

Response to Comments on the District of Columbia’s draft 2016 Integrated Report

The Department of Energy and Environment Water Quality Division (WQD) solicited comments on the first draft 2016 Integrated Report (IR) (Sections 303(d) and 305(b)) from February 19, through March 21, 2016. An amended 2016 IR was published and comments solicited from May 5, through June 6, 2016. Following is a listing of the authors of the comments received. Copies of the comments received are attached.

Author(s)	Affiliation	Date of Submission
Evelyn MacKnight	US EPA, Region 3	February 25, 2016
Jennifer Chavez	EarthJustice	March 21, 2016
Jennifer Chavez	EarthJustice	March 18, 2016
Evelyn MacKnight	US EPA, Region 3	June 6, 2016

Response to Comments

#	Comment Details			Response
	Commenter (including affiliation) and comment date)	Subject	Comment Summary	
1	Evelyn MacKnight (US EPA, Region 3) March 25, 2016	Listing and Methodology	Movement of 2014 Rock Creek Watershed <i>E. coli</i> category 5 listings to category 4a – do current TMDLs adequately address these impairments and was the public sufficiently notified?	The 2016 draft 303(d) list now lists the Rock Creek tributaries for <i>E. coli</i> impairment in category 5. The July 2014 approved <i>E. coli</i> TMDL for Rock Creek was reviewed. The TMDL references the mainstem Rock Creek and not its tributaries.
2	Evelyn MacKnight (US EPA Region 3) March 25, 2016	Listing Methodology	Are the Anacostia tributaries' TSS listings in 4a adequately covered in approved Anacostia River TSS TMDL?	The July 2007 approved TSS TMDL includes the Anacostia River tributaries.
3	Evelyn MacKnight (US EPA Region 3) March 25, 2016	Listing and Methodology	Hickey Run priority ranking	The current draft 2016 303(d) list reflects a change for Hickey Run in the category 5 TMDL priority ranking to “low” and the TMDL establishment date of 2022. The decision to change Hickey Run’s chlorine priority ranking was not made until after the February 2016 draft 303(d) list was released for public comment.
4	Evelyn MacKnight (US EPA Region 3) March 25, 2016	General Comment	EPA 303(d) Vision: To provide adequate public notice of DOEE’s 303(d) Vision Prioritization plans and process, information should have been included in the Integrated Report (IR) narrative including DOEE’s TMDL development plans from now to 2022 and its list of priority waters.	The District will republish the Draft 2016 IR for another 30 day public comment period, and will include the District’s 303(d) Program New Vision Stakeholders Engagement and Prioritization Strategies. However, the current priority is to meet the 2009 Consent Decree schedule for revising TMDLs. As such, DOEE resources are focused on that activity.
5	Jennifer Chavez (EarthJustice) March 21, 2016	Listing Methodology	Improper change to the DC WQS criteria.	DOEE’s application of the 10% rule was based on the following US EPA guidance documents: <i>Guidelines for Preparation of the State Comprehensive Water Quality Assessments 305(b) Reports and Electronic Updates</i> (1997); <i>Consolidated Assessment and Listing Methodology-Toward a Compendium of Best Practices</i> (First Edition, July 2002); <i>Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act</i> (July 29, 2005). DOEE also applied the <i>Ambient Water Quality Criteria for</i>

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				<i>Dissolved Oxygen, Water Quality Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries</i> (EPA-903-R-03-002, April 2003), which is referenced in the District’s 2012 WQS. With the next IR, the District will clarify appropriate criteria (through planned WQS revisions), and will include changes to the methodology for making attainment and listing determinations that will reflect implementation of the District’s 303(d) Program New Vision Stakeholders Engagement and Prioritization Strategies (Appendix 3.6). The current listing decisions are not changed because the current priority is to meet the 2009 Consent Decree schedule to revise current TMDLs, as outlined in the 303(d) Program New Vision Prioritization Strategy, and DOEE resources are dedicated to that priority.
6	Jennifer Chavez (EarthJustice) March 21, 2016	Listing Methodology	Improper use of a rigid, across-the-board minimum data set size cutoff to exclude waters from being assessed with regard to certain water quality criteria.	Tables 1.1 to 1.3 (p.12) of the February draft 2016 IR have been updated to show the waterbodies were sampled for <i>E. coli</i> . The updated information was supported in the February draft and the May draft 2016 IR by Tables 3.5, 3.9, and 3.12 along with the Individual Assessments for waterbodies and the percent exceedances tables in the document.
7	Jennifer Chavez (EarthJustice) March 21, 2016	General Comment	The definitions of insufficient information and not assessed are not clear.	Based on the comment, the document was reviewed and Tables 1.1 to 1.3 were updated to reflect that all have sufficient information to make a determination. DOEE is using “insufficient information” to mean data has been collected, but there is not enough data to make a determination. “Not assessed” means not monitored, no data is collected.
8	Jennifer Chavez (EarthJustice) March 21, 2016	General Comment	Is DC using “not assessed” to mean “not monitored”?	Yes, DOEE is using “not assessed” to mean a waterbody is not monitored. For example, the WQS specify which waterbodies are monitored for Navigation (Class E). The waterbodies without a Class E designation are not monitored.

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9	Jennifer Chavez (EarthJustice) March 21, 2016	General Comment	None of the “pollutants” labeled as “conventional pollutants”- DO, pH, turbidity, and temperature-meet the definition of “pollutant” in the CWA.	While pH is a CWA section 304(a)(4) conventional pollutant and the others noted in the comment are not, the definition of criteria in the WQS draws a connection among parameters, criteria and designated uses, so parameters such as DO, temperature and turbidity can be used to make use support decisions. The term “water quality criteria” is used in two sections of the CWA, Sections 304(a)(1) and 303(c)(2). If water quality criteria associated with specific stream uses are adopted by a State as water quality standards under Section 303, they become enforceable maximum acceptable pollutant concentrations in ambient waters within that State. Water quality criteria adopted in State water quality standards could have the same numerical values as criteria developed under Section 304.
10	Jennifer Chavez (EarthJustice) March 21, 2016	General Comment	The word “standard” is apparently being used with reference to a numeric water quality criterion, as opposed to a water quality standard.	See response regarding DC WQS above. In many situations, states might want to adjust water quality criteria developed under section 304 to reflect local environmental conditions and human exposure patterns before incorporation into water quality standards. It is not until their adoption as part of State water quality standards that criteria become regulatory (US EPA Quality Criteria for Water, 1986).
11	Jennifer Chavez (EarthJustice) March 21, 2016	General Comment	“Exceedance” seems to be intended to mean any time a single measurement of a water quality parameter surpassed the criterion-magnitude of an applicable numeric water quality criterion.	An occurrence that happens more often than the designated frequency of water quality criteria is termed an “exceedance” - and is the basis for listing a waterbody as impaired by not meeting water quality standards. The current District’s WQS with respect to dissolved oxygen, water clarity and chlorophyll a is based on the <i>Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries</i> (EPA-903-R-002, April 2003) ¹ . In

¹ http://www.chesapeakebay.net/content/publications/cbp_13142.pdf.

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				<p>this document, acceptable and protective combinations of the frequency, magnitude and duration - and associated spatial extent are defined using a biologically based reference curve. Specifically, frequency is directly addressed through comparison of the generated cumulative frequency distribution with the applicable criterion reference curve. See page 148.</p> <p>Beyond relying on the recommendations in EPA-903-R-002, DOEE appreciates your comments on WQS “exceedance” in so far as digression and excursion are concerned. As we have already noted in the response to comment #5, DOEE applied the 10% rule based on a number of US EPA guidance documents, namely: <i>Guidelines for Preparation of the State Comprehensive Water Quality Assessments 305(b) Reports and Electronic Updates</i> (1997); <i>Consolidated Assessment and Listing Methodology- Toward a Compendium of Best Practices, First Edition</i>, July 2002; <i>Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act</i>, July 29, 2005. DOEE is currently collecting information to ensure that <i>frequency</i> component is fully addressed in future WQS.</p>
12	Jennifer Chavez (EarthJustice) March 18, 2016	General Comment	Request for an electronic copy of the documentation for the water quality assessment referenced in the following paragraph from the Draft Integrated Report “The District has adopted water quality standards for dissolved oxygen, water clarity and chlorophyll a in accordance with the Chesapeake Bay Water Quality Criteria Guidance Document published in 2003 (US EPA, 2003) for the Potomac Tidal	The real time data for the Anacostia and Potomac Tidal Fresh listings was collected by DOEE and not in conjunction with the Chesapeake Bay program. Consequently, the statement has been removed from the report and there was no change to Anacostia and Potomac Tidal Fresh listings for 2016. The data can be retrieved from the DOEE web page.

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			Fresh and Anacostia Tidal Fresh (Chesapeake Bay Program waterbody name). DDOE WQD worked with the Chesapeake Bay Program to assess the tidal waters in the District using the 2003 guidance document and all the addendums published through 2009. For the 2016 listing year, these segments are in Category 4a because the Chesapeake Bay TMDL was established in December 2010.”	
13	Evelyn MacKnight (US EPA Region 3) June 6, 2016	General Comment	The text states “In 1988, the District listed a number of waterbodies for toxics on its 303(d) list...” however the waterbodies were first listed in 1998.	The 1988 listing year has been changed to 1998.
14	Evelyn MacKnight (US EPA Region 3) June 6, 2016	General Comment	The final paragraph states “...the Class C (protection of human health) designation is not supported.” Class D protects human health.	The class for the protection of human health has been changed to Class D.
15	Evelyn MacKnight (US EPA Region 3) June 6, 2016	General Comment	The prioritization strategy discusses the opportunity for stakeholders to review and comment on a preliminary list called “pre-303(d) list.” Has this process been undertaken in the 2016 listing cycle or is this intended for future lists?	Yes, it is intended for a future list. However, the draft 2016 303(d) list went through two public comment periods.
16	Evelyn MacKnight (US EPA Region 3) June 6, 2016	General Comment	The “Prioritization Analysis Matrix” is discussed as a tool to be shared with stakeholders for TMDL development. When does DC plan to utilize this matrix with stakeholders?	The District plans to use this matrix for the next reporting period in the 2018 IR reporting cycle. Implementation will take place in the 2018 IR cycle.

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17	Evelyn MacKnight (US EPA Region 3) June 6, 2016	General Comment	Special State Concerns and Recommendations	The IR is a separate process from the WQS triennial review. The District acknowledges the 2015 US EPA published final updated AWQC for the protection of human health for 94 chemical pollutants. The District is currently undergoing a triennial review. When the triennial review is finalized its results will be used in the next assessment as part of the IR process.