

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

EPA, DHS Ask House Panel to Close Water Security Gap, Extend CFATS

The House Energy and Commerce Subcommittee on Environment and Hazardous Materials heard testimony June 12 from senior officials at the U.S. Environmental Protection Agency (EPA) and the Department of Homeland Security (DHS) who pointed to what they said were gaps in security at wastewater and drinking water facilities. The hearing focused on two bills addressing security at chemical plants, the [Chemical Facility Anti-Terrorism Act of 2008 \(H.R. 5577\)](#) and the [Chemical Facilities Security Act of 2008 \(H.R. 5533\)](#). Both would make permanent the chemical facility anti-terrorism standards (CFATS), which currently exempt wastewater and drinking water facilities and are set to sunset in 2009. H.R. 5577, however, eliminates the exemption and transfers primary jurisdiction to DHS. Benjamin Grumbles, EPA assistant administrator for water, and Robert B. Stephan, assistant secretary for infrastructure protection at DHS, testified at the hearing that water and wastewater utilities present "significant homeland security vulnerability." And although neither bill is likely to become law this year, the political landscape for addressing the issue of how public water and wastewater utilities should be treated under CFATS will be much different next year with a new Congress and new administration.

DHS, HHS Release Key Pandemic Vaccination Policy Guidance

DHS and the U.S. Department of Health and Human Services (HHS) also recently released its [Guidance on Allocating and Targeting Pandemic Influenza Vaccine](#) (PDF). The guidance classifies vaccination target groups through four broad categories: 1) homeland and national security; 2) health-care and community support services; 3) critical infrastructure; and 4) the general population. Across categories, pandemic vaccine will be allocated and administered according to tiers where all groups designated within a tier have equal priority for vaccination. The groups included within each tier changes based on the severity of the pandemic. Water sector personnel have been designated as Tier 2 (out of 5 Tiers with Tier 1 being the highest priority and Tier 5 the lowest) of the critical infrastructure category for severe and moderate pandemics. Tier 2 groups are those that provide "just in time services" (i.e., products like electricity and natural gas that cannot be easily stored), are relied on by all other infrastructure sectors for their essential operations, and contribute to public health and safety.

USDA Works to Draft Regulations for Farm Bill Partnership Program

Officials from the Natural Resource Conservation Service (NRCS), a branch of the U.S. Department of Agriculture (USDA), have begun to draft regulations for implementation of the Agricultural Water Enhancement Program (AWEP) created in the recently enacted 2008 Farm Bill. AWEP allows "units of local government" to work with producers and others on projects that benefit water quality. Although the legislative language does not explicitly include public water or wastewater agencies, officials at NRCS have been open to including these utilities as eligible partners. They have also noted that the statutory language in the bill is very clear that all funding must be distributed directly to farmers/producers and that the program should not be seen as an opportunity for other non-agricultural groups to receive funding directly from USDA. That being said, utilities that partner with producers would be the beneficiaries of upstream water quality programs paid for with AWEP funding and the program would also help spur improved relationships between municipal utilities and the agricultural community. NRCS expects to release the proposed regulations this fall.

Water Sector Leads Effort to Launch Resource for Effective Utility Management

Since the release of the *Findings and Recommendations for a Water Utility Sector Management Strategy* last year, several Effective Utility Management Collaborating Organizations â€” including the American Public Works Association (APWA), Water Environment Federation (WEF), National Association of Clean Water Agencies (NACWA) and EPA â€” have been working to develop tools aimed at helping utilities assess their current operations and evaluate new management strategies and goals. The tools now available include the *Effective Utility Management Primer for Water and Wastewater Utilities (Primer)* that provides water and wastewater utility managers with a better understanding of the ten attributes of effectively managed utilities and helps them assess their existing management programs. In addition to the Primer, a new online Resource Toolbox was launched on June 23 at www.waterEUM.org. It contains links to resources and tools related to the ten attributes and the accompanying five keys to management success and is organized to allow users to see all of the resources available for a particular attribute or key.

Long-Awaited Water Transfer Rule Released

EPA released its final rule on water transfers June 9, clarifying its position that transfers of natural, untreated water do not require a National Pollutant Discharge Elimination System (NPDES) permit. The rule will provide important regulatory certainty by clarifying that NPDES permits are not required for transfers of water from one body to another, including routing water through tunnels, channels, or natural stream courses for public water supply, irrigation, power generation, flood control, and environmental restoration. The rule will also provide a formal EPA position for courts to consider in ongoing and future litigation on water transfer issues, including the current case before the U.S. Court of Appeals for the Eleventh Circuit. The rule is already under fire from environmental activist groups and more litigation on the issue seems inevitable.

EPA Releases Action Plan to Reduce Nutrients to Mississippi River

The Mississippi River/Gulf of Mexico Watershed Nutrient Task Force last month released its final 2008 [*Action Plan for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico and Improving Water Quality in the Mississippi River Basin*](#), building on the 2001 plan by incorporating emerging issues, innovative approaches, and the latest science, including findings from EPA's SAB. The Task Force, made up of state and federal officials but, notably, lacking any local wastewater representatives, leads efforts to promote and support nutrient management in the Mississippi/Atchafalaya River Basin and works to accelerate efforts to reduce the size of the hypoxic zone through building strong partnerships, developing voluntary and regulatory approaches, and increasing national awareness.

Key Stakeholders Meet With Rep. Blumenauer to Discuss Infrastructure Investment

Rep. Earl Blumenauer (D-Ore.) held an infrastructure forum July 22 at the Library of Congress in Washington, D.C. to engage in a dialogue focused on how to ensure that the issue of infrastructure is front and center in the upcoming elections. Despite the breadth of groups and interests in attendance, Blumenauer focused mainly on water infrastructure and emphasized his continued commitment to introducing a clean and safe water trust fund bill this summer. He stated that Speaker of the House Nancy Pelosi (D-Calif.) remains committed to making infrastructure a legislative priority in the next Congress and has had several discussions with Senator Barack Obama (D-Ill.) about the importance of making infrastructure investment a campaign issue. While focused on the water trust fund bill, Blumenauer also noted that a suite of options would need to be considered in addressing the water infrastructure funding gap, including climate change legislation, an infrastructure funding bank, and a potential new stimulus package, among others.

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