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# Blending at Wastewater Treatment Plants Iowa League of Cities vs. EPA Decision

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Water Protection Program fact sheet

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In a March 25 ruling, the United States Court of Appeals for the Eight Circuit rendered a decision which vacated the U.S. Environmental Protection Agency (EPA)'s policy letter prohibiting blending at wastewater treatment plants. See *Iowa League of Cities v. E.P.A.*, 711 F.3d 844 (8th Cir. 2013). The court vacated EPA's "blending rule" on the grounds that it was procedurally invalid and in excess of statutory authority insofar as it would impose the effluent limitations of the secondary treatment regulations internally, rather than at the point of discharge into navigable waters. The court remanded the matter to EPA for further consideration.

On July 10, the 8th Circuit rejected EPA's petition for rehearing. EPA had until October 8 to petition the U.S. Supreme Court. EPA did not petition the Supreme Court, therefore, the March 25 ruling stands. It is the department's understanding that EPA did not appeal the decision.

The department has worked with a few facilities over the years that used blending in their treatment facilities. Any facilities desiring to modify their permit in light of the Iowa League of Cities decision can contact the department to discuss options.

This decision also has potential implications for communities with peak flow clarifiers (also commonly called "outfall 002"). In response to EPA's objection to the state of Missouri allowing discharge from peak flow clarifiers, the department entered into collective discussions with the affected communities in 2010. The department used voluntary compliance agreements as a mechanism to allow cities a reasonable amount of time to eliminate discharges from these outfalls. Fifty five cities had the opportunity to enter these agreements and there are now 23 active agreements. Because EPA's policy at the time was to prohibit blending, these agreements did not allow blending to be considered in resolving the discharge from these outfalls.

In light of the Iowa League of Cities ruling, the department will entertain revision to these agreements for cities that wish to incorporate blending as part of their treatment solution when appropriate. Any of these cities, or other facilities that wish to incorporate blending, can contact the department to initiate the appropriate steps for any necessary permit revisions or modifications to compliance agreements.

Any questions should be directed to Refaat Mefrakis, PE, Chief, Engineering Section, [refaat.mefrakis@dnr.mo.gov](mailto:refaat.mefrakis@dnr.mo.gov) or John Rustige, PE, Wastewater Engineering Unit Chief, [john.rustige@dnr.mo.gov](mailto:john.rustige@dnr.mo.gov), at 573-751-1300.

## For More Information

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