

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

House Stimulus Package Includes Significant Wastewater Funding

The House Appropriations Committee approved the \$358 billion federal spending portion of the *American Recovery and Reinvestment Act of 2009* Jan. 21 in a partisan vote of 35-22. This section of the \$825 billion package includes \$6 billion for the Clean Water State Revolving Fund (CWSRF); \$2 billion for the Drinking Water State Revolving Fund (DWSRF); and \$3.8 billion for rural water and wastewater systems as well as other funds for water-related projects.

Municipal organizations, including the National Association of Clean Water Agencies (NACWA), the Water Environment Federation (WEF), and the American Public Works Association (APWA) worked to ensure that a significant portion of the overall infrastructure investment package is targeted to wastewater projects, including green infrastructure projects, with instructions for states to distribute 50 percent in the form of grants or grant-equivalents. This draft bill is a vital step in the recognition that the federal government is receiving the message that it must be a key partner in addressing the growing wastewater infrastructure funding gap.

Key Senators Approached to Increase Stimulus Funding

Key members of the clean water sector worked with the office of Sen. Ben Cardin (D-Md.) on a "Dear Colleague" letter seeking increased funding levels for water infrastructure in the Senate stimulus package. The letter to Senate leadership and the chair and ranking member of the Senate Appropriations Committee asks that economic stimulus legislation in the Senate contain at least \$32 billion for water and wastewater infrastructure. These funds would be allocated such that \$20 billion would be for ready-to-go wastewater infrastructure projects, \$10 billion for ready-to-go drinking water infrastructure projects and an additional \$2 billion in grants for water efficiency projects. Moreover, the letter asks that the economic recovery legislation contain provisions waiving state matching requirements and allow for the funds to be distributed in the form of grants or grant equivalents. The letter was sent Jan. 16 and also included signatures from 11 key Democratic senators.

Senate Confirms Lisa Jackson as EPA Administrator, Nancy Sutley to Head CEQ

Lisa Jackson, the former head of New Jersey's Department of Environmental Protection, was confirmed by the Senate Jan. 23 as administrator of EPA. The Senate also confirmed Nancy Sutley to be the director of the White House Council on Environmental Quality. Their confirmation had been delayed for a day while questions were addressed about the role former EPA Administrator Carol Browner will have in her new position in the White House as the energy and environment "czar."

EPA Seeks Comment on Solid Waste Definition, Impacts for Biosolids Incineration

In a January 2 Advanced Notice of Proposed Rulemaking (Notice; 74 Fed. Reg. 41), EPA announced that it is seeking comment on the meaning of "solid waste" under the Resource Conservation and Recovery Act (RCRA) as it applies to non-hazardous wastes to assist the Agency's Air Office in developing standards under Sections 112 and 129 of the Clean Air Act (CAA) for incinerators and boilers. At issue are a series of regulatory determinations regarding commercial and industrial solid waste incinerators that have also impacted biosolids or sewage sludge incinerators (SSIs). A decision issued June 8, 2007 by the D.C. Circuit Court of Appeals in *Natural Resources Defense Council v. EPA* resulted in the remand of two key regulations back to the Agency for more consideration. At issue in the case were EPA's past determinations regarding which incineration units should be handled under Section 112 versus 129. The court indicated that any incinerator burning solid waste (whether for energy recovery or not), must be regulated under Section 129. Included in this litigation was a rule in which the Agency had determined that SSIs should be covered under the less onerous Section 112 of the CAA. The January 2 Notice is seeking comment on whether a long list of secondary materials, including biosolids, should be considered solid waste for the purposes of CAA regulation. Comments on the Notice are due by February 2.

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