

Environmental E-news

March 22, 2010

US EPA Launched Rulemaking to Strike the Water Quality Standards

US EPA recently launched a new rulemaking to strengthen water quality standards under the Clean Water Act. The rule is anticipated to be published within the year but is already causing concern among state officials. US EPA indicated that some of the provisions under review include facilitating increased public participation in the development of state water quality standards and improving the accessibility to the public of state standard regulations. Additionally, US EPA is considering updating anti-degradation regulatory provisions to be more consistent with *Kentucky Waterways Alliance, et al v Stephen Johnson, et al*, a recent Sixth Circuit Court of Appeals' decision. The Court in *Kentucky Waterways Alliance* held that US EPA and states have broad discretion to determine which water bodies merit increased protection from anti-degradation rules, either on a pollutant-by-pollutant or water body-by-water body approach. Anti-degradation provisions are aimed at protecting existing water quality in rivers, streams, lakes and other water bodies. It is anticipated that the regulations will be fairly broad and, thus, the impacts, including whether new discharge permits will have more strict limits, are unknown at this time.

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