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Integrated Planning Amendments to the Clean Water Act: What You Need to Know

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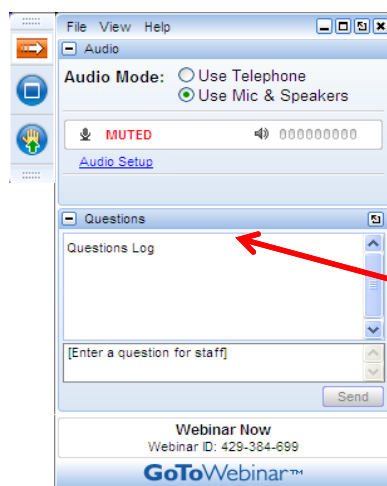
WEF Government Affairs Webinar

April 24, 2019

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1

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2

Presenters



Fred Andes



Erika Powers

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What You Need to Know

- What is integrated planning?
- Who has developed integrated plans?
- What's in the new law?
- How can integrated planning help me?

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What is Integrated Planning – Historical Needs

- Inflexible EPA positions on decrees, Long-Term Control Plans, SSOs, other CWA issues
 - 2% of MHI / 20 years / 4 overflows per year
- Communities faced substantial costs without significant improvements to water quality
- US Conference of Mayors voiced concerns to EPA
 - EPA not using the flexibility in existing Agency policies
- Communities need to be able to determine how to maximize environmental benefit of their CWA actions given limited resources

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What is Integrated Planning – EPA Framework

- Memo issued Oct. 27, 2011 by Office of Water and Office of Enforcement
 - Stated EPA intention to develop integrated planning framework
 - Plans should use existing flexibility while maintaining regulatory standards
 - A municipality's ability to pay should consider ALL Clean Water obligations
- Final framework issued June 5, 2012
- Communities have been developing or considering integrated plans in OH, MA, IN, MD, RI, CO, NH, NY, MO, TX, IL, CA, WA, VT and other States

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What is Integrated Planning – Key Elements

- 1: Describe environmental and regulatory issues to be addressed
 - 2: Describe existing systems and their performance
 - 3: Stakeholder involvement
 - 4: Evaluate and select alternatives and implementation schedules
 - 5: Measure success
 - 6: Process to improve the plan
- THEN: Implementation

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Who is Developing Integrated Plans – Lima, Ohio

- Done with Consent Decree
- Schedule extends into 2038
- Treatment plant upgrades and CSOs done first, then (after 10 years) SSOs
- Bonding cycles affected schedule

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Who is Developing Integrated Plans – Lima, Ohio

- Reopeners for affordability, affecting schedule and changes in controls
- Reopener for adaptive management, green infrastructure, and economic reasons
- CSOs – target of 5 overflows/year
- SSOs – different design storms for different basins (5-year or 25-year)

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Who is Developing Integrated Plans – Springfield, Massachusetts

- Also a CSO Long-Term Control Plan
- Being implemented through sequential Admin Orders issued by EPA Region
- Key elements are CSO controls and asset management plan
- Incorporating asset management into affordability calculation meant that CSO controls are designed for 7 overflows/year instead of 4 overflows/year

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Who is Developing Integrated Plans – Springfield, Massachusetts

- Affordability – 1.5% MHI, but also did weighted analysis looking at different income levels, showing greater impact when go beyond looking at median
- EPA Region 1 letter: Springfield plan “is consistent with EPA’s CSO policy and integrated planning framework.”

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Who is Developing Integrated Plans – More

- Nutrients, CSOs, street flooding – combination of city and district
- CSOs, SSOs, drinking water, upcoming POTW nutrient limits
- CSOs and asset management, modifying total separation LTCP, with extreme affordability issues
- SSOs, POTW compliance issues, asset management
- CSOs, green infrastructure, extreme low-income affordability issues, already over 2% MHI
- MS4s, POTW issues, TMDLs, affordability – using permits
- Combined sewer system (not POTW), MS4 permit, low-income affordability issues

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Why Legislation Now?

- Not many communities have developed IP plans and had them approved
- Some EPA Regions and States have been reluctant to work on IP's
- Since it was only policy, could be changed or reversed by another Administration
- Lack of clarity as to some aspects

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What's in the New Law – Integrated Planning

- EPA and States must inform communities of ability to develop an IP and have it included in next permit
- IP can be put in permit or in enforcement tool (order or decree)
- Can get long-term compliance schedules in an IP permit
- IP can include reclaim, recycle and reuse projects, and green infrastructure

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What's in the New Law – More

- Creates office of Municipal Ombudsman, who will help communities navigate EPA process and help ensure that Agency policies are actually implemented by all offices
- Requires EPA to promote the use of green infrastructure in CWA programs and at each Regional office

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How Can Integrated Planning Help Me – What Can Be Integrated?

- Sanitary system
- Combined system
- Wastewater treatment plant
- Asset management program
- Long term operation & maintenance
- Storm water management
- Source water protection
- Nonpoint source control
- Green Infrastructure
- Reclaim, reuse, recycle

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How Can Integrated Planning Help Me – What Can Be Integrated?

- NPDES obligations
- MS4 obligations
- TMDL obligations
- Decree/order obligations

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How Can Integrated Planning Help Me – Who Can Integrate?

- Scope tailored by community
- Any combination of entities
 - Municipality
 - Wastewater utility/sanitary district
 - Storm water utility/MS4 authority
 - Watershed authority
- Varying geographic areas

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How Can Integrated Planning Help Me?

- Do you have:
 - Competing water-related obligations
 - Multiple entities addressing watershed issues
 - Economic limitations
 - Need for coordination among agency programs
 - Difficulty obtaining relief, flexibility
 - Compliance deadlines
 - Incorporation of green infrastructure
 - Anticipated future obligations→need for adaptive management
 - Revisions needed to existing CSO, SSO, or MS4 plan

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How Can Integrated Planning Help Me – Key Points

- IP is a voluntary tool – use it if is helpful for your particular situation; assess relative to other options
- Does not need to include every regulatory requirement – municipality defines scope
- Two entities that share authority for a geographic area can do a plan together
- Think broadly – consider including stormwater, drinking water (at least in cost analysis), other sources in watershed, etc.
- Complexity should be tailored to specific needs and goals of your community

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How Can Integrated Planning Help Me – Getting Started

- Identify water obligations
- Define costs and schedules
- Look at financial capability
- Define enviro/health impacts of controls
- Develop prioritized schedule
- Evaluate legal constraints and need to use relief mechanisms
- Complete Integrated Plan
- During process, communicate with stakeholders and do agency outreach

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How Can Integrated Planning Help Me – Practical Tips

- Affordability is key – look at all water obligations, and at costs to operate and maintain the system(s)
- Address legal protections in your plan
 - Permits vs. enforcement actions
- Involve community, including on affordability
- Think about environmental justice broadly
- Consider doing adaptive management
- Keep EPA HQ, Region and State involved
- Exchange information with other communities

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22

Questions?

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