UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 13 2006

OFFICE OF WATER

MEMORANDUM

SUBJECT: Improving the Effectiveness of the Use Attainability Analysis (UAA) Process

FROM: Ephraim S. King, Director
Office of Science and Technology

TO: Regional Water Division Directors,
Regions 1-10

I am writing you to reinforce the importance of working together with our state and tribal partners to make the UAA process operate more effectively. As you know, appropriate and defensible water quality standards (WQS) are essential for achieving the Clean Water Act (CWA) goals of maintaining and restoring water quality -- and getting WQS right starts with getting designated uses right.

With this memo, I am attaching a set of case studies which demonstrate a number of UAAs that are associated with a designated use change. These case studies illustrate the breadth and variety of successful UAAs in terms of the types of waterbodies and uses addressed, the factors involved (i.e., natural, human-caused, or economic conditions), and the complexity and depth of analysis. You can expect to receive additional UAA-related materials from the Office of Science and Technology (OST) this calendar year, such as sets of frequently asked questions and answers about UAAs, to help support implementation of the UAA process in your Region.

Our goal is to make the WQS program work better. Our priority is to improve clarity in the WQS process including better communication, understanding, efficiency, and increased public awareness. Making the UAA process operate effectively is an important step towards achieving these priorities. Once states and tribes designate the appropriate uses, the right water quality criteria, permits and targets for Total Maximum Daily Loads (TMDLs) will follow to move us towards improving water quality.

I appreciate your continued support in this area and ask that you share and reinforce with our co-regulators and stakeholders the following five key points:

- **Getting the uses right requires both a useful set of designated uses and an effective process for conducting credible and defensible UAAs.** EPA realizes that deciding what uses are attainable is critical, and views the UAA process, properly applied and implemented, as a vital tool in making those decisions. Early coordination among states and EPA is critical to making the process more efficient. UAAs are meant to assess what is attainable, it is not simply about documenting the current water quality condition and use (although documenting current conditions is often part of the analysis).

- **A credible UAA can result in a change in designated use in either direction.** A credible UAA can lead to refinements or changes in use that lead to either more or less protective criteria. The goal is that the new use is more accurate.

- **There is nothing wrong with changing designated uses after completion of a credible UAA.** It is an expected part of the process. If a credible and defensible UAA indicates a need for a WQS change, then a change to WQS is appropriate to effectively implementing the WQS program. Sometimes these changes are on the critical path to making real environmental progress.

- **The UAA process should be better integrated with TMDL development.** We need to work together with states and tribes to ensure that as we develop TMDLs, we also coordinate on issues related to use attainability as needed. In practice, the information gathered to develop a TMDL, and the allocations in a TMDL, may point to the need to pursue a UAA. While in some cases it may be more effective to ensure that the right uses are in place prior to completing the TMDL, it is also important not to let uncertainty about a specific water quality endpoint delay implementation of needed water quality improvements. Scarce resources should be directed where they will be most effective and avoid duplicative efforts. We should continue to share ideas/examples, develop and promote best practices.

- **Improved public communication leads to improved public acceptance.** It is critical for EPA, states and tribes to engage the public in meaningful discussions regarding the importance and value of getting uses right in maintaining and restoring water quality. WQS that reflect the best available data and information should be used to direct the process of managing water quality. They are essential to informed decision making. Just as important, public understanding and acceptance of WQS is central to broader community support for addressing potentially difficult pollution control management decisions.

In the long run, water quality programs will be most successful if the public understands their underlying goals, the process by which those goals are set, and is engaged and able to effectively contribute to that process. Getting the uses right is on the critical path to effective water quality standards implementation. Accomplishing this can be a significant challenge but it is also an essential need. I look forward to continuing to address these issues with you.

Attachment

cc: Regional Water Quality Standards Branch Chiefs, Regions 1-10
Diane Regas, OWOW
Lee Schroer, OGC