

(Rural Water Blending Statement – Draft 001 - 5/18/2005 12:34 PM)

Blending or partially treated wastewater with fully treated wastewater is a more environmentally progressive action than an alternative of releasing the excess wastewater without any treatment or blending.

Both the EPA's proposal and H.R. 1126 allow for blending under certain circumstances – when it is the only practical option short of releasing greater concentrations of less treated effluent.

Small and rural communities' concern with H.R. 1126 (or a appropriation's rider prohibition on EPA's proposed blending policy) is that it further limits EPA and the state governments' authority (discretion) to determine the circumstances when blending is safer and necessary. This results in providing environmental groups additional opportunities for overriding the states (or EPA's) environmental enforcement polices through the use of third-party civil suits (co-called citizen suits).

Rural Water opposes any expansion of opportunities for environmental groups and others to file third-party suits because they override the desired environmental policy of all populations impacted. In essence they are undemocratic.

The Clean Water Act's third party-suit provision allows environmental groups to override the enforcement judgments of the state government (or the EPA) and enforce arbitrary fines that can be as high as \$20,000 per day. These automatic fines can total un-imaginary amounts that have little relevance to the environmental harm (if any) from the violation. In the hands of state agencies (which are accountable to state legislatures) the fines can be used with judicial discretion and due process to mandate a community's compliance. However, under the citizen suits provision, environmental groups can be allowed to dictate the terms of settlement in a manner opposed by the state and the impacted populations – and at a cost that is unreasonable in the judgment of local, state, or federal governments.

From small communities' perspective, this issue is not about saving money on building wastewater capacity, it is about who decides the process for requiring the upgrading of the country's wastewater treatment: environmental groups or the government?

We believe the regulatory decisions on the use of blending when it is safer, temporary, and necessary – and the mandated requirements for upgrading wastewater facilities to prevent blending occurrences should be determined by the states and federal government. These decisions should be reviewed by the democratic institutions of the state and federal governments, not by independent advocacy organizations empower by the Clean Water Act's citizen suit provisions and its arbitrary fines.

The National Rural Water Association (NRWA), the largest community based U.S. environmental organization with over 24,000 community members in all states.