

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

Senate Passes \$600 Billion Spending Bill

The Senate approved a \$600 billion continuing resolution (CR) package over the weekend that will fund the federal government into March. With the beginning of fiscal year (FY) 2009 looming, the House of Representatives (House) had already passed its CR, H.R. 2638, on September 25 by a vote of 370-58. The CR would fund the federal government at FY 2008 levels through March 6, 2009, including U.S. Environmental Protection Agency (EPA) programs. The package also contains FY 2009 spending levels for three federal agencies, Defense, Military Construction, and Homeland Security; provides \$22.9 billion for disaster relief from Hurricane Ike, Midwest flooding, and other natural disasters; provides \$5 billion for low income heating assistance; and, \$25 billion in government loans to US automakers to retool assembly lines and make more fuel-efficient vehicles. The March 6 date in the CR gives the new Congress that will convene in January a little over a month to try to resolve all of the remaining FY 2009 appropriations bills, including EPA.

House Approves Stimulus Package Containing \$6.5 Billion for CWSRF

The House passed a second stimulus bill Friday, September 26, which included \$6.5 billion for the clean water state revolving fund (CWSRF). If the supplemental funding goes through, it would represent a significant increase in federal dollars. However, this does not seem likely as the Senate bill is being debated as negotiations continue on a \$700 billion package to stabilize the credit markets. Both the House and Senate bills include enhancements to unemployment benefits, food stamps, job training, and Medicaid, among many other provisions. The stimulus packages are aimed at recovery efforts of low and middle-income households, and it is possible that there may be moves to attach some or the entire stimulus plan to the much bigger Wall Street bailout bill.

Settlement Reached In BEACH Act Case

A settlement agreement was filed in federal court Aug. 8 regarding recreational water quality criteria under the *Beaches Environmental Assessment and Coastal Health (BEACH) Act*. The settlement in *Natural Resources Defense Council (NRDC) v. U.S. Environmental Protection Agency (EPA)* marks a key turning point in the water sector's advocacy efforts regarding the development of new recreational water quality criteria and will also help with advocacy efforts on the *Beach Protection Act* (S. 2844, H.R. 2537). The agreement directs the Agency to conduct the necessary scientific studies and develop new recreational water quality criteria by 2012. EPA will also be required to solicit stakeholder input throughout the criteria development process. This settlement ensures that EPA will have sufficient time to develop the new criteria, and that key stakeholders will have several opportunities to participate in the criteria development process. EPA has committed to carrying out a number of specific studies, including efforts to determine appropriate indicators for new water quality criteria that will be protective of public health and that are scientifically based. Under the terms of the agreement, EPA will conduct studies in a variety of different geographic regions across the country as well as at beaches affected by different forms of water contamination. Additionally, the agreement commits EPA to validate and publish a rapid test method for the new or revised criteria by October 2012. The rapid test method will be based on indicators deemed appropriate by the Agency during the research period and will be validated through an inter-laboratory study.

Senate Briefing Canceled After Letter by Anti-Biosolids Advocates Surfaces

A Sept. 11 oversight briefing on biosolids in the Senate Environment and Public Works (EPW) Committee was cancelled abruptly after the committee learned that land application opponents were using the event to force a quick settlement in a lawsuit. The committee announced the cancellation at 10 p.m. on Sept. 10 after learning of a letter sent Sept. 3 by lawyers representing retired EPA scientist David Lewis and a Georgia farmer, Andy McElmurray, two staunch biosolids opponents, scheduled to testify before the committee. The letter indicated that the opponents wanted to use the scheduled briefing as a tool to force a rapid settlement in a lawsuit they had filed against the University of Georgia (UGA) Research Foundation and individual UGA officials over the biosolids issue. The letter was leaked to the press, and the briefing was then cancelled. A full committee hearing had been scheduled for the 11th but committee majority leaders opted instead for the less formal briefing format.

EPA Finalizes Permit Fee Rule Despite Congress Barring its Implementation

On September 10, EPA published its [final rule](#) establishing incentives for states to increase fees for National Pollutant Discharge Elimination System (NPDES) permits, despite a strong clear mandate from Congress barring such an action. Congress inserted report language into the Fiscal Year (FY) 2008 omnibus budget, which included EPA's funding, that barred the agency from moving forward with its permit fee proposal. Additional information and a fact sheet are available on EPA's [website](#).

These new permit fees will place a significant financial burden on clean water agencies, particularly small to midsize utilities. Under the rule, some clean water agencies may have to pay up to an additional \$400,000 a year in new permit fees and may be forced to take money away from other important water quality programs. The rule is intended to drive states to fully fund their NPDES Permit programs through permit fees or run the risk of having their Clean Water Act (CWA) section 106 grant funds cut. Specifically, the rule would provide a certain amount of "incentive" funds from the Section 106 program to states that fund at least 75 percent of their NPDES permit program costs through user fees, with the highest incentives going to those states that fund 100 percent of their programs through fees. The rule will only apply if total funding allotted to the states under the Section 106 program is increased above the FY 2008 level of \$222 million. In that case, a percentage of the increased funds may be allotted to states with eligible permit fee programs. The rule is in effect for the FY 2009 grant cycle and beyond.

Clean Water America Alliance Launched to Change Water Paradigm

The [Clean Water America Alliance \(CWAA\)](http://www.cleanwateramericaalliance.org/) (<http://www.cleanwateramericaalliance.org/>), a 501(c)(3) nonprofit organization whose goal is to meet future challenges on a holistic, watershed basis, with a focus on sustainability and green cities, was launched on September 24. Former NACWA President Dick Champion, director of the Independence Water Department in Independence, Mo., serves as the organization's chair. Other board members include representatives from the water sector, academia, engineering firms, environmental advocacy groups, and various corporations. The alliance already has several initiatives underway, including a national watershed summit, a signature report, and the development of a U.S. Water Prize that will be awarded annually to one qualified organization or individual whose project or initiative characterizes a cutting-edge, progressive approach to water. In addition, the organization is drafting a Memorandum of Understanding with the Conservation Fund to develop a Clean Water Academy. The alliance also used the occasion to launch a Founder Campaign, providing a unique opportunity to both public and private entities to become founders of the organization.

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