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# Nutrients/Clean Water Act: Association of Clean Water Administrators Comments on U.S. Environmental Protection Agency Memorandum

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The Association of Clean Water Administrators (“ACWA”) submitted November 3rd comments on a Memorandum United States Environmental Protection Agency (“EPA”) issued on April 5th titled:

Accelerating Nutrient Pollution Reductions in the Nation’s Waters (“Memorandum”)

See previous blog post [here](#).

The objective of the Memorandum as described by EPA was to reaffirm:

EPA’s commitment to working with federal agencies, state co-regulators, tribes, water stakeholders, and the agricultural community to advance progress in reducing excess nutrients in our nation’s water.

The ACWA describes itself as a:

. . . national, nonpartisan professional organization whose members are the State, Interstate, and Territorial officials responsible for the implementation of surface water protection programs throughout the nation.

The role of nutrients (i.e., nitrogen and phosphorus) in water pollution has been the subject of serious consideration by EPA and the states for a number of years. Excess nutrients can stimulate the growth of algae. This can impair the various designated uses for waterbodies and also increase the organic matter which (when decomposed) can depress dissolved oxygen concentrations.

The November 3rd ACWA comments initially express support for EPA’s intention to “address nutrient pollution and accelerate load reductions in the Nation’s waters.” The Memorandum is viewed as an opportunity for states to engage with EPA on nutrient policy. Also noted is the need to work with the agricultural sector to address runoff of rurally productive lands.

Concerns expressed in the comments include:

- Is EPA selectively focusing on certain portions of its recommendations, often without coordination with the co-regulating States (an example cited is an EPA Region establishing numeric nutrient criteria for a tribe with only cursory notice to the state and potential implications for non-tribal communities located upstream)?

- States are required to provide an explanation to EPA as to why they are not adopting nationally recommended criteria during a triennial review
- Whether EPA has the authority to formally review and approve state nutrient reduction strategies
- Does EPA believe that numeric criteria represent the best and fastest means of restoring waters impacted by nutrients to the exclusion of other approaches?
- The same constraining factors that have previously limited the adoption of numeric criteria are still in place, citing:
  - limited local and site-specific data
  - uncertainty in the relationship between causal and response parameters
  - effects of mitigating or aggravating local conditions
- Marginal applicability of water criteria to legacy and non-point sources that stymie the development/implementation of the criteria
- Appropriate deference should be given to states to select the appropriate tools for nutrient reduction that make sense for their unique hydrologic, geographic, ecological, and demographic setting
- Relying solely on science-based criteria that cannot be implemented through existing or near-term technology, necessitating other tools, such as widespread variances, blunts the efficacy numeric criteria in improving surface waters

A copy of the comments can be downloaded [here](#).