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*on behalf of*  
The Association of Clean Water Administrators

U.S. House of Representatives  
Committee on Transportation & Infrastructure  
Subcommittee on Water Resources & the Environment

Regarding

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

My name is Ron Poltak and it is my pleasure to appear before you today to provide the Association of Clean Water Administrators' (ACWA) perspective on the US Environmental Protection Agency's (EPA) *Integrated Municipal Stormwater and Wastewater Planning Approach* (Integrated Planning Framework) to manage Clean Water Act (CWA) obligations. I currently serve as the Executive Director of the New England Interstate Water Pollution Control Commission (NEIWPC) and am a long-standing member of ACWA. ACWA members have continuously called for prioritization of CWA requirements and, therefore, are supportive of integrated planning. However, as my testimony will demonstrate, the states are still concerned with the lack of detail regarding our roles and responsibilities, the state potential burden associated with reviewing plans, and the lack of real-world, practical examples using the Integrated Planning Framework, especially on the permitting side of the equation.

ACWA is the national, non-partisan professional organization representing the State, Interstate and Territorial water quality control officials responsible for the implementation of surface water protection programs throughout the nation. ACWA's members are on the front lines of Clean Water Act (CWA) monitoring, permitting, inspection, compliance and enforcement across the country and ACWA's members are dedicated to Congress' goal of restoring and maintaining the chemical, biological and physical integrity of our nation's waters.

The New England Interstate Water Pollution Control Commission (NEIWPC) was established by Congress in 1947. NEIWPC is a not-for-profit interstate agency that utilizes a variety of strategies to meet the water-related needs of our member states—Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. We have been actively engaged with our member states in understanding and applying the new Integrated Planning Framework.

ACWA has previously appeared before this Committee expressing our support for EPA and the Integrated Planning Framework. Our previous testimony also identified several underlying concerns with the Framework. ACWA members have been calling for prioritization of CWA requirements for some time. In these times of limited budgets and staff resources, it is especially important to allow municipalities to promote water quality problems in an effort to maximize the effectiveness of

limited infrastructure dollars. States face the same economic and resource challenges so we fully understand the importance of prioritizing and maximizing the effectiveness of scarce resources. States look for the same opportunities to leverage and extend funds when they look to use their limited Clean Water State Revolving Fund dollars.

ACWA members agree that when an integrated plan is designed and implemented properly, it will likely promote innovative solutions that deliver results. The Integrated Planning Framework mirrors many of the efforts that states are already undertaking to synchronize permits on a watershed basis and to consider affordability when developing compliance schedules. An integrated planning approach enables permittees to craft more effective and efficient solutions to achieve CWA compliance and offers the promise of balancing point source and non-point source water quality measures. Finally, an integrated planning approach provides communities with greater control over the pace and sequencing of water quality improvements, promotes innovative solutions such as green infrastructure, and maximizes limited resources. As important as these factors are, we cannot allow water quality to suffer in the quest for more efficient and streamlined applications.

Since EPA released the Integrated Planning Framework memo, ACWA has worked closely with its federal and municipal partners on understanding the Framework. We thank the agency for collaboratively holding a series of workshops with us and our municipal partners on the Framework and for being receptive to the state concerns and questions. The workshops were valuable opportunities for EPA to present the Framework's elements to stakeholders, answer questions, and solicit input on the planning, approval and implementation processes.

A range of implementation challenges were identified during these workshops, including the potential increased burden on state resources, consistency in interpretation and application between EPA Regional Offices and EPA Headquarters, the level of detail necessary for plan approval, and how best to handle financial capability issues. The workshops also exposed several statutory and regulatory challenges to implementation that must be overcome for this effort to move forward. Progress has been made as a result of these discussions but a great deal of uncertainty still remains.

This uncertainty is keeping many interested states and municipalities on the sidelines while they wait for someone else to go first.

It is clear that the Integrated Planning Framework anticipates a prominent role for state permitting authorities and we appreciate the agency's recognition of our role as co-regulators responsible for ensuring that the goals of the CWA are met; yet the details of this role are still not clear. The Framework makes clear that state permitting authorities will need to approve the integrated plans developed by municipalities, but it does not provide details on how exactly states should perform this role. EPA has repeatedly stated that it intends to provide practical examples and guidance as it works through the first integrated planning efforts but ACWA members are still waiting for these details to be fleshed out. This Committee can assist the states by encouraging EPA to more quickly develop case studies and practical examples of how the integrated planning approach works and by sustaining adequate federal funding to support State programs.

In addition to the lack of clarity with regard to the responsibilities of state permitting authorities, ACWA members are concerned that while EPA anticipates states taking the primary role in reviewing and approving the integrated plans, EPA's authority will linger over the process until the agency makes clear that it will support state decisions. State time and resources are at a premium and states are concerned that they will invest time and resources into plan review and approval, only to have EPA question that decision in the end. States are also concerned that EPA will object to a permit based on an integrated plan that was approved by a state. Finally the states are concerned that after a plan is developed and implementation is underway, that EPA could come in and order more stringent or different controls or approaches to managing pollution. Certainly this type of action by the agency would undermine the economic savings envisioned by integrated planning. The role of the states and EPA needs to be clearly defined so that the integrated approach agreed upon by states and municipalities can be relied on by all stakeholders.

ACWA members would also like to see EPA provide guidance or a case study that demonstrates how an integrated plan can be incorporated into a permit. Integrated planning through the enforcement and compliance context is one thing but implementation of an integrated plan into the

CWA's rigorous permitting process is quite another. Enforcement actions offer a level of flexibility for sequencing that permits on their face do not. Enforcement and compliance actions can lead to improvements in water quality but this approach often fails to consider all of a community's CWA obligation holistically, and often can result in overly expensive and/or highly engineered solutions. Moreover, the CWA permitting process is the fundamental tool for regulating discharges and improving the quality of the nation's waters and the agency must find a workable way to incorporate these plans into water quality permits instead of relying on enforcement and compliance activities.

The permitting process provides permittees with certainty and the time to adequately plan, and increases transparency and communication among other stakeholders groups. The statutory and regulatory requirements of the CWA pose a challenge that states and EPA must overcome. The five year permit term limit makes it a challenge to integrate multi-year obligations into enforceable permits that ensure compliance with water quality standards. Many of the activities and projects likely to be included in any integrated plan will take more much than five years to implement. EPA must work with its state partners to identify guidelines for states to follow to accomplish integration of the plan into CWA permits and identify a workable approach to incorporating integrated plan elements into an enforceable and effective permit.

ACWA encourages EPA to begin exploring the ways that permits can legally and effectively incorporate integrated plan elements into a permit. The agency could begin developing a set of guidelines or a model permit where the agency is the CWA permitting authority. The process of developing a model permit would help identify any barriers to implementation and enable the agency and regulated entities to test out solutions to overcoming these challenges. A model permit or case study completed in a state where EPA is the permitting authority may help to encourage more states and municipalities to begin the integrated planning process.

ACWA members were encouraged by the agency's May 2014 announcement of the availability of \$335,000 in technical assistance for up to five communities to develop and implement an integrated plan. This small amount of money will help to begin the process of further refining the details of

integrated planning. As we continue to move forward with advancing integrated planning, it is important to cull guidance from experience to ensure the process more forward efficiently and is effective.

To conclude, I want emphasize that ACWA's members are supportive of the Integrated Planning Framework and we appreciate EPA's efforts and receptivity to our comments and concerns. However, many of the concerns I have outlined here today will not be put to rest until there are more real-world case studies and guidance for states to follow. We encourage EPA to quicken the pace of identifying and conducting case studies to test and evaluate the best way to move forward with developing and implanting integrated plans.

The members of this Committee can help the states and EPA in this effort be encouraging the agency to swiftly develop additional case studies, model permits and guidelines for states and municipalities to use when developing an integrated plan. In addition, you can encourage your colleagues to provide additional funding to EPA to expand the technical assistance program so that more practical examples of how to implement the different steps in developing an integrated plan are developed.

Mr. Chairman, Members of the Subcommittee, I thank you for this opportunity to share ACWA's perspectives on the implementation of the Integrated Planning Framework. We remain committed to the Integrated Planning Framework and look forward to working with our partners at EPA to promote reasonable, invocative and cost-effective solutions that result in the greatest water quality benefits. I am happy to answer any questions that you may have.

