

The *Clean Water Exchange* is pleased to provide you with this *April News Alert*, providing updates on important legislative, regulatory, and legal issues affecting the clean water community.

Water Sector Meets with EPA; Voices Concerns with Stimulus Provisions

On April 2, NACWA, WEF, and APWA met with EPA officials and other municipal organizations, such as the U.S. Conference of Mayors, the National League of Cities (NLC), and the National Association of Counties (NACO), among others, to discuss implementation of the *American Recovery and Reinvestment Act (ARRA)* or stimulus). Many utilities have found it difficult to access the additional subsidization/grant component of the stimulus funds and have significant concerns about the *ARRA*'s "Buy American" provisions. EPA stated that it was waiting for guidance from the Office of Management and Budget (OMB) and then would put together its own process for reviewing Buy American waiver requests from recipients of stimulus package funds. EPA said those projects that were bid before passage of the *ARRA* and which had to be refinanced would be exempt through a waiver from the Buy American provisions. In addition to the waiver for the class of projects that were refinanced before enactment of *ARRA*, EPA indicated that it would likely develop a national waiver process for classifications of products known to be only manufactured in foreign countries and a second waiver process for project-specific requests. The assistant administrator for water will review the specific waiver requests about the unavailability of certain product lines, while specific project waiver requests will be reviewed at the regional administrator level. EPA did not provide significant information about how flexible an approach it planned to take regarding waiver application reviews. The Agency did add, however, that the municipal coalition organizations would likely be given an opportunity to review its draft guidelines regarding waiver applications and provide input and recommendations into these. *The Exchange* will continue to report on the distribution and use of federal stimulus dollars.

FY10 Budget Proposal Would Boost Clean Water Funding for SRF Programs

President Obama released his budget proposal for fiscal year (FY) 2010 and included \$2.4 billion for the Clean Water State Revolving Fund (CWSRF) and \$1.5 billion for the Drinking Water State Revolving Fund (DWSRF). The President's budget also contains \$475 million for a new EPA-led, interagency Great Lakes restoration initiative to target the most significant problems in the region, including nonpoint source pollution. The total proposed EPA budget would increase to approximately \$10.5 billion. While Democratic leaders have indicated their support for Obama's proposal, Republican House and Senate members have called for a freeze on federal spending levels and have stated they would try to block some of Obama's proposed spending increases. The House and Senate have both approved their respective versions of the FY 2010 budget resolution, setting limits for the fiscal year which begins October 1, 2009. The resolutions contained slightly less spending than Obama's \$3.6 billion budget blueprint, and must now be reconciled in conference. However, the final budget resolution will defer many of the decisions on specific spending programs, such as EPA's budget, to congressional appropriations committees to deal with at a later stage. Readers of the Exchange are urged to ask their Members of Congress to support President Obama's FY 2010 budget request of \$2.4 billion for the CWSRF.

Meanwhile Congress approved, and the President signed, a \$410 billion omnibus spending bill for FY 2009. The sweeping measure covers the FY 2009 appropriations bills that were not acted on by the 110th Congress and includes funding for all environment-related programs, including the CWSRF and DWSRF. EPA would receive \$7.6 billion, which is \$74 million above the FY 2008 level. The SRF programs are funded at \$1.5 billion, including \$689 million for the CWSRF and \$829 million for the DWSRF. The bill also contains \$145 million for state and tribal assistance grants (STAG) for drinking and wastewater infrastructure systems and \$154 million for the nation's great water bodies including the Great Lakes, Puget Sound, and the Chesapeake Bay.

Jurisdictional Issues Continue Over House Chemical Security Bill

The House Homeland Security Committee is working on legislation to reauthorize the "Chemical Facilities Anti-Terrorism Standards (CFATS) Program" with the goal of reporting new legislation by the Memorial Day recess. The current CFATS program is set to expire this October. Under the reauthorized program, it is expected that the exemption for water and wastewater utilities will be eliminated.

Efforts to move a bill had been hindered by questions of jurisdictional oversight between the Homeland Security and the House Energy and Commerce Committees. Energy and Commerce has traditionally held jurisdiction over drinking water agencies. An agreement has now been reached, however, between the two committees to negotiate in an effort to develop a single bill that both panels could mark up. Specifically, Energy and Commerce will write

legislation governing security at drinking water facilities with the Environmental Protection Agency (EPA) as lead agency overseeing their program, while the House Homeland Security Committee will write legislation governing security at all other chemical facilities, including wastewater treatment facilities, with the Department of Homeland Security (DHS) as lead. The water sector is advocating that EPA be given authority over the security programs at both drinking water and wastewater facilities and has pointed out that dual jurisdiction is not workable due to the large number of joint water and wastewater facilities.

EPA to Rescind Controversial Permit Fee Rule

EPA Administrator Lisa Jackson announced March 23 that the Agency will rescind its controversial permit fee rule. The rule, first proposed in late 2006 and issued in final form in late 2008, would have provided a financial incentive to states that funded at least 75 percent of their National Pollutant Discharge Elimination System (NPDES) permitting program through permit fees charged to regulated entities. Congress inserted report language in EPA's FY 2008 budget specifically blocking implementation of the proposal. However, EPA officials under the Bush administration disregarded this language and signaled their intention to go ahead with the rule by publishing it in the Federal Register in September 2008. Jackson's decision this week to repeal the rule suggests the Obama administration will take a more pragmatic approach regarding funding for the NPDES program.

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