

Governor Christine Todd Whitman
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

January 16, 2003

Water Docket: ID No. OW-2002-0037

Dear Governor Whitman:

The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) supports USEPA's proposal to withdraw the July 2000 rule for Total Maximum Daily Loads (TMDL's).

Based on the five USEPA listening sessions and the National Academy of Sciences' (NAS) Report, there is significant stakeholder consensus on appropriate future directions. We agree with the Agency that allowing the 2000 rule to go into effect, while developing a new Watershed Rule, is confusing and counterproductive. It would disrupt our programs and delay TMDL development.

As the Agency recognized in its Federal Register Notice, the state government agencies are making significant progress in establishing TMDL's while the 2000 rule has been held in abeyance. And, as indicated in our correspondence with the Agency since its proposal, the 2000 rule is unworkable.

The withdrawal of the rule will enable States and Interstate Agencies to build program momentum in the short term. It is however, critical that the USEPA propose a workable replacement rule as soon as possible. As indicated in our discussions with you in the recent past, the Association urges that rulemaking be founded on the following concepts:

1. An integrated approach to watershed protection that encompasses both point and nonpoint sources.
2. A 4-year 303(d) listing cycle and unified framework for monitoring, assessment and reporting that has a sound scientific basis and responds to NAS recommendations.
3. A program structure that enables States and Interstate Agencies to:
 - Evaluate point and nonpoint source contributions and establish allocations,
 - Develop a workable process for TMDL implementation using adaptive management, and
 - Accommodate multi-pollutant approaches and trading.
4. A process that is transparent, enhances public involvement and assures more accountability for environmental results.
5. A strong USEPA oversight role.

We reiterate our concern that continuing to operate under the 1985/1992 regulations is not a viable long-term option. This is because the 1992 rule:

1. Does not provide a useful framework for solving the next generation of water quality problems at the watershed level.
2. Is open-ended, with no schedule for developing TMDL's and no focus on the ultimate goal of implementation.
3. Leaves future TMDL directions uncertain which undermines the membership's ability to carry out the national program.
4. Causes States and Interstate Agencies to increasingly rely on their own rulemaking, which is inefficient, delays implementation and leads to disparate approaches nationwide.
5. Fails to address the program's legal vulnerabilities.

The USEPA, the USDA, State and Local government agencies have invested extensive time and resources to develop the Watershed Rule. The Agency has received extensive stakeholder input and counsel and it is time to proceed with promulgation of the Watershed Rule to supplant the regulation that is being withdrawn. While the Association may not agree on all its details, we urge the Agency to immediately move forward with a public comment period on the new Watershed Rule.

ASIWPCA looks forward to providing input as the proposal is finalized and we thank you in advance for your leadership in developing a regulation for the establishment of Total Maximum Daily Loads that is practical, workable, efficient and supportive of water quality improvements nationwide. By working together in this manner, States, Interstate Agencies and USEPA can craft a TMDL program for the long term that is visionary in its support of watershed protection.

Sincerely,



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ASIWPCA President

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