



January 9, 2025

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President-Elect Trump  
c/o EPA Transition Team  
1200 Constitution Ave, NW  
Washington, DC 20460

Dear U.S. EPA Transition Team:

The Association of Clean Water Administrators (hereinafter “ACWA” or the “states”) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers, who on a daily basis implement the water quality programs of the Clean Water Act (“CWA”). ACWA is a nationally recognized organization whose agenda and mission are set by a Board of Directors and leadership which are composed entirely of state/interstate water quality program administrators and managers. ACWA is uniquely positioned as a critical resource to EPA as ACWA can quickly and efficiently facilitate feedback from its members, the nation’s experts on implementing the CWA. Because the states, largely, implement CWA regulations and policies, proposed changes to applicable EPA regulations and policies should be developed in collaboration with the states. The complexity of today’s water quality issues requires effective collaboration to ensure reasonable, balanced, and effective strategies for water quality improvement.

The Clean Water Act was created in response to increased public concern for the environment and for the condition of the nation’s waters. Before CWA, rivers and streams were choked with pollution and were toxic to fish and not fit for recreation. Tremendous progress has been made in the last half century through the cooperative and collaborative relationship between the states and EPA. Maintaining and improving water quality has proven to be a strong economic driver as clean water is essential for agriculture, manufacturing, tourism, recreation and energy production. As the Trump team prepares to assume office, ACWA urges you to consider several critical issues, opportunities, and needs to ensure that the U.S. Environmental Protection Agency (EPA) Office of Water (OW) and the State and Interstate water quality programs continue to make progress on improving the nation’s water quality while recognizing the need to streamline regulatory activities.

## **Cooperative Federalism**

The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating water quality standards for surface waters. While the EPA has oversight, the CWA's delegation and authorization structure makes states directly responsible for implementation of these programs. Because of this shared responsibility, it is critical that EPA continues to recognize the states' status as co-regulators and partners, not another group of stakeholders. For cooperative federalism to succeed, states must be viewed as vital partners, not just as implementers of our federal environmental laws. By its nature, cooperative federalism requires EPA and the states to work together to streamline and modernize environmental programs, identify priorities, solve problems, and enhance and improve overall program performance to meet desired outcomes.

ACWA, as the voice of the states, believes the need for strong coordination between the states and EPA must be reaffirmed. Together, EPA and the States facilitate a fair and rational response to current and future environmental challenges. Early engagement with a geographically diverse set of state partners on regulatory and policy changes has become an important step to ensure states are aware of how EPA intends to implement the CWA and so that states/interstates can share their real-time experiences implementing the Act. Early engagement provides EPA and states the necessary time to further discuss the allocation of needed resources, implementation challenges, performance measures, and other related priorities that may need to be considered. We also encourage the new Administration to provide a list of rules, policy actions, or guidance documents, if any, that may come under review for potential revisions and provide a strategy for working cooperatively with the states/interstates through ACWA and ECOS, on these changes.

## **Executive Order Reaffirming a Commitment to Cooperative Federalism**

Executive Order 13132, Federalism (the EO), directs federal agencies to recognize fundamental principles of federalism, respect state authority, and to meaningfully consult with states in the development of any federal policy or regulation that may have federalism implications. The EO expresses that, "[w]ith respect to Federal statutes and regulations administered by the States, the national government shall grant the States with the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable." Because the CWA is administered by the states, under a model of cooperative federalism, any new interpretations or modifications to states' Congressionally delegated authority under the CWA inherently have federalism implications and should trigger the requirements of the EO.

Unfortunately, federal agencies' adherence to the EO has been inconsistent. States are too often excluded from the early stages of rules and policies concerning the CWA. We ask the incoming Administration to ensure that the requirements of the EO are recognized and implemented by federal agencies. Alternatively, the Administration could issue a new Executive

Order recognizing states' authorities and including more effective requirements to ensure early, ongoing, and meaningful state consultation for agency action under the CWA.

**Issue an Executive Order Continuing to Emphasize Compliance Assurance and to Promote Better Coordination Between Federal and State Compliance/ Enforcement Actions.**

ACWA's members encourage the Administration to issue an Executive Order focusing on the Office of Enforcement & Compliance (OECA) which sets out expectations and procedures for enhancing effective partnerships in civil enforcement and compliance assurance activities between EPA and states that are implementing federal environmental programs. EPA must work closer with states to communicate the how, where, when, and why federal resources will be leveraged in doing enforcement and compliance assurance work together. States support of 4 key principles associated with providing oversight of states that are implementing environmental laws: 1) general deference to states in state-implemented programs consistent with EPA oversight responsibilities; 2) effective communication between EPA and states; 3) clear standards of review and predictable processes; and 4) clear processes for elevating issues ([Principles and Best Practices for Oversight of Federal Environmental Programs Implemented by States and Tribes, October 30, 2018](#)). We encourage the Administration to prioritize these efforts.

**CWA Program Funding**

Cooperative Federalism also demands that the Administration support robust funding to support states in their obligations to CWA through section 106 grants, 319 grants, and funding to regional programs like the Chesapeake Bay or the Mississippi River/ Gulf of Mexico Hypoxia Task Force. This funding is essential to ensure that the environmental and economic benefits of these programs are maintained. While appropriation increases have technically occurred over time since the inception of these programs, a more comprehensive analysis shows federal funding has barely remained steady when considering inflation. For example, in looking at sec. 106 funding over the last 50 years, appropriations have increased from \$10 million in 1971 to \$223 million in 2020, however when adjusted for inflation the increased appropriations are closer to \$30 million. The states/interstates urge the new Administration to support federal funding increases for 106, 319, and regional waterbody programs so that states/interstates have the resources they need to meet the obligations of the CWA. This funding is especially critical as CWA programs have grown larger and more complex and the water quality issues facing the states/interstates more challenging. States also support federal investment in water infrastructure programs such as the Clean Water State Revolving Fund (CWSRF), Drinking Water State Revolving Fund (DWSRF), and Water Infrastructure Finance and Innovation Act (WIFIA). These investments in essential infrastructure are proven job creators in the construction trades and the manufacturing of construction materials such as iron and steel.

Federal funding of the 106 and 319 programs comprises approximately 33% of the funds states and interstates rely on to carry out the CWA's mandates. Section 319 funding has been on the

decline since 2005, and the states currently absorb over two thirds of the cost of mandated state and delegated federal water quality programs. Additional federal funding would enable states to build upon the successes of the 319 program and work to improve the states' water quality protection activities and ability to carry out the basic requirements of the CWA.

While appropriation increases have occurred over time since the inception of these programs, a more comprehensive analysis shows federal funding has remained nearly flat throughout the past decade, and its purchasing power has diminished when taking inflation into account. For example, CWA sec. 106 funding in 2010 was \$229 million; after a rise in funding in 2011 and 2012, funding levels settled to \$231 million over 2014 – 2019. Section 106 funding in 2020 fell to \$223 million. If you look at a more recent time horizon, the Section 106 enacted level was \$230,806,000 in FY2016 and \$230,000,000 in FY2021, a reduction of \$806,000. This funding is especially critical as CWA programs have grown much larger. The NPDES permitting program now covers 900,000 municipal, industrial, stormwater, and construction facilities today. Additionally, the water quality issues facing the states and interstates are more complex and more challenging. Nutrient reduction in surface waters, stormwater management, alterations in hydrology, in part due to climate change, considerations of groundwater, e-reporting requirements, and emerging contaminants such as PFAS, are complications not envisioned when the CWA became law 50+ years ago.

### **Science Integrity**

ACWA supports the use of the best available science and the goals of public transparency and independent verification. Sound science underpins all of EPA's activities. It is essential that the principles of scientific integrity are followed to ensure that agency decisions are grounded in sound, high quality science. States also recognize the importance of ensuring data and the models used for regulatory actions, providing defensible science for aquatic life and human health be made publicly available, consistent with relevant privacy laws.

### **Closing**

ACWA is a nationally recognized organization whose mission and agenda are set by a Board of Directors and leadership composed entirely of state/interstate water quality program administrators and managers. ACWA is uniquely positioned as a critical resource to EPA as ACWA can quickly and efficiently facilitate feedback from its members, the nation's experts on implementing the CWA. Because the states largely are implementing CWA regulations and policies, proposed changes to applicable EPA regulations and policies should be developed in collaboration with the states as co-regulators. The complexity of today's water quality issues requires effective collaboration to ensure reasonable, balanced, and effective strategies for water quality improvement.

We look forward to working with the new Trump Administration and offer our assistance as you move forward in tackling these critical issues.

Sincerely,

A handwritten signature in black ink that reads "Adrian Stocks". The signature is written in a cursive, flowing style.

Adrian Stocks  
Director, Bureau of Water Quality  
Wisconsin Department of Natural Resources  
ACWA President