



EPA Administrator Pruitt Begins Process of Identifying Rules for Elimination/Modification; WWP Submits Comments Recommending Various Regulatory Changes

June 2017

Administrator Pruitt has begun the process of developing a formal framework to evaluate regulations for elimination/modification, as required by President Trump's Executive Order 13777 (EO). Pruitt announced that EPA senior counsel and Associate Administrator for Policy Samantha Dravis (formerly general counsel for the Republican Attorneys General Association) will be the Regulatory Reform Officer. She will guide EO implementation efforts at the agency. Pruitt also announced that Ryan Jackson (Pruitt's chief of staff) will chair EPA's task force and lead regulatory evaluation efforts.

Seven EPA offices were asked to provide recommendations to the task force by May 15, including: Air and Radiation, Land and Emergency Management, Chemical Safety and Pollution Prevention, Water, Environmental Information, Congressional and Intergovernmental Relations, and Small and Disadvantaged Business Utilization. Pruitt also directed each of these offices to hold a public meeting to discuss the topic so that EPA "can listen and learn directly from those impacted" by the agency's regulations.

On May 15, the WWP submitted an initial set of recommended regulatory changes in response to EPA's request for regulatory reform ideas. Those recommendations included:

- **85% Removal Requirement** – EPA should eliminate the 85 percent removal requirement for BOD and TSS from POTW secondary treatment standards;
- **Blending** – EPA should issue a policy statement affirming the use of peak flow "blending" at treatment plants and/or initiate a rulemaking to clarify that blending is not a "bypass";
- **Emergency Bypass Facilities** – EPA should allow communities to retain and construct emergency bypass facilities at wastewater pump stations and treatment plants;
- **Impaired Waters** – EPA should be more deferential to state impaired waters listing decisions;
- **Pretreatment** – EPA should revise the pretreatment standards, so as to no longer compel local control authorities to list industrial dischargers as being in significant noncompliance with pretreatment standards for insignificant administrative oversights;
- **Reporting Requirements** – EPA should modify the noncompliance reporting requirements to allow the Director to waive or extend the time period for making oral or written reports (such as sewer overflows) in extraordinary circumstances;
- **Innovation and Optimization** – EPA should issue guidance supporting innovation and optimization;

- **Sampling Requirements** – EPA should streamline sampling requirements in NPDES permits and related applications, and provide for reduced sampling from facilities with a demonstrated track record of compliance;
- **Section 308 Information Requests** – EPA should issue guidance clarifying the appropriate, limited use of CWA § 308 information requests, as these requests carry the threat of enforcement and have historically required tremendous amounts of time and money to create (rather than simply provide) the information requested;
- **Inflow and Infiltration** – EPA should not regulate inflow and infiltration; however, if EPA insists on doing so, it should eliminate arbitrary thresholds for defining excessive inflow and infiltration.
- **Longer-Term Implementation Periods** – 40 CFR 122.45(d) should be revised to accommodate WQS and WLAs derived using longer-term implementation periods such as seasonal or annual averages; and
- **Implementation of TMDLs in NPDES Permits** – 40 CFR 130.7 should be updated to clarify that daily loads identified in TMDLs are not assumptions and requirements of the TMDL for NPDES POTW permitting purposes.

We will continue to expand and reprioritize this list, so please do not hesitate to share with us any ideas for reform that you may have. We will also review the ideas submitted by other municipal stakeholders to learn if there are additional issues we should add to our list. Finally, we will prepare to engage with our congressional delegations, seeking their help to facilitate these regulatory reforms as well as several potential legislative amendments to the Clean Water Act and Safe Drinking Water Act.