Integrated Planning and Permitting, Part 2: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality

TESTIMONY OF

ALAN VICORY, Jr. P.E., BCEE

VICE CHAIR, GOVERNMENT AFFAIRS COMMITTEE, WATER ENVIRONMENT FEDERATION

BEFORE THE

WATER RESOURCES AND ENVIRONMENT SUBCOMMITTEE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

JULY 25, 2012

Water Environment Federation
601 Wythe Street
Alexandria, VA 22314

www.wef.org

http://www.waters-worth-it.org/

Good morning, Chairman Gibbs and Subcommittee Members. My name is Alan Vicory and I serve as Vice Chair of the Water Environment Federation (WEF) Government Affairs Committee. I am a Principal with Stantec, a professional engineering and architecture firm. Prior to joining Stantec last year, I served for 24 years as the Executive Director of the Ohio River Valley Water Sanitation Commission [ORSANCO], an interstate commission representing eight states formed to abate and control water pollution in the basin. My testimony today is on behalf of the Water Environment Federation.

WEF's passion is to preserve and enhance the water environment to support clean and safe water, both in the United States and globally.[1] On behalf of WEF, thank you for the opportunity to testify about EPA's integrated planning framework.

Local governments have made tremendous investments to improve water quality and achieve Clean Water Act (CWA) compliance over the last 40 years with remarkable success. They have worked tirelessly to provide an essential public service that is critical to safeguarding public health and maintaining our quality of life. Faced with a struggling economy and multi-year declines in revenues, now more than ever it is imperative that local governments invest limited resources where they will have the most significant environmental and public health impact.

WEF supports EPA's recently-released *Clean Water Act (CWA) Integrated Planning Framework* as a much needed first step to provide greater flexibility to local governments faced with multiple water mandates. WEF has been engaged with EPA throughout the development of the framework. WEF fully participated in EPA's five workshops earlier this year to review and comment on their draft framework with one of our Board members and a senior representative from our Government Affairs Committee contributing to the facilitated discussions at each workshop. As WEF participants noted at the workshops, EPA's approach is consistent with WEF's long-standing Policy on Water Quality which emphasizes the following on priority setting:

The Water Environment Federation supports a priority setting process allowing governments and watershed managers enhanced flexibility in scheduling and standard-setting within the context of economic, technical, and social capabilities.

A priority setting framework must support water quality managers in using appropriate data and tools, promoting inclusive resource protection, conducting economic and risk analyses, considering cross-media impacts, and accounting for regional growth. Water quality priorities and solutions must be established regionally to best address water quality impairment from local and outside sources. The general public should collaborate in priority setting with engineers, scientists, and other experts to ensure long-term support for and implementation of water quality programs.

---

[1] Founded in 1928, the Water Environment Federation (WEF) is a not-for-profit technical and educational organization of 36,000 individual members and 75 affiliated Member Associations representing water quality professionals around the world. WEF members, Member Associations and staff proudly work to achieve our mission to provide bold leadership, champion innovation, connect water professionals, and leverage knowledge to support clean and safe water worldwide.

We recommended that the final framework explicitly include adaptive management, which it now does. We stressed the important role of EPA Regions and States in actual implementation, which EPA HQ does recognize and support. We also recommended more focus on affordability and ability-to-pay and finance at the local level which we believe continues to need more attention and care as implementation of the final framework moves forward.

According to EPA, the framework will set the stage to allow communities to "identify a prioritized critical path to achieving the water quality objectives of the CWA by identifying efficiencies in implementing overlapping and competing requirements that arise from separate wastewater and stormwater projects, including capital investments and operation and maintenance requirements." By utilizing the framework and developing an integrated plan, WEF is hopeful that local governments will be given the flexibility to balance the need for investments in asset management and aging infrastructure with other water-related requirements at a pace that is sustainable and affordable.

The framework outlines a common-sense approach to water program management through planning that is locally-driven, flexible, and voluntary and encourages innovative solutions such as green infrastructure to address current challenges to water quality and supply. Economic and risk analyses, cross-media impacts, and regional growth will all be considered as municipalities and regions define their best plans to implement water programs and requirements. The final framework also includes an adaptive management process that will allow permits and enforcement orders to be reopened if circumstances or technologies change to provide the opportunity to identify, evaluate, and select new projects, incorporate innovative solutions and make changes to ongoing projects and implementation schedules.

As we move into the implementation phase, we need to ensure that this flexibility is available to all municipalities and utilities; plans should be reviewed and approved as promptly as possible to provide relief to local governments. To accomplish this, EPA should shift the focus from enforcement to permitting and provide states with funding and technical assistance to fully implement the framework and ensure that any local government that wants to submit an integrated plan is not turned away. EPA should encourage all states to adopt regulatory provisions allowing long-term compliance schedules in permits. Integrated planning can also be incorporated into sequential permits.

Regulators should strive to use non-judicial implementation mechanisms with enforcement considered a last resort. Local governments should be treated as partner agencies rather than polluters and adversaries. Regulators should eliminate or minimize the imposition of fines and penalties. Enforcement and imposition of fines create a counter-productive stigma at a time when local governments need public support to raise rates and are facing ever increasing public perception challenges.

The framework should be viewed as the beginning and not the end. As I already noted, we believe the framework does not go far enough with regard to affordability and financial capability. EPA must be open to considering other economic indicators and factors that better assess the true impact of water rates on customers and particularly lower income households.

Questions still remain about how the prioritization and sequencing process will work and how the overall metrics or standards to approve a successful integrated plan will be determined. Local governments should be provided substantial discretion to develop metrics for measuring environmental and public health benefits and for selecting and prioritizing implementation projects. The overall goal of integrated planning and prioritization should be to achieve continuous water quality improvement at the lowest possible cost per increment of water quality improvement. The metrics for success need to shift from overflow volume reduction to water quality based cost-benefit analysis. Metrics such as cost per gallon of overflow volume reduced or cost per pound of nutrients removed would still be important, but the focus would be on direct investment in only those improvements that have measurable and tangible benefits to water quality improvement (and thereby public health). Prioritization would be based upon long-term water quality benefits, and the rate at which they are achieved, rather than the rate of infrastructure expenditures.

EPA needs to be a champion of innovation and should not only remove obstacles but should actively encourage and continuously support the ongoing evaluation of new technologies and innovation to meet CWA requirements.

WEF stands ready to work with our members to help support implementation of this framework. We hosted a well-attended webinar on the final EPA framework just after its June release where senior EPA managers presented and explained the final framework and responded to questions and concerns. As implementation proceeds, WEF will pursue educational and training opportunities including considering the needs of small and medium sized communities who may be interested in this integrated approach. We recommend that Congress and EPA also consider the needs of smaller communities, including what may be appropriate and doable in terms of providing technical and other assistance to those interested in pursuing this approach.

As we embark upon the next 40 years of the CWA, let us strive to use this framework as a spring board for collaboration and partnership to find the best, most innovative and cost-effective solutions to improve water quality improvement without saddling our communities with unnecessary debt and imposing a financial burden that is unsustainable. WEF commends EPA for listening to local governments and we look forward to working with EPA, municipalities, states and the general public on implementation to realize our shared goals of protecting human health and improving water quality.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.