

## **Decision Document for the State of Oklahoma 2012 § 303(d) List**

### **Executive Summary of the Action**

EPA approved the State of Oklahoma 2012 § 303(d) List. EPA reviewed the State of Oklahoma 2012 § 303(d) List and all associated documentation and concluded the state developed its § 303(d) list in compliance with § 303(d) of the Clean Water Act (“the Act”) and 40 CFR § 130.7.

### **Abbreviations**

CALM – Consolidated Assessment and Listing Methodology

CFR – Code of Federal Regulations

CPP – Continuing Planning Process

CWA – Clean Water Act or (Act)

EPA – Environmental Protection Agency

OCC – Oklahoma Conservation Commission

ODEQ – Oklahoma Department of Environmental Quality

OWRB – Oklahoma Water Resources Board

TMDL – Total Maximum Daily Load

WQLS – Water Quality Limited Segments

WQMP – Water Quality Management Plan

### **A Purpose**

The purpose of this review document was to describe the rationale for EPA's approval of the State of Oklahoma 2012 § 303(d) List of water quality limited segments (WQLS) requiring total maximum daily loads (TMDLs). The following sections identify those key elements to be included in the list submittal based on the Clean Water Act and EPA regulations. See 40 CFR § 130.7. EPA reviewed the methodology used by Oklahoma in developing the § 303(d) list and the description of the data and information the state considered. EPA's review of the State of Oklahoma 2012 § 303(d) List was based on whether the state considered existing and readily available water quality related data and information and reasonably identified waters required to be listed.

### **B Statutory and Regulatory Background**

#### **B.1 Identification of WQLSs for Inclusion on Section 303(d) List**

Section 303(d)(1)(A) of the Act directs:

*Each State shall identify those waters within its boundary for which effluent limitations required by § 301(b)(1)(A) and (B) are not stringent enough to implement any water quality standard applicable to such waters.*

The § 303(d) listing requirements apply to waters impaired by point and/or nonpoint source pollutants. EPA regulations at 40 CFR § 130.7(b)(1) require:

*Each State shall identify those water quality-limited segments still requiring TMDLs within its boundaries for which: (i) Technology-based effluent limitations required by sections 301(b), 306, 307, or other sections of the Act; (ii) More stringent effluent limitations (including prohibitions) required by either State or local authority preserved by section 510 of the Act, or Federal authority (law, regulation, or treaty); and (iii) Other pollution control requirements (e.g., best management practices) required by local, State, or Federal authority are not stringent enough to implement any water quality standards (WQS) applicable to such waters.*

Section 303(d)(1)(B) of the Act directs:

*Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 301 are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.*

EPA regulations at 40 CFR § 130.7(b)(2) require:

*Each State shall also identify on the same list developed under paragraph (b)(1) of this section those water quality-limited segments still requiring TMDLs or parts thereof within its boundaries for which controls on thermal discharges under section 301 or State or local requirements are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish and wildlife.*

EPA regulations at 40 CFR § 130.7(b)(4) require:

*The list required under §§ 130.7(b)(1) and 130.7(b)(2) of this section shall include a priority ranking for all listed water quality-limited segments still requiring TMDLs, taking into account the severity of the pollution and the uses to be made of such waters and shall identify the pollutants causing or expected to cause violations of the applicable water quality standards.*

EPA regulations at 40 CFR § 130.7(b)(6) require:

*Each State shall provide documentation to the Regional Administrator to support the State's determination to list or not list its waters as required by §§ 130.7(b)(1) and 130.7(b)(2). This documentation shall include as a minimum: (i) A description of the methodology used to develop the list.*

EPA regulations at 40 CFR § 130.7(d)(2) require:

*The Regional Administrator shall either approve or disapprove such listing and loadings not later than 30 days after the date of submission. The Regional Administrator shall approve a list developed under § 130.7(b) that is submitted after the effective date of this rule only if it meets the requirements of § 130.7(b). If the Regional Administrator approves such listing and loadings, the State shall incorporate them into its current WQM plan. If the Regional Administrator disapproves such listing and loadings, he shall, not later than 30 days after the date of such disapproval, identify such waters in such State and establish such loads for such waters as determined necessary to implement applicable WQS. The Regional Administrator shall promptly issue a public notice seeking comment on such listing and loadings. After considering public comment and making any revisions he deems appropriate, the Regional Administrator shall transmit the list and loads to the State, which shall incorporate them into its current WQM plan.*

## **B.2 Consideration of Existing and Readily Available Water Quality-Related Data and Information**

EPA regulations at 40 CFR § 130.7(b)(5) require:

*Each state shall assemble and evaluate all existing and readily available water quality-related data and information to develop the list required by §§ 130.7(b)(1) and 130.7(b)(2). At a minimum 'all existing and readily available water quality-related data and information' includes but is not limited to all of the existing and readily available water quality-related data and information about the following categories of waters: (i) Waters identified by the State in its most recent section 305(b) report as 'partially meeting' or 'not meeting' designated uses or as 'threatened'; (ii) Waters for which dilution calculations or predictive models indicate nonattainment of applicable water quality standards; (iii) Waters for which water quality problems have been reported by local, state, or federal agencies; members of the public; or federal agencies; or academic institutions.*

*These organizations and groups should be actively solicited for research they may be conducting or reporting. For example, university researchers, the United States Department of Agriculture, the National Oceanic and Atmospheric Administration, the United States Geological Survey, and the United States Fish and Wildlife Service are good sources of field data; and (iv) Waters identified by the State as impaired or threatened in a nonpoint assessment submitted to EPA under section 319 of the CWA or in any updates to the assessment.*

EPA's 1991 Guidance for Water Quality-Based Decisions describes categories of water quality-related data and information that may be existing and readily available. ("EPA's 1991 Guidance") (USEPA.1991 April.).

EPA regulations at 40 CFR § 130.7(b)(6) require:

*Each State shall provide documentation to the Regional Administrator to support the State's determination to list or not list its waters as required by §§ 130.7(b)(1) and 130.7(b)(2). This documentation shall include as a minimum:*

Subsection (i) is omitted at this point since it was cited under Section B.2 of this document. The content of subsection (i) is reviewed in connection with identification of water quality limited segments.

Continuing with subsection (ii):

*A description of the data and information used to identify waters, including a description of the data and information used by the State as required by § 130.7(b)(5); and (iii) A rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in § 130(b)(5); and (iv) Any other reasonable information requested by the Regional Administrator. Upon request by the Regional Administrator, each State must demonstrate good cause for not including a water or waters on the list. Good cause includes, but is not limited to, more recent or accurate data; more sophisticated water quality modeling; flaws in the original analysis that led to the water being listed in the categories in § 130.7(b)(5); or changes in conditions, e.g., new control equipment, or elimination of discharges.*

While the states are required to evaluate all existing and readily available water quality-related data and information in deciding whether to list their waters, 40 CFR § 130.7(b)(6) allows states to decide to use or not use particular data or information in

determining whether to list particular waters. 40 CFR § 130.7(b)(6)(iii) requires states to provide a rationale for any decision not to use particular data and information.

### **B.3 Priority Ranking & Two Year TMDL Development**

Section 303(d)(1)(A) of the Act directs:

*The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.*

EPA regulations at 40 CFR § 130.7(b)(4) require:

*The list required under §§ 130.7(b)(1) and 130.7(b)(2) of this section shall include a priority ranking for all listed water quality-limited segments still requiring TMDLs, taking into account the severity of the pollution and the uses to be made of such waters and the uses to be made of such waters and shall identify the pollutants causing or expected to cause violations of the applicable water quality standards. The priority ranking shall specifically include the identification of waters targeted for TMDL development in the next two years.*

The states may consider other factors relevant to prioritizing waters for TMDL development, including immediate programmatic needs, vulnerability of particular waters as aquatic habitats; recreational, economic, and aesthetic importance of particular waters; degree of public interest and support; and the state or national policies and priorities. See 57 FR 33040, 33045 (July 24,1992), and EPA's 1991 Guidance.

### **B.4 Public Participation**

Identifying WQLSs requires the involvement of the general public, which is commonly referred to as the public participation process. The regulations at 40 CFR § 25 titled “Public Participation in Programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act” describe public participation requirements. EPA considers the TMDL program a "covered activity" based on the activities described in the regulation.

EPA regulations at 40 CFR § 25.1(a) require:

*Basic requirements and suggested program elements for public information, public notification, and public consultation are set forth in § 25.4. These requirements are intended to foster public awareness and open processes of*

*government decisionmaking. They are applicable to all covered activities described in § 25.2(a).*

EPA regulations at 40 CFR § 25.2(a)(5) describe the following covered activity:

*Development and implementation of plans, programs, standards, construction, and other activities supported with EPA financial assistance (grants and cooperative agreements) to State, interstate, regional and local agencies (herein referred to as “State, interstate and substate agencies”);*

EPA regulations at 40 CFR § 25.3(a) require:

*EPA, State, interstate, and sub-state agencies carrying out activities described in § 25.2 (a) shall provide for, encourage and assist the participation of the public. The term ‘the public’ in the broadest sense means the people as a whole, the general populace. There are a number of identifiable, ‘segments of the public’ which may have a particular interest in a given program or decision. Interested and affected segments of the public may be affected directly by a decision, either beneficially or adversely; they may be affected directly; or they may have some other concern about the decision. In addition to private citizens, the public may include, among others, representatives of consumer, environmental, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic organizations; public officials; and governmental and educational associations.*

EPA regulations at 40 CFR § 25.4(b)(5) require:

*Each agency shall develop and maintain a list of persons and organizations who have expressed an interest in or may, by the nature of their purposes, activities or members, be affected by or have an interest in any covered activity. Generally, this list will be most useful where subdivided by area of interest, or geographic area. Whenever possible the list should include representatives of the several categories of interests listed under § 25.3(a). Those on the list, or relevant portions if the list is subdivided, shall receive timely and periodic notification of the availability of materials under § 25.4(b)(2).*

EPA regulations at 40 CFR § 25.4(c) require:

*Public notification. Each agency shall notify interested and affected parties, including appropriate portions of the list required by paragraph (b)(5) of this*

*section, and the media in advance of times at which major decisions not covered by notice requirements for public meetings or public hearings are being considered. Generally, notices should include the timetable in which a decision will be reached, the issues under considerations, any alternative courses of actions or tentative determinations which the agency has made, a brief listing of the applicable laws or regulations, the location where relevant documents may be reviewed or obtained, identification of any associated public participation opportunities such as workshops or meetings, the name of an individual to contact for additional information, and any other appropriate information. All advance notifications under this paragraph must be provided far enough in advance to permit time for public response; generally this should not be less than 30 days.*

EPA regulations at 40 CFR § 25.12(a)(1) require:

*EPA shall review the public participation work plan (or, if no work plan is required by this chapter for the particular financial assistance agreement, the public participation element) included in the application to determine consistency with all policies and requirements of this part.*

EPA regulations at 40 CFR § 25.12(a)(2)(i) require:

*Evaluation. EPA shall evaluate compliance with public participation requirements using the work plan, responsiveness summary, and other available information. EPA will judge the adequacy of the public participation effort in relation to the objectives and requirements of § 25.3 and § 25.4 and other applicable requirements. In conducting this evaluation, EPA may request additional information from the assisted agency, including records of hearings and meetings, and may invite public comment on the agency's performance. The evaluation will be undertaken as part of any mid-project review required in various programs under this chapter; where no such review is required the review shall be conducted at an appropriate midpoint in continuing EPA oversight activity. EPA may, however, undertake such evaluation at any point in the project period, and will do so whenever it believes that an assisted agency may have failed to meet public participation requirements.*

The evaluation of public participation is generally a financial assistance (grants and cooperative agreements) evaluation, however, the establishment of the 303(d) list is an activity that has a public participation component. The adequacy of the public participation effort is an appropriate analysis during the review of the § 303(d) list.

The emphasis on public participation for the § 303(d) list can be traced through the regulations for the TMDL program at 40 CFR § 130.7 and the Continuing Planning Process (CPP) at 40 CFR § 130.5. Not all programs are required to have the process specified in the CPP, which is approved by EPA.

EPA regulations at 40 CFR § 130.7(a) require:

*General. The process for identifying water quality limited segments still requiring wasteload allocations, load allocations and total maximum daily loads (WLAs/LAs and TMDLs), setting priorities for developing these loads; establishing these loads for segments identified, including water quality monitoring, modeling, data analysis, calculation methods, and list of pollutants to be regulated; submitting the State's list of segments identified, priority ranking, and loads established (WLAs, LAs/TMDLs) to EPA for approval; incorporating the approved loads into the State's WQM plans and NPDES permits; and involving the public, affected dischargers, designated areawide agencies, and local governments in this process shall be clearly described in the State Continuing Planning Process (CPP).*

EPA regulations at 40 CFR § 130.5(a) require:

*General. Each State shall establish and maintain a continuing planning process (CPP) as described under section 303(e)(3)(A-H) of the Act. Each State is responsible for managing its water quality program to implement the processes specified in the continuing planning process. EPA is responsible for periodically reviewing the adequacy of the State's CPP.*

EPA regulations at 40 CFR § 130.5(b)(3) require the following in the State CPP:

*The process for developing total maximum daily loads (TMDLs) and individual water quality based effluent limitations for pollutants in accordance with section 303(d) of the Act and § 130.7(a) of this regulation.*

## **C Review of the Oklahoma Submission**

EPA approved the State of Oklahoma 2012 § 303(d) List. EPA reviewed the State of Oklahoma 2012 § 303(d) List and concluded the state developed its § 303(d) list in compliance with § 303(d) of the Act and 40 CFR § 130.7.

EPA's determination was based on its analysis of whether the state reasonably considered existing and readily available water quality related data and information, reasonably identified waters required to be listed, assigned a priority and provided a list of TMDLs to be developed in the next two years and had adequate public participation.

## **C.1 Review of Identification of WQLSs for Inclusion on Section 303(d) List**

EPA's approval of the State of Oklahoma 2012 § 303(d) List was based on EPA's review of the data and information submitted concerning individual waters and the state's evaluation of those waters. EPA's evaluation was intended to determine whether the state had identified all waters that meet Federal listing requirements specified in section § 303(d) and 40 CFR § 130.7.

Oklahoma combined the 2012 § 305(b) report and the § 303(d) List into a single report ("the Integrated Report") in accordance with EPA's listing guidance titled 'Guidance for the 2006 Integrated Assessment and Reporting on the Quality of states' Waters' ('EPA's 2006 Guidance') (USEPA.2005 July.). A single assessment methodology for the Integrated Report was used for both § 305(b) reporting and § 303(d) listing decisions. The Oklahoma Integrated Report divided assessed waters into five categories as recommended by EPA's 2006 Guidance and three subcategories within Category 5 (Categories 5a, 5b, 5c). Category 5, which includes waters for which available data and/or information indicate that at least one designated use is not being supported or is threatened, and for which a TMDL is needed, is the State of Oklahoma 2012 § 303(d) List that EPA approves or disapproves pursuant to § 303(d)(2) and 40 CFR § 130.7. Category 5 is the portion of the Integrated Report on which EPA is taking action today.

### **C.1.a.1 Review of the Methodology**

EPA concluded the Oklahoma assessment methodology was a generally reasonable approach consistent with EPA's 1991 Guidance and the State of Oklahoma water quality standards (OK. 2012a.).

EPA concluded the listing methodology employed in developing the State of Oklahoma 2012 § 303(d) List describes a set of decision criteria that was reasonably applied.

EPA is not required to take action on the listing methodology under 40 CFR § 130.7(d)(1). The methodology is specifically required in 40 CFR § 130.7(b)(6)(i) as part of the documentation supporting the 303(d) List. Although EPA reviewed the Oklahoma listing methodology as part of its review of the listing submission, EPA's approval of the

State of Oklahoma 2012 § 303(d) List should not be construed as agreement with or approval of the listing methodology.

In general, waters were listed in cases where a certain percentage or magnitude of sample concentrations exceeded the applicable water quality criteria and where narrative criteria and/or designated uses were not attained. Assessment protocols are provided in the state's Use Support Assessment Protocols (USAPs) found in Oklahoma Administrative Code, Title 785, Chapter 46, Implementation of Oklahoma's Water Quality Standards (OK.2012b) as well as the state's CPP (OK.2012c).

#### **C.1.a.1.d Methodology for Total Phosphorus in Scenic Rivers**

EPA is neither approving nor disapproving the state's omission of 3 waters from the 2012 § 303(d) list. The state elected to not place Lee Creek, Little Lee Creek, and Little River (Mountain Fork) on the 2012 § 303(d) list for total phosphorus. EPA remains concerned about the apparent incongruity between the state's water quality standards and its use support assessment protocols for the evaluation of total phosphorus data against the state's Scenic Rivers criterion (0.037mg/L total phosphorus). EPA believes this incongruity could potentially lead to conflicting findings when evaluating designated use support for these waters.

The basis for the state's decision to not list these waters is that they are in compliance with the total phosphorus criterion (0.037mg/L) protective of the Aesthetics beneficial use. Less than 25% of the rolling 90-day geometric means calculated for total phosphorus in each of these waters exceeded the criterion. In a segment of a Scenic River, 25% or more of these rolling 90-day geometric means must exceed the total phosphorus criterion for the Aesthetics beneficial use to be deemed not supported, as outlined in Oklahoma's Use Support Assessment Protocols (USAPs) found in the state's Administrative Code, Title 785, Chapter 46.

While EPA agrees with these findings when applying the above procedure outlined in the USAPs, we continue to have concerns with the apparent discrepancy between this procedure and the state's water quality standards (WQS). Oklahoma's WQS, as outlined in Oklahoma's Administrative Code, Title 785, Chapter 45, state that the "thirty (30) day geometric mean total phosphorus concentration in waters designated "Scenic River" ...shall not exceed 0.037mg/L." EPA understands that the assessment procedure was developed as a "proxy" metric to assess the WQS in light of the challenges with acquiring adequate data in a 30-day period. However, recent court cases and changes in EPA policy have brought about a greater focus on the specific language found in a state's WQS.

In EPA's 2006 integrated report guidance, it states that past EPA guidance "recommended making non attainment decisions, for 'conventional pollutants' ...when more than '10% of measurements exceed the water quality criterion.' Use of this rule when addressing conventional pollutants, is appropriate if its application is consistent with the manner in which applicable WQC [water quality criteria] are expressed" (brackets added). Further, the guidance clarifies that "use of the ten percent rule for interpreting water quality data is usually not consistent with WQC expressed either as: 1) instantaneous maxima not to be surpassed at any time, or 2) average concentrations over specified times. In the case of 'instantaneous maxima (or minima) never to occur' criteria, use of the ten percent rule typically leads to the belief that segment conditions are equal or better than specified by the WQC, when they in fact are considerably worse. (That is, pollutant concentrations are above the criterion-concentration a far greater proportion of the time than specified by the WQC.)" In summary, the policy stated in EPA's integrated report guidance indicates that EPA will, in the absence of any qualifying language regarding "shall not exceed" criteria statements in state WQS, review state § 303(d) listing decisions based on a plain reading of the state's applicable WQS, i.e. any 30-day geometric mean total phosphorus result that exceeds 0.037 mg/L results in a finding of non-support for any water body identified in Oklahoma's WQS as a Scenic River.

EPA recognizes the State of Oklahoma's challenges, including resource or logistical constraints, with acquiring adequate data in a 30-day period to perform an assessment in accordance with the 30-day averaging period and "shall not exceed" frequency as laid out in Oklahoma's WQS. Further, we recognize that in reality it may be very difficult to achieve a 30-day geometric mean of 0.037 mg/L at all times and unrealistic to expect any mitigation or restoration practice to achieve this goal under all environmental conditions. However, we believe that the conflicts between the Oklahoma WQS and USAPs must be reconciled in some manner so as to clarify the state's expectations for assessing the total phosphorus criterion in Scenic Rivers.

### **C.1.b Review of Nonpoint Sources**

Oklahoma properly listed waters with nonpoint sources causing or expected to cause impairment, consistent with EPA guidance. § 303(d) lists are to include all WQLSs still needing TMDLs, regardless of whether the source of the impairment is a point and/or nonpoint source. EPA's long-standing interpretation is that § 303(d) lists apply to waters impacted by point and/or nonpoint sources. This interpretation has been described in EPA guidance, and most recently in a 1997 memorandum clarifying certain requirements for 1998 § 303(d) lists (USEPA.1997).

### **C.1.c Review of Waters within Indian Country**

EPA's approval of the State of Oklahoma 2012 § 303(d) List extends to all water bodies on the list with the exception of those waters that are within Indian Country, as defined in 18 U.S.C. § 1151. EPA is taking no action to approve or disapprove the state's list with respect to those waters at this time. EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities under § 303(d) for those waters.

### **C.2 Review of Consideration of Existing and Readily Available Water Quality-Related Data and Information**

EPA determined Oklahoma took reasonable steps to assemble all existing and readily available water quality-related data and information as required by 40 CFR § 130.7, including data and information from members of the public and government agencies via the public participation process. Additional information on the state's public participation process can be found in section C4 later in this document.

EPA determined the state properly evaluated all existing and readily available data and information, including data and information relating to the categories of waters specified in 40 CFR § 130.7(b)(5) after reviewing the Oklahoma description of the data and information it considered. EPA's review was based on its analysis of whether the state reasonably considered all existing and readily available water quality related data and information.

### **C.3 Review of Priority Ranking and Two Year TMDL Development**

EPA determined Oklahoma properly assigned a priority ranking to listed waters for TMDL development and took into account the severity of pollution and the uses to be made of such waters.

As described in the Oklahoma Integrated Report, waters listed in category 5, which constitute the State of Oklahoma 2012 § 303(d) List, are subdivided into 3 subcategories: 5a, 5b, and 5c. After the final determination of beneficial use attainment is made, a four-level priority ranking for TMDL development is established including waters targeted for TMDL development within the next two years (Priority 1). In accordance with EPA guidelines, priority determinations take into account the severity of the impairments and the designated uses of the waters impacted. Waters in Category 5 (the State's 303(d) list) will be aggregated and prioritized according to their eleven digit hydrologic unit code (HUC11) watershed. The priority evaluation considered three key areas, [1] the

vulnerability of waters to degradation, [2] the risks to public health and [3] the threat to aquatic life with a total of ten criteria.

The point score was established by giving each of the 10 criteria a number of points (15, 10, 5, 3, 0) based on its overall importance. The criteria points were then totaled to give an overall score for each watershed. Watersheds without impairments were excluded from further priority consideration. The impaired watersheds were then ranked by overall score. The segment-pollutant pairs in the watersheds above the 90th percentile were assigned priority 1 for TMDL development in the next two years. The segment-pollutant pairs in the watersheds ranked in the 70th to 90th percentile were assigned priority 2. The segment-pollutant pairs in the watersheds ranked in the 40th to 70th percentile were assigned priority 3. The segment-pollutant pairs watersheds ranked below the 40th percentile were assigned priority 4.

EPA determined the Oklahoma submittal adequately identified the WQLSs targeted for TMDL development in the next two years.

#### **C.4 Review of Public Participation**

EPA determined Oklahoma took reasonable steps to include the public in the process of producing the State of Oklahoma 2012 § 303(d) List.

##### **C.4.a Review of Public Notice for Public Participation**

EPA determined the information on the process and the notice period were reasonable based on the review of documents submitted. Public notice was posted on 7/9/2013 requesting comments on the draft State of Oklahoma 2012 § 303(d) List and on the rationale for development of the State of Oklahoma 2012 § 303(d) List. The public notice provided a 30 day comment period. The public notice was also published in 'The Journal Record' and distributed to appropriate stakeholders.

##### **C.4.b Review of Responsiveness Summary for Public Participation**

EPA determined the responses to comments and actions were reasonable based on the review of documents submitted. Oklahoma prepared a responsiveness summary following conclusion of the public comment period and assessment of submitted data. This responsiveness summary was included in the Integrated Report submitted to EPA on 9/24/2013. The responsiveness summary and proposed Integrated Report were also posted on the Oklahoma Department of Environmental Quality website ([http://www.deq.state.ok.us/wqdnew/305b\\_303d/index.html](http://www.deq.state.ok.us/wqdnew/305b_303d/index.html)).

#### **D. Administrative Record Supporting this Action**

This EPA decision to approve the State of Oklahoma 2012 § 303(d) List was based on a careful review of the materials submitted by the state with the State of Oklahoma 2012 § 303(d) List. The administrative record supporting EPA's decision comprises the materials submitted by the state, CWA § 303(d), associated Federal regulations, the Oklahoma assessment methodology, EPA guidance concerning preparation of section 303(d) lists, this decision document, supporting reports and the decision letter. EPA determined the materials provided by the state with its submittal provided sufficient documentation to support our analysis and findings that the state listing decisions meet the requirements of the Clean Water Act and associated Federal regulations. We are aware that the state compiled and considered additional materials (e.g. raw data and water quality analysis reports) as part of its list development process that were not included in the materials submitted to EPA. EPA did not consider these additional materials as part of its review of the listing submission. It was unnecessary for EPA to review all of the materials considered by the state in order to determine that, based on the materials submitted to EPA, the state complied with the applicable Federal listing requirements. Moreover, Federal regulations do not require the state to submit all data and information considered as part of the listing submission.

#### **E Administrative Records Cited and References**

OK. 2012a. Oklahoma Water Quality Standards, Oklahoma Administrative Code, Title 785, Chapter 45.

OK. 2012b. Implementation of Oklahoma's Water Quality Standards, Oklahoma Administrative Code, Title 785, Chapter 46.

OK. 2012c. Continuing Planning Process, 2012 Version,  
[http://www.deq.state.ok.us/wqdnew/305b\\_303d/index.html](http://www.deq.state.ok.us/wqdnew/305b_303d/index.html)

OK. 2013 Sep. 'Oklahoma 2012 Integrated Report Submission' including public comment responsiveness summary and supporting documentation

USEPA.1972 Oct. 33 USC 1251 et seq Chapter 26 – Water Pollution Prevention and Control. Public Law 92-500. October 18, 1972.<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title33/pdf/USCODE-2011-title33-chap26.pdf>

USEPA.1991 Apr. Guidance for Water Quality Based Decisions: The TMDL Process. EPA 440/4-91-001. April 1991. Available at <http://www.epa.gov/waterscience/library/modeling/SASD0109.pdf>.

USEPA. 1992. Part 130 of Title 40 of the Code of Federal Regulations, section 130.7, contains the regulations currently governing the Total Maximum Daily Load program, 1992.

USEPA. 1993 Nov. Guidance for 1994 Section 303(d) Lists. Geoffrey H. Grubbs - November 26, 1993.

USEPA.1997 Aug. National Clarifying Guidance for 1998 State and Territory Section 303(d) Listing Decisions. Robert H. Wayland III - August 17, 1997.

USEPA. 2000 April. EPA Review of 2000 Section 303(d) Lists. Robert H. Wayland III - April 28, 2000.

USEPA.2000 Oct. Guidance: Use of Fish and Shellfish Advisories and Classifications in 303(d) and 305(b) Listing Decisions. Geoffrey H. Grubbs and Robert H. Wayland III - October 21, 2000.

USEPA.2001 Nov. 2002 Integrated Water Quality Monitoring and Assessment Report Guidance. Robert H. Wayland III - November 19, 2001.

USEPA. 2002 March. Clarification of the Use of Biological Data and Information in the 2002 Integrated Water Quality Monitoring and Assessment Report Guidance. Robert H. Wayland III - March 26, 2002.

USEPA.2002 May. Recommended Framework for EPA Approval Decisions on 2002 State Section 303(d) List Submissions. Charles H. Sutfin - May 20, 2002.

USEPA.2002 July. EPA Consolidated Assessment and Listing Methodology (CALM), July 2002 available at <http://water.epa.gov/type/watersheds/monitoring/calm.cfm>

USEPA.2003 July. Guidance for 2004 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. Diane Regas - July 21, 2003.

USEPA. 2005 July. Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act, Diane Regas, July 25, 2005

USEPA.2006 Oct. Information Concerning 2008 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions. Diane Regas - October 12, 2006.

USEPA.2007 March. Listing Waters Impaired by Atmospheric Mercury Under Clean Water Act Section 303(d): Voluntary Subcategory 5m for States with Comprehensive Mercury Reduction Programs. Craig Hooks - March 8, 2007.

USEPA.2009 May. Information Concerning 2010 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions. Suzanne Schwartz - May 5, 2009.

USEPA.2010 November. November 15, 2010 Memorandum: Integrated Reporting and Listing Decisions Related to Ocean Acidification. Denise Keehner - November 21, 2010.

USEPA.2011 March. Information Concerning 2012 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions. Denise Keehner - March 21, 2011.