

## **Water Environment Federation (WEF) summary:**

### **EPA Releases Memo on Establishing TMDL “Daily” Loads**

In response to a U.S. Court of Appeals for the District of Columbia Circuit decision in April that the word "daily" means "every day" in the Clean Water Act for total maximum daily loads (TMDLs), the U.S. Environmental Protection Agency (EPA) finalized a memo on November 15 clarifying their expectations for TMDL time increments. In the memo, EPA states that all TMDLs should contain daily limits, but that there is flexibility in how these limits are implemented. "EPA recommends that all future TMDLs and associated load allocations and wasteload allocations be expressed in terms of daily time increments. However, EPA does not believe that the *Friends of the Earth* decision requires any changes to EPA's existing policy and guidance describing how a TMDL's wasteload allocations are implemented in NPDES permits." In the memo, EPA provides examples demonstrating flexibility in how daily time increments may be expressed in TMDLs. EPA also makes it clear that the development of future TMDLs according to state schedules is the highest priority at this time, not revising already approved TMDLs. EPA expects to release three draft fact sheets on how to apply the flexibility outlined in the memo to actual TMDL development methods sometime next week. WEF has met with EPA to discuss their approach to the court decision and its implications on the TMDL program and has a work group ready to comment on the fact sheets.