

USEPA'S FAULTY NUTRIENT CONNECTION

In a victory for NAHB members who have been seeking clearer environmental regulations, a new method by the U.S. Environmental Protection Agency (EPA) for estimating the damage caused by an excess amount of nutrients in a body of water has been found to be not based on sound science, according to a peer review decision announced last month.

An EPA Science Advisory Board said the methodology, called **conditional probability**, does not establish any demonstrated environmental gains from reducing nutrients.

The EPA convened the review board at the urging of the Home Builders Association of Metropolitan Harrisburg, Pa., with the assistance of NAHB and other organizations, after EPA Region 3 officials began to use the **faulty methodology** to develop Total Maximum Daily Load (TMDL) thresholds for Paxton Creek in the southeastern part of the state. The agency published the requirements in June 2008.

The Paxton Creek TMDL set numeric limits for phosphorus and sediment so low that they were unattainable, including a requirement to reduce those pollutants by 90%, making further development in the watershed impossible.

Critics charged that the methodology was never broadly reviewed by the scientific community and it was controversial, primarily because it **incorrectly assumed that nutrients are toxic to insect life**.

After the Harrisburg HBA and other affected industry associations voiced their desire for a peer review of the method, the EPA scheduled the September meeting.

Half the day was reserved for public comments on the method, with a consultant for the Harrisburg HBA providing the most thorough and detailed criticism, according to Glynn Rountree, NAHB's environmental policy analyst.

As a result of comments and its own research, the board agreed that the **conditional probability method lacks a "cause and effect" component** and does **not establish any demonstrated environmental gains from the reductions of nutrients**.

It's now up to the EPA to reject the board's opinion, make improvements to the conditional probability method before reissuing it or to scratch it altogether, Rountree said. "We can only hope they will do the right thing and seek a new scientific method to ensure that the money spent on reducing pollutants will truly lead to improvements in degraded water bodies. The agency must also reassess the Paxton Creek TMDL, and this time do it properly."

Because a large number of inland and coastal bodies of water in the U.S. are over-enriched with nutrients, the EPA will probably write a number of new TMDLs to reduce nutrients discharged into them.

In addition, federal lawmakers and state agencies are focusing on developing "**nutrient criteria**" guidance to help deal with such issues — making the board's decision to send the agency back to the drawing board an important one for NAHB members all over the country, Rountree said.