



January 18, 2023

United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460
OW-Docket@epa.gov

Via Regulations.gov: Docket ID No. EPA-HQ-OW-2022-0834

RE: NPDES Small Phase II MS4 Urbanized Area Clarification

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"), including the small municipal separate storm sewer system programs across the country.

ACWA supports the Environmental Protection Agency's (EPA) decision to publish a direct to rule clarification that the urbanized area designation criteria for small phase II municipal separate storm sewer systems (MS4s) will remain at a population of 50,000 people. This regulatory clarification became necessary when the Census Bureau's decided to modify how urban population data was analyzed. This change will allow NPDES permitting authorities to use 2020 and future Census data in a manner that is consistent with existing and longstanding regulatory practice. ACWA does not view this change as intending to preclude a state's authority to regulate municipalities smaller than this threshold.

ACWA also supports EPA's plans to continue to provide technical assistance to permitting authorities including: (1) publishing new MS4 mapping information with 2020 data; (2) providing a preliminary draft list of "new" MS4s meeting the new population threshold; (3) developing new guidance materials associated with the process of permitting new MS4s; and (4) rescinding the 2022 interim guidance which will no longer apply once the rule becomes effective.

Should EPA receive adverse comments and the parallel proposed rulemaking becomes operative, ACWA requests a conference call between states and EPA in the subsequent 60 days to answer relevant questions and provide important comment clarifications.

While ACWA's process to develop comments is comprehensive and intended to capture the diverse perspectives of states that implement these programs, EPA should also seriously consider the recommendations that come directly from individual states, interstates, and territories. Thank you again for the opportunity to provide comments on this rulemaking. Please contact ACWA's Deputy Director at srolland@acwa-us.org or (202) 756-0601 with any questions regarding ACWA's comments.

Sincerely,

Mary Anne Nelson
ACWA President

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