be disapproved. When a feasible funding source is only identified for a portion of the program, the WQM agency must include milestones for securing adequate funding to implement the entire program. Progress in meeting milestones will be reviewed through evaluation of implementation.

Where substantial water quality problems continue to exist, those programs which are merely a continuation of an existing program which has not proven to be effective, will not qualify as acceptable.

Where regulatory programs already exist (e.g., construction, mining), proposed new programs will be expected to be at least as stringent as existing regulatory programs, and more stringent if necessary, to achieve water quality goals.

(7) Evaluation of Implementation

The State has primary responsibility for evaluating implementation of point and nonpoint source control programs. The State may delegate some evaluation tasks to areawide agencies. Monitoring progress in actually carrying out a control program or in meeting an implementation schedule may be carried out through this evaluation responsibility.

Development and refinement of BMPs and control programs for nonpoint sources is an iterative process, which is based in part on the findings of the periodic evaluation of implementation. When the findings indicate that specific management practices or control programs are not effective or adequate, the appropriate WQM planning agency must modify the BMPs and/or control program. Such refinements will be developed during continuing WQM planning.

(8) Assistance in Development and Implementation of Nonpoint Source Control Programs

EPA Regional Offices have the responsibility for providing necessary technical assistance to State and local planning agencies to assure that effective programs are developed and implemented.

It is especially important that the planning agency work closely with both legislative and executive decision-makers at the State and local level in development of regulatory programs. Development of regulatory programs shall be addressed in the water quality management plan by writing milestones into the 208 grant agreements and work programs. EPA recognizes that it will ordinarily only be possible to identify regulatory needs after nonpoint source assessment and problem identification have been completed.

The milestones which will actually be included in the grant agreements and work programs must obviously reflect the knowledge existing at the time the schedule is agreed upon. Where it seems to be a strong possibility that regulatory programs will be required, that possibility can be identified in the schedule as such. Specific program milestones might include the following, as appropriate:

(a) completion of phases in water quality assessment of nonpoint source pollution impacts.

(b) identification of nonpoint source problems.

(c) identification of legislative needs.

(d) development and implementation of public participation programs.

(e) certification from State Attorney-General or local legal office that adequate legal authority exists.

(f) proposal of legislation.

(g) enactment of legislation.

(h) proposal of new or upgraded rules and regulations including BMPs.

(i) promulgation of rules and regulations including BMPs.

(j) establishment or identification of institutions necessary to administer the program.

(k) establishment of interagency and intergovernmental coordination mechanisms.

(l) establishment of monitoring, inspection and enforcement procedures.

(m) provisions of funds, personnel, facilities and equipment for regulatory objectives.

(n) development and implementation of educational programs in support of regulatory objectives.

(o) evaluation of adequacy of Best Management Practices and management agency performance.

The actual milestones should be agreed upon by EPA and the planning agency. Such an agreement will lead to an orderly development of nonpoint source controls, early resolution of any EPA objections to the proposed program and will expedite approval of that portion of the plan. While it is hoped that such actions will be unnecessary, the Regional Administrator will have authority under such an agreement to withhold 208 planning funds if milestones are not being met.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-3

DEVELOPING AND IMPLEMENTING BEST MANAGEMENT PRACTICES*

STATEMENT OF POLICY

Feasibile Best Management Practices (BMPs) which reduce nonpoint source pollution and achieve the water quality goals must be developed and implemented for all categories of nonpoint sources. The BMPs will be developed in a continuing process of identifying problems, devising control measures, assessing BMP adequacy, and modifying BMPs when necessary to attain water quality goals. State priorities for developing nonpoint source control programs will be established in accordance with general EPA guidance and will be contained in the State/EPA Agreement.

Water quality goals are broadly defined to include: Water Quality Standards; the 1983 goal as set forth in §101(a)(2) of the Clean Water Act; the reduction of pollutants from all sources, to the extent feasible; the prohibition of toxic pollutants in toxic amounts; protection of public health and welfare; and other goals and objectives of the Act. To attain the goals of the Act, it is the policy of EPA to minimize if not eliminate toxic pollution in recognition of the uncertainties inherent in establishing "safe levels" for toxic pollutants.

PURPOSE

The purpose of this memorandum is to describe the Agency's policy on developing BMPs to meet water quality goals under existing time, resource, and information constraints. It discusses the relationship between BMPs and Water Quality Standards (WQS), and complements WQM Policy Memorandum B-2.

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* Originally issued as SAM-32 (November 14, 1978) under the signature of the Deputy Assistant Administrator for Water Planning and Standards. Minor editorial changes have been made by Water Planning Division.

Discussion

(1) Program Overview

The attainment of national and State water quality goals serves as the basis of the planning process described in 40 CFR Part 35, §§35.1500 to 35.1542 (see Problem Assessment for further discussion). Under that process, WQM agencies must establish nonpoint source control programs to achieve the water quality goals including water quality standards (35.1521-4(c)). The programs will be concerned with prevention of future problems and mitigation of existing problems. WQM agencies will identify priorities for addressing particular source control and water quality problems and will develop the necessary programs in a long-term iterative process.

(2) Problem Assessment

A water quality assessment is necessary under the Clean Water Act and the regulations to identify nonpoint water quality and source control problems. Precise quantification of these problems is not expected or required to define priorities and develop BMPs.

Numerical WQS criteria will be used to assess nonpoint source water quality problems whenever the criteria are reasonably applicable to the particular nonpoint sources and pollutants under study. As water quality standards criteria are revised to reflect nonpoint source needs, they will be applied in the assessment. The remaining elements of WQS (i.e., narrative criteria, antidegradation policy, and designated uses) will be generally applicable in the assessment and will be particularly useful where appropriate numerical criteria are not available.

The use of State WQS must be supplemented by additional water quality goal considerations in assessing water quality because WQS do not fully reflect the water quality goals and objectives of the Clean Water Act at this time. Safe levels and transport paths for many toxic pollutants are unknown; effects of future growth must be considered; impacts from wet weather and natural background conditions are not fully understood; and downstream impacts are difficult to determine and take into account.

(3) BMP Development

Feasible BMPs which reduce nonpoint source pollution must be developed in accordance with priorities for developing control programs for all nonpoint sources identified in areawide and State planning areas. Site specific conditions should be taken into account during BMP design and implementation. BMPs must be designed to make maximum feasible contributions toward attainment of water quality goals including minimization of toxic pollutants. BMPs identified in the planning process will be implemented through regulatory programs where those programs are determined to be the most practicable method of assuring effective implementation (WQM Policy Memorandum B-2).

BMPs may not completely achieve water quality goals in the first stages of the planning process and an iterative process may be necessary to achieve this objective. BMP development with regard to water quality goals may be hampered by: water quality goals which have not been fully quantified; water quality standards criteria which, in some cases, have not yet been developed sufficiently to identify nonpoint source pollution problems and to develop control programs; difficulties in identifying cause-effect relationships; and resource constraints.

WQS, particularly designated uses, will be used primarily as a bench mark of progress in BMP development. In those instances where WQS numerical criteria have reasonable application to nonpoint sources, the criteria may serve as an interim goal in the continuing effort to achieve water quality goals. Once BMPs have been applied, WQS and other water quality goals will be used to assess BMP effectiveness in the same manner as these goals are used to assess the water quality.

(4) BMP Modification

Once BMPs are being applied to control a particular nonpoint source, the State has primary responsibility for evaluating their effectiveness (40 CFR 35.1521). Where nonpoint sources continue to impede the achievement of the water quality goals after application of BMPs, the appropriate water quality management agency must modify the BMPs or the strategy for applying BMPs as necessary to improve BMP effectiveness. Existing BMPs will continue to apply to nonpoint sources while those practices are assessed and modified in the planning process. As the modifications are implemented, water quality goals must again be used to assess BMP effectiveness. Where appropriate, further refinements in BMPs and revisions of criteria in water quality standards may be needed in this iterative process of developing, implementing, and evaluating BMPs.

(5) Plan Outputs

BMPs identified in the planning process must make maximum feasible progress towards the achievement of the water quality goals and minimization of toxic pollutant loads. The rationale for the BMPs selected must be included in the plan output. A schedule for assessing BMP effectiveness and identifying all appropriate BMPs must be established in the State/EPA Agreement.

BMPs are not required for nonpoint sources in planning areas where the State certifies that:

- existing management practices are regarded as sufficient to meet water quality goals for that particular source activity and location; and

- BMPs to achieve water quality goals will not be necessary to accommodate anticipated impacts of future activities including new sources.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-4

NEPA COMPLIANCE IN THE STATE AND AREAWIDE WATER QUALITY MANAGEMENT PROGRAM*

Purpose

This memorandum explains EPA's amendment of 40 CFR Part 6, which exempts the Water Quality Management (WQM) program from the Environmental Impact Statement (EIS) requirement of the National Environmental Policy Act (NEPA) as provided by Section 511(c)(1) of the Clean Water Act.

Background

Section 511(c)(1) of the Clean Water Act affords an exemption from the NEPA requirement for most water programs, including the WQM program under Sections 106, 208, and 303. However, except for the EIS requirement of Section 102(2)(c) of NEPA, it is EPA policy that the spirit and intent of NEPA will continue to be served by the WQM program. The environmental implications and impacts of alternative WQM planning programs and actions shall be considered and evaluated in a manner which is consistent with the spirit and intent of NEPA.

Supporting our decision not to require an EIS are the WQM program requirements for procedures which are at least equivalent to those required for the NEPA process:

- The WQM public participation process requires that sufficient information and opportunities for involvement in the decision-making process be provided the public. These must be early and continue through the WQM process so that the public can both come to understand and have an impact on the WQM plan and its implementation. This includes full public disclosure of potential adverse impacts throughout the plan development, continuing planning, and implementation phases.

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* Originally issued as SAM-34 (August 21, 1978) under the signatures of the Assistant Administrator for Water and Hazardous Materials and the Acting Director of the Office of Federal Activities. Minor editorial changes have been made by the Water Planning Division.

- o The WQM process requires assessment and presentation of the social, economic, and environmental impacts of alternative WQM programs and actions. This assessment includes an analysis of primary and secondary impacts of alternative WQM programs and actions. It also requires consideration of the environmental tradeoffs among these alternative WQM actions. Further, this assessment must comply with Executive Orders 11988 for floodplain management and 11990 for wetlands protection and EPA's Statement of Procedures* implementing these two orders, and satisfy the spirit and intent of NEPA.

These requirements for active public as well as interagency involvement and environmental assessment in the WQM process are necessary for approval of a WQM plan by the Regional Administrator. They are also consistent with the spirit and intent of NEPA.

Policy

1. An EIS will not be required as part of EPA approval of a WQM plan.

2. Regional Administrators are responsible for assuring that the public participation procedures and environmental assessments required in the WQM planning process are conducted in a manner consistent with the spirit and intent of NEPA as well as the Clean Water Act. In addition, Regional Administrators are responsible for ensuring that other appropriate agencies participate in WQM plan review.

3. Regions which are developing detailed environmental impact statements on specific WQM plans in compliance with previous policy are encouraged to complete them. EPA will continue to support and assist such programs.

4. Regional Administrators' actions on the provision of Federal construction grants and the issuance of new source permits are <u>not</u> exempt from the EIS requirement of NEPA.

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* 44 Federal Register 1445 (January 5, 1979)

DRAFT

21 MAY 1980

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

SECTION B PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-5*

STATE ROLE IN RESPONDING TO ENVIRONMENTAL EMERGENCIES -- RELATIONSHIP BETWEEN SECTION 106 GRANTS AND THE EMERGENCY RESPONSE PROVISIONS OF SECTION 504

Purpose

The purpose of this memorandum is to set forth policy on the relationship between Section 106 State program grants and the emergency response provisions of Section 504 of the Clean Water Act.

Background

The Federal Water Pollution Control Act of 1972 ("the Act"), gave EPA the authority in Section 504 to bring suit in the appropriate district court to stop the discharge of pollutants causing an "imminent and substantial endangerment" to the public health. This provision came under the heading, "Emergency Powers".

The Act also said, in Section 106(e), that EPA could not award a Section 106 grant after FY 74 to any State which did not have authority comparable to that in Section 504 and an adequate contingency plan to implement such authority.

The 1977 Amendments to the Act expanded Section 504 by authorizing a Federal contingency fund to carry out its emergency powers. Thus, because of Section 106(e), States must have "comparable" funding authority to qualify for assistance under Section 106.

Although "comparable" authority will vary from Region to Region and State to State, States should undertake certain basic activities. In general, to determine "comparable" authority, the State and EPA should conduct a joint assessment of the probability of severe environmental incidents in the State and the emergency measures they would require. At a minimum, the State's authority must provide for immediate on-scene action upon the arrival of qualified State or local authorities, whatever the source of funds.

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* Adapted and updated from SAM 35, issued September 14, 1978, under the signatures of the Deputy Assistant Administrators for Water Planning and Standards and Water Program Operations and a joint memorandum issued January 23, 1980 under the signatures of the Directors of the Water Planning Division and the Oil and Special Materials Control Division.

DRAFT
21 MAY 1980

To provide the EPA Regions and States with guidance on the provisions of Sections 106 and 504, EPA issued policy memorandum SAM-35 in September 1978. SAM 35 set forth certain requirements for the States to receive 106 grants in FY 79 and 80 as follows:

FY 79 — Each State was to submit a description of its emergency authority under Section 504(a) and, where the Regional Administrator determined it necessary, a legislative proposal to obtain additional authority. Each State was also to develop a study of emergency problems peculiar to the State and funding necessary to implement the plan and provide a contingency fund.

FY 80 — Each State was to make progress, to the satisfaction of the EPA Regional Administrator, in development of the necessary legislation and contingency plan. If the plan and legislation were not in place prior to the start of FY 80, the Region was to condition the 106 grant award requiring the State to implement the plan and legislation during FY 80, unless the State was unable to accomplish these requirements because it had biennial legislative sessions.

In September 1979, the Water Planning Division issued the Supplemental Water Quality Management Program Guidance for FY 80, which provided a water quality management framework and replaced the previous SAM series. Since there was a possibility that pending Federal Superfund legislation would set up or require emergency response funds that would duplicate or otherwise impact State funds established under Sections 106(e) and 504(b) of the Act, EPA did not reissue SAM 35 in the FY 80 guidance package. As WPD prepares the FY 81 Supplemental Guidance package, Superfund is still pending. Therefore, for FY 81 EPA adopts the policy below:

Policy

EPA policy for FY 81 regarding the conditioning of Section 106 grants based on the requirements in Section 504 of the Act is as follows:

(1) The FY 81 targets as originally outlined in SAM 35 are reaffirmed. EPA shall not award a FY 81 106 grant or sign a FY 81 State/EPA Agreement for any State which has not provided or is not carrying out as part of its program adequate emergency legal authority and contingency plans for handling environmental emergencies.

(2) Due to the uncertainty over pending Superfund legislation, the Regional Administrator should exercise discretion as to what entails "comparable" funding authority to EPA's authority under 504(b), so that State efforts are not negated or duplicated by subsequent Superfund legislation.

DRAFT
21 MAY 1980

(3) If Superfund legislation passes which does not preempt the need for States to develop emergency funding authority, or if Superfund legislation does not seem likely to pass, the Regional Adminstrators must then allow the States less discretion and ensure that they promptly obtain the necessary funding authority.

(4) Regional OHM Coordinators must participate in the review of FY 81 Section 106 grant applications and evaluations of State programs under 106.

(5) Water Planning Division, through its on-going program evaluation functions, will track the compliance of the Regional Offices with these policies.

Additional Information

For more details on the Federal program dealing with national, regional, State, and local contingency plans, refer to 40 CFR 1510, Council on Environmental Quality, "National Oil and Hazardous Substances Pollution Contingency Plan; Final Revision," March 19, 1980 (Federal Register, Vol. 45, No. 55, pp. 17832-17860).

For further information on criteria for the adequacy of State contingency plans and emergency response capabilities, see the May 6, 1980 "Draft Guidelines for Determining Adequacy of State Contingency Planning and Emergency Response Capabilities" or contact Dr. K. Jack Kooyoomjian, or Henry Van Cleave, Oil and Special Materials Control Division, (202) 245-3045.

For further information on Section 106 grants policy, contact David Ziegler, Water Planning Division, (202) 426-2474.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-6

PRETREATMENT AND THE WATER QUALITY MANAGEMENT (WQM) PROGRAM*

Purpose

This memorandum presents policy on using 208 grant funds to assist State and local agencies in complying with 40 CFR 403, "Pretreatment Standards for Existing and New Sources of Pollution," promulgated in the June 26, 1978 Federal Register, which became effective August 25, 1978. References are made to 106, 201, and 205(g) funding where necessary to explain the use of 208 funds for pretreatment. Note: This policy applies only to 208 grants awarded before October 1, 1979.

Background

40 CFR 403 establishes Federal, State and local pretreatment program responsibilities. EPA remains responsible if State and local authorities do not implement 40 CFR 403 requirements. Regions must effectively utilize all available incentives, including 201 and 208 funding to encourage State and local pretreatment program development. Administration of approved State programs is eligible for assistance under 106 and by those 205(g) funds transferred to the 106 grant for 402 activities.

States with an approved NPDES permit program must submit a request for pretreatment program approval by March 27, 1979. Where legislation is required an additional year is allowable. If a POTW has a design flow of greater than 5 mgd or otherwise qualifies as discussed in §403.8, an approved local pretreatment program is required in the shortest possible time, not to exceed July 1, 1983. Compliance schedules and general requirements or a permit modification clause must be added to NPDES permits during the regular permit revision cycle. Compliance schedules may allow up to three years from the date of revision for the needed program.

201 grants will provide most of the incentives to develop approvable municipal pretreatment programs. 201 regulations authorize amendments of existing or pending 201 step 1, step 2 or step 3 grants to provide for funding assistance for municipal pretreatment program development. 201 regulations do not allow grants for the sole purpose of developing a pretreatment program. 201 grant eligible pretreatment development costs are detailed in 40 CFR 35.907.

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* Originally issued as SAM-36 (October 10, 1978) under the signature of the Deputy Assistant Administrator for Water Planning and Standards. Minor editorial changes have been made by the Water Planning Division.

Policy

1. General

208 monies from the FY 1979 appropriations may be used to provide 75-percent funding for the development of State or local pretreatment programs in accordance with the conditions detailed below. As 208 grant funds are limited when compared to total WQM program needs, Regional Administrators must determine pretreatment program development funding priorities in the context of total State and local WQM requirements.

2. Development of NPDES State Pretreatment Programs

All NPDES States must submit to EPA by October 9, 1978, a statement indicating whether the State has adequate authority, procedures, and funding to carry out a State Pretreatment Program.[1] After this statement is submitted by an NPDES State and reviewed by EPA, the Regional Administrator may provide 208 funds to assist this State in developing any additional legal authorities, procedures, or funding/personnel descriptions which the Regional Administrator determines are required to obtain EPA approval.[2] (Note: as non-NPDES States are not required to develop a State Pretreatment Program, non-NPDES States are not eligible for 208 funds for pretreatment.)

After an NPDES State Pretreatment Program is approved, this State is no longer eligible for 208 funding for pretreatment. After approval, State pretreatment program costs are for administration; such costs are eligible for 106 and those 205(g) funds transferred to the 106 grant for 402 activities.[3]

3. Development of Local Pretreatment Programs

To the maximum extent possible, 201 funds will be used to assist the development of local pretreatment programs. 208 funds may only be used to assist in development of pretreatment programs for those POTW's greater than 5 mgd that are not eligible for 201 funding for pretreatment program development.

The following local pretreatment program development costs are eligible for 208 funding assistance from FY 79 funds:

- Development of an inventory of industrial and commercial wastes being introduced into the treatment works;
- Evaluation of legal authority, including the adequacy of enabling legislation and the selection of mechanisms to be used for control and enforcement;

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1. See 40 CFR 403.10(b)(1).
2. See 40 CFR 403.10(f) and (g).
3. Actual 106 and 205(g) funding arrangements to assist States in administering their Pretreatment Program should be delineated in State/EPA 205(g) Delegation Agreements (see 40 CFR 35, Subpart F section 35.1030) and in State/EPA Agreements (see 40 CFR Subpart G section 35.1515).

- Evaluation of financial programs and revenue sources to ensure adequate funding to carry out the pretreatment program;

- Determination of technical information necessary to develop an industrial waste ordinance or other means of enforcing pretreatment standards; and,

- Design of a monitoring enforcement program, including determining both the required monitoring equipment for the municipal treatment works and the municipal facilities to be constructed for monitoring or analysis of industrial waste.

The following items are 208 grant eligible if necessary for the proper design or operation of the municipal treatment works but are not 208 grant eligible when performed solely for the purpose of seeking an allowance for removal of pollutants under 40 CFR 403.7:

- Determination of pollutant removals in existing treatment works; and,

- Determination of the treatment works tolerance to pollutants which interfere with its operation, sludge use, or disposal.

No 208 funds will be used for actual operation of a local pretreatment program. 208 grants for performing the eligible tasks listed above may be used to fund through subagreements designated POTW management agencies. Regional Administrators may amend an existing or pending 208 grant to provide for development of an approvable local pretreatment program.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-7

USING 208 FUNDS TO DO WATER QUALITY AND MUNICIPAL FACILITIES EVALUATIONS FOR TREATMENT MORE STRINGENT THAN SECONDARY*

Purpose

This memorandum sets forth eligiblity criteria for selecting the particular situations and grantees to meet the national WQM priority on 208-funded water quality/municipal facilities analyses and provides guidance on developing their work programs which become part of their grant agreements. Note: This policy applies only to 208 grants awarded before October 1, 1979.

Background

Starting with FY 78 funds, Regional allocation of 208 funds to State and areawide agencies must be based on priority of needs, not on a funding formula. WQM programs developed must ensure that national priorities and objectives are met. The national WQM priority on facility planning requires that each Region, working with the States, select a limited number of agencies to perform analyses related to critical municipal facilities decisions, including:

- o evaluating water quality analyses that have been used as the basis for justifying treatment beyond secondary
- o evaluating the costs and effectiveness of proposed municipal facilities relative to alternative methods for achieving water quality goals, and
- o establishing appropriate water quality related effluent limitations for proposed facilities being considered for treatment beyond secondary and developing either a sound and well-documented justification for such treatment levels, or a sound and well-documented plan for meeting water quality goals without municipal treatment beyond secondary.

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* Originally issued as SAM-37 (November 2, 1978) under the signature of the Deputy Assistant Administrator for Water Planning and Standards. Minor editorial changes have been made by the Water Planning Division.

EPA is requiring a rigorous review for all municipal projects designed for treatment more stringent than secondary. Regions must evaluate all such projects using the checklist procedure contained in the June 8, 1978, joint Rhett/Davis memo. If a project is identified as having to meet AWT treatment standards (BOD less than 10 mg/l and/or nitrogen removal, defined as TKN plus nitrite/nitrate removal greater than 50 percent), an independent justification is required.[2] If the Regional evaluation of a project does not demonstrate that the treatment levels proposed are necessary, or that other alternatives were sufficiently evaluated, the Region can elect to negotiate to have all or part of the project postponed until additional analyses are completed and other solutions are proposed. The Region could require that the State, working with the 201 grantee, perform these analyses by evaluating water quality and cost-effectiveness data that was not adequately considered in the original justification. In selected situations where new extensive data collection and technical analyses are required and the WQM process is the most appropriate way to accomplish these analyses, the Region should consider initiating a 208-funded evaluation of treatment more stringent than secondary.

POLICY

1. General

Each Region must determine those selected situations for which FY 79 208 funds will be allocated to perform water quality-municipal facilities analyses consistent with the national WQM priority on facility planning. In making their selections, the Regions will use the criteria presented below.

WQM arrangements in a State and the analyses required in any particular situation must be considered in determining the specific WQM agency, State or areawide, that will have the lead role in accomplishing the needed evaluation. Some of the tasks required, particularly water quality monitoring and waste load allocations, have traditionally been performed by States using 106 funds. 106 funds may continue to be used, supplemented as necessary for any particular evaluation with FY 79 208 funds. If an areawide WQM agency is given the lead role on developing waste load allocations, this responsibility must have been or be delegated by the State to the areawide agency.

The State/EPA Agreement should generally discuss how each State will use the WQM process to make AWT decisions. In FY 79 the States and EPA should use the Agreement process to determine specific responsibilities, tasks, and funding sources for each water quality-municipal facility evaluation assisted with FY 79 208 funding.

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2. See WQM Policy Memorandum B-8, PRM 79-11, "Funding of Waste Load Allocations and Water Quality Analyses for POTW Decisions." This policy discusses the use of 201 and 205(g) funds on a case-by-case basis for the development of POTW-related waste load allocations and supporting water quality analyses.

2. Selection Process

In preparing for the July 1978 Congressional Oversight Hearings, each Region completed Project Review Checklists for projects proposing treatment beyond secondary identified in the 1976 Needs Survey. Since that time, Regions should have completed additional checklists in accordance with the June 8 policy. The data in these checklists and any other questionable municipal facilities situations known to the Region together with the selection criteria below should be used to identify those likely situations where the WQM process should provide new technical analyses in order to confidently make decisions on what treatment levels are needed to meet water quality goals. Selecting final candidates should be a closely coordinated effort between the Regions, the States, areawide WQM agencies, and 201 agencies.

FY 79 208 funds for water quality-municipal facilities evaluations can be used where:

1. the proposed project involves stringent effluent limitations. As a starting point, Regions should use EPA's definition of AWT (BOD less than 10 mg/l or nitrogen removal, defined as TKN plus nitrite/nitrate removal greater than 50 percent) as a screening criteria. Other projects more stringent than secondary may be considered if the Region and States cannot identify qualified candidates satisfying this AWT definition which involve greater potential cost savings and/or environmental impacts;

2. EPA and the States believe that the existing technical justification for treatment more stringent than secondary is questionable and that the decision on whether to design and build a facility with treatment more stringent than secondary will be dependent primarily on additional technical analyses;

3. the proposed project has not already proceeded to construction;

4. the WQM agency to receive funding has demonstrated a high level of technical and management competence during the initial planning process;

5. the water quality standards designate beneficial uses and define water quality criteria to protect these uses, in accordance with the Clean Water Act, and both the State and EPA have approved these WQS.

As FY 79 208 funds are limited, Regions must carefully select a small number of situations for evaluation which offer the greatest potential for cost savings and/or significant environmental impacts when compared to other candidates. Thus, for those candidates which meet the above criteria, the Region should consider the following when selecting the actual situations which will be evaluated through the WQM process using FY 79 208 funds:

- several municipal facilities serving a large number of people and operated by several municipalities are involved. In some cases, this may involve evaluating a blanket effluent requirement or policy being applied to all municipal dischargers in an area or basin,

- there is reason to believe that tradeoffs between constructing stringent municipal treatment and other abatement alternatives have not received adequate consideration. (For example, alternatives to constructing stringent municipal treatment could include implementable best management practices for non-point sources, land treatment, staged construction of facilities, or seasonal treatment requirements.)

3. Work Program

The grantee, whether a State or areawide WQM agency, is responsible for developing a work program, which will become part of their grant agreement. The grantee should re-examine the steps in the water quality planning process that led to the treatment level justification and develop a work program for completing any of the following tasks that have not already been satisfactorily completed:

1. identify the water quality standards, uses and criteria, for the affected segments. The affected segments include the segment which receives the treatment plant's discharge as well as the segment(s) immediately downstream (the receiving waters);

2. evaluate existing water quality data and problem assessments. Determine the specific water quality problems and constituents which require additional analyses. Determine additional water quality data collection needs;

3. for the constituents identified in Task No. 2, estimate the natural background, nonpoint source, combined sewer, and point source loadings to the affected segments (receiving waters), over the twenty-year planning period;

4. establish the load reductions which can be realized by implementing point sources control and, where appropriate to the water quality issues and specific water bodies involved, readily implementable BMPs for nonpoint sources;

5. estimate the total maximum daily loads for the flow conditions and discharge locations in question that these segments can assimilate without violating their water quality standards. This task should include examining the establishment of seasonal effluent limits;

6. develop alternative sets of load allocations for the constituents identified in Task No. 2, which would not violate the water quality standards in the affected segments. Each set of load allocations should correspond to a set of point source control technologies and, where appropriate, readily implementable BMPs for controlling nonpoint sources. Several levels of municipal waste treatment technology should be considered, as well as alternative or innovative technologies. Phasing AWT construction in concert with implementing BMPs should also be considered;

7. estimate the cost of the point source control facilities and, where appropriate, BMPs, and the effectiveness of each set of load allocations, including to the extent feasible, their impact on the beneficial uses in the Federally approved water quality standards;

8. assess the economic, technical, and administrative feasibility of implementing each set of load allocations;

9. identify the "best" set of load allocations, based on cost-effectiveness and feasibility of implementation;

10. revise the existing WQM plan, with the full process of public participation, to incorporate the "best" set of load allocations and their corresponding point and nonpoint source controls.

The above steps should provide the water quality related effluent limitations for the segments affected by the proposed municipal facility. This planning process will either show that treatment beyond secondary is not necessary and document how water quality standards can be met with secondary treatment, or it will provide a documented justification of what treatment levels are necessary to meet the water quality standards.

In performing these tasks, the WQM agency should carefully review existing data and analyses, undertaking new data collection and analyses only as required. Data collection and water quality analysis should be restricted to that which is required to provide the necessary water quality management information. Where technically sound and defensible WQM information can only be obtained by new data collection or water quality modeling, this should be done and the models should be calibrated and verified.

Specific outputs that the grantee will provide from WQM analyses already completed or analyses done under this grant are listed in Appendix A.

If the justification for AWT is based on a need to meet State-imposed effluent limitations for specific physical conditions (e.g., intermittent streams, critical dilution ratios, public drinking water supply, etc.) and these effluent limitations are part of the State's water quality standards or a State policy or regulation, the State with assistance from

the Region should develop a work program for justifying these effluent limitations in addition to the above tasks. Particular attention should be given to effluent requirements imposed by a State under Section 510 of the Clean Water Act.

The work program schedule should be coordinated with the establishment of NPDES compliance schedules and construction grants schedules. The work program should include specific output commitments at key points throughout the grant period.

Enclosure
Appendix A

APPENDIX A

REQUIRED WATER QUALITY MANAGEMENT OUTPUTS

1. Identification of the affected segments and their water quality standards (uses and criteria) and a discussion of how these WQS were applied in the municipal facility evaluation. If appropriate, recommendations concerning revisions to WQS.

2. List of water quality problems and constituents analyzed, including the rationale for selecting these problems and constituents.

3. Natural background, nonpoint source, and point source loading estimates to the affected segments, over the twenty-year planning period.

4. Total maximum daily load estimates for the affected segments.

5. Alternative sets of load allocations for the affected segments and corresponding water quality related effluent limitations.

6. Description and cost estimates of the point and nonpoint source controls for meeting these load allocations.

7. Effectiveness of each set of load allocations.

8. Assessment of the feasibility of implementing each set of load allocations.

9. Identification of the "best" set of load allocations for the affected segments.

10. Revised WQM plan, incorporating the "best" set of load allocations.

11. Documentation on water quality modeling and analysis and on pollution control tradeoffs that would render them reproducible.

In addition to these required outputs, the final reports will answer the following questions:

1. What effluent limits are necessary to meet the applicable water quality standards (WQS)?

2. Can the WQS be met, if (a) the treatment facility under consideration has AWT and (b) one or more of the other point sources and/or the nonpoint sources implement some combination of water quality related effluent limitations and best management practices and (c) the remaining point sources comply with their effluent limitations?

3. Is AWT necessary to meet effluent limitations for protecting the public health and welfare and/or for specific physical conditions (e.g., intermittent streams, critical dilution ratios, public drinking water supply, etc.) which are incorporated into the State's WQS or a State policy or regulation? And if so, what is the justification for these special effluent limitations?

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION B -- PROGRAM REQUIREMENTS AND CRITERIA

WQM Policy Memorandum B-8

FUNDING OF WASTE LOAD ALLOCATIONS AND WATER QUALITY ANALYSES FOR POTW DECISIONS*

Purpose

This memorandum establishes policy and procedures for the funding of waste load allocations and water quality analyses required for publicly-owned treatment works (POTWs) decisions.

Background

EPA, recognizing the costs and energy requirements of publicly-owned treatment works (POTWs) providing treatment greater than secondary (AST/AWT), has taken several steps to insure that such facilities are only Federally funded when based upon technically adequate effluent limitations. In June 1978 a joint OWPS/OWPO guidance memorandum was issued which contained a checklist to be completed before a project providing AST/AWT could receive construction grant funding. On November 2, 1978, SAM 37 was issued by OWPS which established policy and procedures for the use of Section 208 funds to review and revise waste load allocations for POTWs subject to permit limitations requiring AST/AWT. On March 9, 1979, PRM 79-7 was issued by OWPO which established policy and procedures for the review and funding of proposed AST/AWT projects.

Reduced Section 106 and 208 FY 80 appropriations coupled with increasing demands on Section 106 funds to support the issuance of second round NPDES permits and expanded monitoring programs may result in some States being unable to provide adequate funding for the timely review and revision of waste load allocations. It is therefore necessary to provide additional

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* Originally issued as SAM 38/PRM 79-11 (September 5, 1979) under the signatures of the Deputy Assistant Administrators for Water Planning and Standards and Water Program Operations.

policy and procedures for FY'80 on the use of Section 201 and 205(g) funding to augment Section 106 funds to support these tasks.

Policy

Nothing in this memorandum is to affect the responsibility and right established by Sections 303 and 510 of the Clean Water Act for each State to develop water quality standards and waste load allocations. The State water quality management program will continue to exercise overall management responsibility for assuring that water quality analyses and waste load allocations are conducted in a satisfactory manner. The primary sources of funding for these activities are program grants and State funds. The amount of Section 106 and State funds currently expended for POTW-related waste load allocations should not be reduced because Section 201 and 205(g) funds may be used, on a case-by-case basis and subject to requirements in this memorandum, to augment State and Section 106 funds to provide for the development of POTW-related waste load allocations and supporting water quality analyses. Except where EPA and the State have determined that existing limitations should be revised, Section 201 and 205(g) funds may not be used to review effluent limitations or to develop alternative effluent limitations; e.g., costs associated with the development of data in support of Section 301(h) permit modification request are solely the responsibility of the requesting municipality and are not grant eligible. Where Section 201 or 205(g) funds are used, the areal extent of waste load allocation and water quality data collection activities must relate directly to needed waste load allocations for projects that are on the State 5-year construction grant priority list.

The priority for use of Section 201 and 205(g) funds to conduct waste load allocations and water quality analyses is:

1. POTWs which have been determined by EPA and the State, as a result of a PRM 79-7 review, to require a revised waste load allocation.

2. POTWs on the State 5-year construction grant priority list for which the State and Regional Administrator have determined, through the State/EPA agreement process, that existing waste load allocations are probably insufficient to support AST/AWT requirements.

SAM 37 continues to apply to the use of FY'78 and 79 Section 208 funds for waste load allocations and water quality analyses. FY'80 Section 208 funds may not be used to initiate POTW-related waste load allocations.

Procedures

1. FY 80 State/EPA Agreement: If Section 201 or 205(g) funds are to be used for waste load allocations, the FY 80 State/EPA Agreement (SEA) must contain or provide for the development of a detailed State review of the 5year construction grant priority list. Specific provision for the review may be contained in the SEA itself or in the Section 106 program plan or the 205(g) delegation agreement. Wherever a POTW has effluent limitations potentially requiring AST/AWT and Section 201 and 205(g) funds may be used, the SEA, Section 106 program plan or 205(g) delegation agreement shall provide for:

- an informal review of applicable water quality standards to determine whether they contain unsupported requirements or criteria; e.g., blanket discharge prohibitions or criteria substantially more stringent than contained in Quality Criteria for Water or any subsequent criteria documents published by EPA.

- the review of existing waste load allocations, if any, to determine whether they are technically valid and sufficient to support AST/AWT effluent limitations.

- the review of any other water-quality based permit limitations not derived from water quality standards or waste load allocations to determine whether they are valid.

Wherever the State and EPA determine that an effluent limitation is not valid or supportable, the State shall provide a program to rectify the inadequacy. One component of this program shall be a list of projects for which it is necessary to substantiate inadequate AST/AWT effluent limitations. This list should subdivide these projects into those requiring new or revised waste load allocations and those requiring other work. Projects requiring new or revised waste load allocations should be subdivided into the two priority classes described above. Until this listing is complete, Section 201 and 205(g) funds may not be used to fund waste load allocations.

For all cases where the State has determined that effluent limitations are unsupported for reasons unrelated to waste load allocations, the priority of resolution shall be determined by the State and Regional Administrator.

2. Funding: The SEA shall allocate costs to produce valid effluent limitations as follows:

- Section 106 funds may be used in any situation.
- where tasks relate to the basin-wide revision of waste load allocations, or to waste load allocations/water quality analyses not directly related to a POTW on the SEA needs list, only Section 106 or State funds may be used.

Section 201 and 205(g) funds may be used to augment Section 106 funds for priority one projects upon issuance of this memorandum. Section 201 and 205(g) funds may be used to augment Section 106 funds for priority two projects upon EPA approval of the State waste load allocation program.

3. Headquarters Assistance: PRM 79-7 provides for OWPO and OWPS review of the adequacy of effluent limitations and facility planning for certain proposed AWT facilities. Upon request, OWPS will provide technical assistance and advice on the review of existing water quality standards and waste load allocations, the development of work programs, and on draft work products.

4. Relationships: The use of Section 201 and 205(g) funds for waste load allocations and the involvement of 201 grantees is new so that additional guidance is necessary:

- responsibility for the validity of waste load allocations lies with each State in accordance with Section 303(d)(1)(C) and 303(e)(3) of the Clean Water Act.
- accountability for Section 201 funds used for waste load allocations and supporting water quality analyses will rest with the Section 201 grantee even though the grantee may execute a contract or intergovernmental agreement with the State or the State and an areawide 208 agency to perform the work.
- in order to prevent a conflict of interest, it is recommended that waste load allocations and supporting water quality analyses not be conducted directly by the Section 201 grantee. It is recommended that the Section 201 grantee instead execute a contract or intergovernmental agreement with either the State or the State and an areawide 208 agency, which may subcontract the work, if necessary.
- wherever Section 201 funds are to be used for waste load allocations/ and water quality analyses, the scope and schedule of work and the consultant contract shall be approved by the State and EPA. The terms of this approval shall be made a condition of the grant and shall be contained in a memorandum of understanding entered into by EPA, the State, the 201 grantee, and, when appropriate, the areawide 208 agency. EPA and the State should be intimately involved in all phases of the work as discussed in the attached management guidance.
- the conduct of joint waste load allocations is encouraged.

Some previous waste load allocations funded by EPA ultimately failed to be valid because of inadequate data, inexperienced personnel and improper use of mathematical models. Consultant contracts should include specific performance standards and a quality assurance program covering, where

applicable, model calibration and verification, sampling and analytical methodologies, statistical adequacy of data, and personnel requirements (see the attached management and technical guidance).

5. Municipal Enforcement Strategy: The "Final National Municipal Policy and Strategy for Construction Grants, NPDES Permits, and Enforcement Under the Clean Water Act" (August 1979) provides that for projects undergoing an AWT review, NPDES permits should not generally be reissued until this review is completed. Procedures for modifying or reissuing permits for these projects are detailed in this document.

Attachments:
PRM 79-7
Management Guidance
Technical Guidance
Municipal Enforcement Strategy, AWT Section

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 80

VI. WQM POLICY MEMORANDA

SECTION C -- COORDINATION

WQM Policy Memorandum C-1

INTERAGENCY COORDINATION*

Purpose

This memorandum provides the interagency coordination policy and guidance for State and areawide Water Quality Management planning. All interagency agreements already in existence and sent to the Regions are referenced. As new agreements are finalized, they will be forwarded to the Regions.

Background

Successful implementation of the Water Quality Management program will require the continuing involvement and support of other Federal agencies, particularly at the planning agency level. Many of these agencies have significant responsibilities in matters relating to water quality management, considerable technical expertise and a great deal of useful data and information. At the Headquarters level, coordination is being established on a continuing basis with a number of selected Federal agencies and programs which have nationwide applicability to water quality management.

Policy

Regional Offices should take action necessary to implement the provisions of interagency agreements and/or policy statements at the State and local levels.

The Regions should also encourage and assist State and local planning agencies to establish working relationships with other Federal agencies operating within their areas of jurisdiction which have responsibilities, activities or information which are related or potentially useful to effective water quality planning or management.

Following is a list of interagency agreements which EPA has signed. Copies can be obtained by contacting Patti Morris, Water Planning Division, Operations Branch (202-755-6026).

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* Originally issued as SAM-11 (January 23, 1976) under the signature of the Deputy Assistant Administrator for Water Planning and Standards. Certain editorial changes have been made by the Water Planning Division.

1. Hud 701 Planning, May 2, 1975
   Attachment A, Performance Criteria, March 1976
   Attachment B, Memorandum to HUD Regional Offices, March 1976

2. CZM, September 29, 1975
   Attachment A, Memo, Guidance on Coordination Between the CZM Program and the EPA State and Areawide WQM Program, Aug 1976

3. NACO, December 8, 1975

4. BLM, January 5, 1976

5. Corps of Engineers, March 25, 1976

6. Fish and Wildlife Service, March 12, 1976

7. ASCS, March 31, 1976

8. U.S. Forest Service/EPA Joint Policy Statement, May 3, 1976

9. U.S. Dept. of the Interior Geological Survey, May 7, 1976

10. Coordination Memorandum Between the Appalachian Regional Commission and EPA, June 21, 1976 (Regs. 2, 3, 4, & 5)

11. Joint Memo of Planning and Program Coordination between DOT and EPA. July 12, 1976

12. Relationship Between the WQM Program and the National Flood Insurance Program. February 17, 1977

13. Memorandum of Understanding Between the U.S. Small Business Administration and the U.S. Dept. of Agriculture's Farmer's Home Administration. September 20, 1976

14. Interagency Agreements with the Departments of Agriculture, Army, and the Interior, Required Under Section 304(j) of P.L. 92.500. March 1, 1977

15. Memorandum of Understanding with Department of the Interior. December 8, 1978.

16. EPA-FS Forestry WQM Statement of Intent. March 2, 1979.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

VI. WQM POLICY MEMORANDA

SECTION C -- COORDINATION

DRAFT

21 MAY 1980

WQM Policy Memorandum C-2

RURAL CLEAN WATER PROGRAM RELATIONSHIP TO A 208 PLAN*

Purpose

This memorandum sets forth the relationship between State or areawide agricultural portions of 208 plans and potential Rural Clean Water Program (RCWP) project areas. RCWP projects represent only one of the implementation funding sources to abate agricultural nonpoint source pollution identified by the 208 planning process. For example, the Agricultural Stabilization and Conservation Service Agricultural Conservation Program (ACP) and the Section 314 Clean Lakes Program, as well as State-supported cost share programs, are other implementation options.

Background

Section 208(b)(2)(f) of the Clean Water Act provides for the development of water quality management plans to include (1) identification, if approporiate, of agricultural and silvicultural nonpoint sources of pollution and (2) procedures and methods to control, to the extent feasible, such sources. The regulations defining the requirements of such plans are included in 40 CFR 35.1521.

Section 208(j) of the Act authorized the Secretary of Agriculture, with the concurrence of the Administrator, Environmental Protection Agency, to establish and administer a program for the purpose of implementing best management practices to control agricultural nonpoint source pollution. No appropriations have been provided for this portion of the Act to date. However, the Assistant Administrator for Water and Waste Management at a recent Congressional hearing supported re-authorization of Section 208(j) through 1984 at the $400 million per year level authorized for FY 80.

The current Experimental Rural Clean Water Program, separate and distinct from Section 208(j), receives funds under the FY 80 U.S. Department of Agriculture (USDA) Agricultural Rural Development, and Related Agencies Appropriations Act, P.L. 96-108. The final regulations, developed jointly between USDA and EPA, appear in 7 CFR Part 700 (March 4, 1980).

Policy

The 1980 Experimental Rural Clean Water Program projects are in high priority agricultural nonpoint source problem areas, as reflected through certified and approved 208 plans. The regulations for the experimental RCWP State the following:

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*Adapted and update from the FY 80 WQM Policy Memo C-2 to reflect recent change in the RCWP program.

700.12 Eligible Project Areas

(a) Only those project areas which reflect the water quality priority concerns developed through the water quality management planning process and have identified agricultural nonpoint source water quality problems are eligible for authorization under RCWP.

Therefore, proposed RCWP projects must be consistent with a certified and approved agricultural portion of a WQM plan which includes, at a minimum:

- Identification and assessment of agricultural nonpoint source problems (Identification of impaired water uses must be a part of the RCWP application)
- Identification of priority agricultural nonpoint source problem areas or sources
- Identification of the best management practices (BMPs) to control the problems

For future RCWP project eligibility, an area must have significant water quality problems resulting from agricultural activities. A probability that a problem exists is not sufficient.

A State or areawide agency may choose to concentrate on specific areas or sources of pollution and apply for RCWP project assistance before completing all planning requirements set forth in 40 CFR 35.1521. However, each grantee must, as a minimum, identify and assess the agricultural nonpoint source problems of the entire State or area, develop priorities for controlling the agricultural nonpoint source water quality problems, and identify BMP's for the entire planning area. The BMPs specified in the RCWP project application may vary from the 208 plan, due to the specific water use impairment identified in the application.

SUPPLEMENTAL WQM PROGRAM GUIDANCE FOR FY 81

APPENDIX A

WQM REFERENCE LIST

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2. US-EPA, Water Planning Division, "Water Quality Management Five Year Strategy, FY 81 Baseline", January 1980.

3. 40 CFR, Part 35, Subpart G, "Grants for Water Quality Planning, Management, & Implementation". Final Regulations May 23, 1979.

4. Clean Water Act, as amended, 33 U.S.C. §1215 et seq.

5. US-EPA, Office of Water and Waste Management, "1990 Construction Grants Strategy", under preparation, May 1980.

6. US-EPA, Office of Planning and Management, "EPA Operating Year Guidance for FY 81", February 16, 1979.

7. 40 CFR, Part 25, "Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act", February 16, 1979.

8. 40 CFR, Subchapter D, Part 130, "Policies and Procedures for the State Continuing Planning Process", November 1975.

   40 CFR, Subchapter D, Part 131, "Preparation of Water Quality Management Plans", November 1975.

   40 CFR, Subchapter B, Part 35, "State and Local Assistance", November 1975.

9. US-EPA, Office of the Administrator, "Handbook for FY 81 State/EPA Agreements", March 1980.

10. NRDC v. Train 396 F Supp 1386 (D.D.C. 1975), aff'd subnom NRDC v. Costle 564 F2 573 (D.C. circ 1977).

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18. US-EPA, "Basic Water Monitoring Program", January 28, 1977.

19. 40 CFR, Part 35, Subpart G, Appendix A, "Water Quality and Pollutant Source Monitoring", May 23, 1979.

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22. Everett, L., Schmidt, K., Tinlin, R., and Todd, D., "Monitoring Ground Water Quality: Methods and Costs", May 1976.

23. US-EPA Environmental Research Laboratory, "Water Quality Assessment -- A Screening Method for Nondesignated 208 Areas", EPA-600/9-77-23, August 1977.

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Identification of Priority Problems and Sources

25. US-EPA, Office of Water Planning and Standards, "Total Maximum Daily Loads Under Clean Water Act", 43 FR 60662, December 28, 1978.

26. US-EPA, Office of Water Program Operations, "Priority List Guidance for the Development and Management of FY 1981 State Project Priority Lists" (POM 80-1), January 18, 1980.

27. US-EPA, Water Planning Division, "Integrating Financial Analysis into the Wasteload Allocation Process", Final draft May 1980.

28. 40 CFR, Part 35, Subpart E, "Grants for Construction of Treatment Works -- Clean Water Act", September 27, 1978.

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29. US-EPA, Water Planning and Monitoring and Data Support Divisions, "Existing Policy and Technical Guidance on Wasteload Allocations for Advanced Treatment Planning" (INFO 79-98), August 14, 1979.

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35. US-EPA, Office of Water Program Operations, "Model Plan of Study, Supplement to: Guidance for Preparing a Facility Plan", March 1976.

36. 40 CFR, Part 35, Subpart E, Appendix A, "Cost-Effectiveness Analysis Guidelines", September 27, 1978.

37. 40 CFR, Part 35, Subpart E, Appendix E, "Innovative and Alternative Technology Guidelines", September 27, 1978.

38. US-EPA, Office of Federal Activities, "Floodplain Management and Wetlands Protection -- Statement of Procedures", 44 FR 1455, January 5, 1979.

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55. US-EPA, Office of Research and Development, "Impacts of Sediments and Nutrients on Biota in Surface Waters of the United States", October 1979.

56. US-EPA, Office of Research and Development, "Costs and Water Quality Impacts of Reducing Agricultural Nonpoint Source Pollution", August 1979.

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APPENDIX B

WQM PROGRAM REVIEW

DATE MAY 5 1980 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SUBJECT WQM Program Review

FROM: Eckardt C. Beck, Assistant Administrator
for Water and Waste Management

TO Regional Administrators, Regions I-X

A priority of Doug Costle's and mine is to improve the management of our grant programs. The Water Planning Division with the support of the Program Evaluation Division and Bill Drayton have spent a great deal of your staff's time and mine developing a framework (strategy) to improve the management of the Water Quality Management Program. The WQM Program Review is a continuation of that effort.

The WQM Program Review emphasizes the quality of management in the Regional Office. It is structured around a framework basic to the water quality problem-solving process. The components of the framework are: identification and prioritization of the problems; development of strategies to deal with the problems; agreements with States on how the various program elements will be integrated to solve the problems; technical and managerial assistance to States to find, develop and implement solutions to the problems; and periodic evaluations to determine the progress made and to keep planning, management, and operational programs moving in the right direction.

The management framework allows for and recognizes the diversity of problems, issues, institutions and political climate in each Region. It forces an aggressive management style to ensure cost-effective programs are developed and implemented to solve priority problems and operational programs effectively and efficiently administered. The WQM Program Review should be as useful to you as it will be to me.

I have promised to develop an integrated management evaluation system for OWWM's programs this fiscal year. The Office of Drinking Water and OWPO have program review and/or evaluation systems in place. Though quite different, they meet the needs of the program offices. The WQM Program Review appears to provide the type of qualitative assessment that I need to meet my commitment to improve the management of OWWM's grant programs. I have asked Merna Hurd to work with the other program offices and build upon the existing systems to assure that OWWM's program reviews are integrated into an overall program management framework. Your ideas, comments and assistance will be most appreciated.

WQM PROGRAM REVIEW

Purpose:

The WQM Program Review is to assess the Regions' and Headquarters' management of the water quality management (WQM) process including progress in developing cost-effective solutions to water quality problems; in developing operational NPS control programs; in implementing certified and approved WQM plans; in improving the management of the 106 program; and in meeting the goals of the Clean Water Act. Headquarters management and support of the WQM Program will be evaluated by the Regional Offices.

Objective

The objective of the WQM Program Review is to make a qualitative evaluation of the effectiveness of Regional Offices' and Headquarters' management of the WQM Program and to make improvements where appropriate. The Review will focus on:

- Ability of the Regional Office to ensure a decision-making process is developed to solve point and nonpoint source pollution to meet the water quality goals of the Act.

- Ability of the Regional Offices and Headquarters to make the water quality management process work--the development and implementation of water quality management plans, effective and efficient administration of operational control programs and the improvement in water quality.

- Ability of Regional Offices to demonstrate that they have developed a systematic approach or framework to manage the WQM Program and its component parts (including the 106 and 208 grant programs).

Guidelines for the WQM Program Review

The Guidelines (see attached) cover in detail broad areas which may depending on the response define problems, issues, and solutions to be pursued by the Review Team. They are a series of questions to gather information on the activities of the Regional Office that ensure solutions to water quality plans are developed, WQM plans are implemented and work programs are executed. The Guidelines will also be used to evaluate the strategic documents of the WQM process. The Guidelines are comprehensive; therefore, a negative response does not necessarily constitute a program deficiency or weakness.

The information gathered will be used to make the qualitative assessment of the Regional Offices' management and Headquarters' support of the WQM program. As such the Guidelines are designed to provide insight into Regional Offices' strategies, methodologies and approaches.

WQM Program Review Report

The objective of the Report is to assist us in improving the management of the WQM program and achieving the goals and objectives of the WQM program. The Report will not compare one Region to another. The Report will stress the "successes" of the Region but will also recommend improvements to enhance the Region's management and Headquarters support of the WQM program. Conclusions of the Report will be written in such a way as to identify the issue, identify the affect or impact of the issue (e.g., problem created); and identify potential solutions to the problem or issue.

A Report will be prepared based on Regional comments. It will be approved by the Assisitant Administrator for Water and Waste Management and forwarded to the Regional Administrator. The Report, the conclusions and recommendations contained therein, will be discussed with the Regional Administrator during the Regional Administrator's next RA-in-Residence visit.

Review Team

The Review Team will consist of:

- o Director/Deputy Director, Water Planning Division
- o WPD support staff.
- o Regional Water Division Director and/or Branch Chief, if the Region's travel funds permit.

WQM Program Review Process

On-site review is essential to achieve the objectives of the WQM Program Review. All participants must understand the purpose, objectives and scope of the Review. Dialogue is to be conducted in an open professional manner to maximize the information exchange between the Regional staff and the Review Team. Regional and Headquarters preparation for the Review is critical to facilitate the information exchange.

The topics to be covered in the WQM Program Review will be agreed to by Regional and Headquarters personnel and set forth in an Agenda prepared at least one week prior to the Review visit.

The WQM Program Review Process will include the following steps:

1. Schedule Review visits (there will always be at least a year between subsequent review visits).
2. Agreement on the two States whose documents and processes will be examined as a basis of reviewing the Region's framework for managing the WQM process.

3. Documents identified in Section I.A.1-12 of the "Guidelines for the WQM Program Review" sent to Headquarters and reviewed by the Review Team (orginals will be returned to the Region).

4. Conference call to the Regional Office to:
   -- discuss the documents reviewed
   -- set the Agenda (topics) for the Review visit

5. Review Team visits the Regional Office (2 days).

6. Report drafted.

7. Draft report reviewed by Region and comments on the report forwarded to Headquarters including the Region's review of Headquarters support.

8. Based on Regional comments, final report prepared, approved by the Assistant Administrator for Water and Waste Management and forwarded to the Regional Administrator.

9. During the Regional Administrator's next RA-in-Residence visit, time will be scheduled to discuss the report, the conclusions and recommendations contained therein.

Schedule for Visits (Initiation of Program Review Visits Will Begin in May 1980):

October - Region X, Seattle
November - Region IV, Atlanta
December - Region III, Philadelphia
January - Region IX, San Francisco
February - Region VIII, Denver
May - Region I, Boston
June - Region VI, Dallas
July - Region II, New York
August - Region VII, Kansas City
September - Region V, Chicago

GUIDELINES
for the
WQM PROGRAM REVIEW

I. WQM DOCUMENT REVIEW

A. Documents (Reviewed to gather information prior to Program Review visit; documents will be returned to the Region)

1. Two State water quality problem assessments (any assessment that is used as a basis of WQM activities whether the 305(b) Report or the problem assessment included in WQM plan, Five-Year strategy, SEA, etc. 40 CFR 35.1511-1)*

2. Regional overview of the water quality problems (may be the Region's Environmental Profile or other appropriate analyses the Region has completed).

3. Two State Five-Year Strategies (40 CFR 35.1511-2).

4. Regional NPS control and/or funding strategies (agriculture, urban runoff, ground water, financial management, etc.).

5. Significant Implementation Agreements (part of FY 1980 and subsequent year's 208 work programs (40 CFR 35.1533-3(b)(c)).

6. List of the conditions to the approval of two States' WQM plan(s) and those conditions which have been removed.*

7. WQM portions of two State EPA Agreements (40 CFR 35.1513-3).*

8. Two States' 106 and 208 work programs (40 CFR 35.1513).*

9. Regional Implementation Assistance Plan (Region's work program/ priorities to assist agencies execute 106 and 208 work programs and implement WQM plans).

10. Latest mid-year reviews of two State agencies (40 CFR 1513-8).*

11. If available, time line or schedule showing the development of the above documents for two States.

12. Organizational chart of the Regional Office in sufficient detail to determine which organizational entities the WQM Program elements are a part of.

*Selection of the two States whose documents are to be reviewed will be negotiated at the time that the Program Review visit is scheduled.

B. Criteria to be Used in the Review of the WQM Documents

1. Do the documents reflect national program guidance?

2. Is there a consistent flow of information and activities from one document to another (from problem assessments to what is included in the five-year strategy, SEA and the work programs)? Is there a logical degree of detail?

3. Does the format of the documents facilitate tracking priorities through the documents?

4. Do the documents include the following where appropriate:

- Problem definition--does it include:
  - -- Identification of specific point and nonpoint source problems?
  - -- Geographic location of the problem or stream segment?
  - -- Cause of the problems?
  - -- Potential sources of the problems?
  - -- Beneficial uses impacted?
- Problem solutions--do they include:
  - -- Alternative solutions identified where appropriate?
  - -- Reasons given for rejecting alternative solutions credible?
  - -- Projected water quality impacts of the control programs estimated?
- Do funding and assistance requirements include:
  - -- Funding for program development consistent with guidance?
  - -- Funding source(s) for management/administration of control programs identified?
  - -- A logical allocation of limited resources?
  - -- Identification of technical and management assistance requirements?
- Are roles of agencies responsible for outputs identified?
- Is there coordination of specific activities among EPA programs to solve water quality problems (RCRA, SDWA, NPDES, Enforcement S&A, etc.)?
- Is there sufficient detail to monitor progress with quantifiable objectives/goals and milestones?

5. Are the documents adequate to address or resolve the water quality problems?

6. Do the work plans focus on priority water quality problems and programs (urban runoff, agriculture, ground water, toxic monitoring, pretreatment).

7. If priority water quality problems are not addressed, is there a rationale provided?

8. Do the documents reflect reasonable priorities based on:

   - Extent and magnitude of the critical water quality problems?
   - Environmental indices?
   - Resources available, including Regional and Headquarters assistance?
   - Goals and objectives of the States and Region?
   - Certified and approved WQM plans?

9. Do the documents reflect participation of the public?

10. Do the documents reflect the previous year's evaluation of implementation progress and State and areawide agencies' performance?

C. Process(es) Used to Develop the WQM Documents (reviewed where questions arise as to the availability and/or quality of the documents).

1. Which documents are not available and why?

2. What is the process(es) for developing each of the documents?

   - Are the processes similar?
   - Who is primarily responsible for the development of each of the documents?
   - Are there organizational impediments (within the RO or the State)?
   - Are there resource limitations (within the RO or the State)?
   - Are there philosophical differences as to the need for the documents (within RO or the State)?
   - How is input obtained or review coordinated for each of the documents?

3. Is guidance provided to States and/or areawide agencies by the Region or does the Region transmit Headquarters' guidance? Or both? Does the Regional guidance differ from that of Headquarters?

4. Are the Region's expectations, suggestions, strategies communicated to the States?

   - When are they communicated?
   - How are they developed?
   - What input is used to develop the Region's expectations, suggestions, strategies?
   - Do the Region's expectations, suggestions, strategies include input from previous year's evaluations?
   - Does it include suggestions on Regional or Headquarters' provision of technical or management assistance?

II. ASSISTANCE PROVIDED BY THE REGIONAL OFFICE TO ASSURE IMPLEMENTATION OF WQM PLANS AND EXECUTION OF WORK PROGRAMS

A. Overview

1. What are the Regional objectives, goals, priorities for providing assistance?
   - What control programs are available?
   - What control programs were recommended as part of the 208 WQM plans?
   - What other programs need to be developed to solve priority water quality problems (toxics monitoring, pretreatment programs, ground water, etc.).

2. How were the priorities determined?
   - conditions to approval WQM plans?
   - State EPA Agreements?
   - Court decrees?
   - Other?

3. What percentage of staff time is devoted to assistance in the
   - implementation of WQM plans
   - execution of work programs (106, 208)

4. If assistance is provided by other than the Water Division, how is it coordinated?

5. How does Headquarters technical assistance projects fit into Regional priorities? Are there problems?

6. Are tasks agreed to as part of a Regional Implementation Assistance Plan or work program being completed on a timely basis? If not, why not?

7. Are the tasks identified in the Regional Implementation Assistance Plan or work program included in the employees' performance agreements?

B. Outputs: Based on the Region's priorities identified in II.A.2., above are the Region's activities focused on:

1. Management of operational programs for the control of point and nonpoint source problems (regulatory and nonregulatory programs)?

2. Enforcement of regulatory and nonregulatory nonpoint source programs of certified/approved WQM plans, NPDES, pretreatment programs, etc.

3. Administration of NPDES (402, 404), Pretreatment and Emergency Response Programs?

4. Development, review and revision of water quality standards?

5. Development, review and revision of wasteload allocations?

6. Identification of solutions to be implemented for:

   - Point source: Structural solutions (waste water treatment facilities)?
   - Nonpoint source:
     -- Structural-e.g. detention basins for urban runoff, recharge systems for ground water, erosion control barriers, sprinkler irrigation systems, etc.?
     -- Nonstructural-e.g. Integrated Pest Management programs, divided slope plantings, stubble mulch, street sweeping, etc.?

7. Is there agreement on institutional responsibilities?

8. Are there State/local financial management and budgeting for implementation of controls?

   - user charges?
   - permit fees?
   - State/local cost share funds?
   - State grant funds?
   - Financial Management Assistance Projects?

9. Is Federal Assistance factored into the program?

   - construction grants, 106, 314, RCRA, SDWA, etc?
   - USDA cost share programs (ACP, MIP, ACP Special projects, RCWP, etc.)?

10. Is protection of wetlands, lake restoration?

C. Activities/Process: How does the Region assist in the implementation of WQM plans and in the execution of 106, 208 work programs?

1. Conduct workshops?

2. Attend Federal, State and local agency meetings to assist in the development of special implementation projects, resolve institutional/financing problems, coordinate multi-program water quality solutions, etc.?

3. Direct and coordinate information exchange? If so, what is it and how is it done?

4. Direct Regional efforts related to Headquarters technical assistance projects?

5. Coordinate/guide water monitoring activities?

6. Provide technical assistance in the development of State legislation/administrative procedures to manage operational

programs, resolve institutional responsibilities, locate solutions to technical problems, obtain NPS funding?

7. Review revisions to water quality standards, antidegradation policy, NPDES permits, CPP, 201 projects for consistency with 208 plans, management agency letters of commitment, certified WQM plans, proposed special implementation projects, delegation Agreements?

8. Closely follow national technical assistance/implementation projects (MIPs, RCWP, groundwater, etc.)?

III. MANAGEMENT OF PROGRAM ACTIVITIES

A. Management of the Implementation of Certified/Approved WQM Plans

1. What are the Region's goals/objectives for the implementation of WQM plans? Are they being met?

2. What implementation is occurring under
   - 106?
   - 314?
   - ACP Special Projects?
   - MIPs?
   - RCWP?
   - Other Federal agencies (TVA, BLM, FS)?
   - State/local financed programs?
   - Other?

3. What are the major road blocks to implementation?

4. What "implementation" has occurrred since certification and approval?

5. How are the Significant Implementation Agreements (part of FY 80 and beyond 208 work programs) monitored and tracked?

6. Is there a review of implementation? When does it occur? Does the review result in
   - Identification of problems?
   - Suggestions for improvement?
   - Are agreement on improvements included in SEAs?

7. How are the State designated management agencies evaluated? Is the Region involved in the evaluation? Does the State and/or Regional evaluation address:
   - Management effectiveness?
   - Program coordination?
   - Responsiveness to public input?
   - Use of other program resources?
   - Effectiveness of the program in solving the problems?
   - Identification of problems?
   - Suggestions for improvements?

8. How effective is the Regional Office in affecting State performance (ROs to provide examples).

B. <u>Management of Work Programs</u>

1. What are Region's goals/objectives for the 106, 208 grant programs?

2. Does the Region evaluate the progress of State and areawide agencies against the work program(s)? When does this occur?

3. What is the process? Are the processes the same for 208 and 106 work program review? What are the roles and responsibilities of different organizational elements in the review (permits, S&A, enforcement, etc).

4. Does the evaluation include:

   - Meeting the goals/objectives of the 208, 106 program?
   - Progress against the State's overall strategy?
   - An analysis of the States' quarterly reports or other tracking mechanisms and a comparison of commitments with the outputs?
   - Identification of variances?
   - A determination of the reasons/causes of the variances?
   - The development of solutions to the reasons or causes of the variances where necessary?
   - Comments on the timeliness and effectiveness of Regional or Headquarters assistance by the States, areawides or the Region?

5. Does the evaluation result in a management report on problems and accomplishments?

6. Does the evaluation result in changes in the management of the work programs, or substantive changes to the work programs and grants?

IV. EVALUATION OF HEADQUARTERS SUPPORT

A. What is the process/criteria that will be used to evaluate EPA Headquarters support? What program areas and/or agencies are involved?

B. The Region's evaluation of Headquarters might include the following:

1. The consistency, timeliness and quality of Headquarters' guidance.

2. The existence, comprehensiveness, ease of use and accessability of management information systems.

3. Headquarters' coordination of Federal agencies.

4. Headquarters' review of the work programs.

5. The quality and timing of feedback of Headquarters from Regional suggestions and comments on policies, guidance, programs, etc.

6. The technical assistance provided by Headquarters staff including quality, timing and responsiveness to emergency requests.

7. The ability of Headquarters to affect changes in EPA policy and priorities to support the program.

APPENDIX C

WORK PROGRAM GUIDANCE

FOR WQM

[reserved]

*U.S. GOVERNMENT PRINTING OFFICE: 1980 311-132/44 1-3