



January 08, 2021

Andrew Sawyers
Office Director
Office of Wastewater Management
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460
(Mail Code 4203M)

Nizanna Bathersfield
Office of Wastewater Management
Environmental Protection Agency
1200 Pennsylvania Ave. NW
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(Mail Code 4203M)

RE: Criminal Negligence Standard for State Clean Water Act 402 and 404 Programs, Docket: EPA-HQ-OW-2020-0517

Dear Mr. Sawyers and Ms. Bathersfield

The Association of Clean Water Administrators (ACWA) 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). As the primary entities responsible for carrying out most of the CWA programs, states are very interested in any national regulatory updates or policy positions that may impact their ability to implement the CWA in their states.

ACWA would like to express support for the Environmental Protection Agency's (EPA) recent proposed rule clarifying that "state or tribal programs approved pursuant to CWA Sections 402 and 404 are not required to include the same criminal intent standard that is applicable to EPA under Section 309 of the CWA." States support the position that EPA has the authority to approve NPDES and Wetlands programs that allow for prosecution based on a state's negligence standard, including simple/ordinary, gross, and recklessness. States' criminal negligence standards are not universally identical, and states appreciate EPA recognizing the need for this flexibility.

Though ACWA's process to develop comments is fairly robust and intended to capture the diverse perspectives of the states that implement these programs, EPA should always consider the comments and recommendations that come directly from states, interstates, and territories as well. Please contact ACWA's Executive Director, Julia Anastasio, at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,

Thomas C. Stiles
ACWA President
Director, Bureau of Water
Kansas Department of Health and Environment

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