



October 22, 2009

EPA Releases Enforcement Plan, NACWA to Respond with White Paper

EPA Administrator Lisa Jackson testified before the House Transportation & Infrastructure (T&I) Committee on October 15 on the agency's goals to improve enforcement under the Clean Water Act (CWA) and announced the release of the [CWA Enforcement Action Plan](#) that incorporates a number of recommendations from NACWA. The hearing marked the 37th anniversary of the CWA and examined the effectiveness of national and state enforcement programs. Representatives from state enforcement agencies also testified on their track record and called for a renewed partnership with EPA for achieving enforcement goals. Witnesses also included local citizen activists who spoke to the issue of polluted waters caused by agricultural run-off.

EPA's CWA Enforcement Action Plan is intended to improve the overall effectiveness and transparency of clean water enforcement actions and was developed over the past three months with input from a variety of stakeholders including NACWA, which submitted written comments in August. The plan incorporates a number of NACWA's suggestions, including a recognition by EPA that a new approach needs to be developed for carrying out enforcement actions that focus not only on the biggest permitted facilities, such as clean water utilities, but also look at the impacts from other sources of water pollution such as concentrated animal feeding operations (CAFOs). Additionally, the plan echoes NACWA's call for more consistent clean water enforcement actions among the states, ensuring that each state is consistently and uniformly carrying out clean water enforcement actions and that there are not discrepancies in enforcement actions or policies from state to state or region to region.

However, the plan also states that enforcement against traditional point source dischargers will continue to be a priority for EPA, and NACWA is committed to protecting its members' interests from unreasonable and unnecessary enforcement against clean water agencies. As part of this effort, NACWA will be developing an enforcement white paper over the coming weeks highlighting the significant investments clean water agencies have made over the past 40 years to improve water quality. The paper will also discuss many of the challenges facing utilities under the current EPA enforcement regime, including issues such as funding and affordability, and will argue that any effort to improve overall water quality must shift the enforcement burden away from municipal dischargers and onto other sources of water pollution such as non-point sources that contribute more significantly to water quality impairment. NACWA plans to distribute the white paper broadly including to members of Congress, regulators, and policymakers to ensure that any future clean water enforcement actions do not unfairly burden the municipal clean water community.

Advocacy Efforts in Support of Trust Fund Ramps Up, Call Your Representatives!

NACWA and the Water Infrastructure Network (WIN) have been advocating and building support for *The Water Protection and Reinvestment Act of 2009* (H.R. 3202), legislation introduced by Rep. Earl Blumenauer (D-Ore.) to establish a \$10 billion-a-year trust fund to help communities address their wastewater and drinking water infrastructure challenges. In the last two weeks staff from NACWA, in coordination with WIN, has met with over 30 House offices to gain support and possible co-sponsorship of the trust fund bill.

NACWA will continue to conduct meetings with targeted House offices in the coming weeks to continue the clean water community's efforts to build support for the trust fund bill. To solidify support, NACWA encourages members of state organizations to add their voices in support of H.R. 3202 and to urge your Representatives' to co-sponsor this legislation. In light of the economic downturn, communities need new revenue streams now more than ever to help address the growing infrastructure funding gap. If you have any questions or require additional information or advocacy materials please contact NACWA.

NACWA to Increase Involvement in Chesapeake Bay Program Advocacy

NACWA was asked to review and provide informal comments on Sen. Ben Cardin's (D-Md.) recently circulated draft legislation that seeks to reauthorize the Chesapeake Bay Program (Section 117 of the Clean Water Act), which expired in 2005. The legislation proposes new tools that will provide EPA and states with regulatory authority to ensure that point and nonpoint source pollution reduction targets are being achieved by states within the Chesapeake Bay watershed.

NACWA's comments focused on how the framework laid out in the draft legislation would impact point and nonpoint sources and stressed that the central challenge to cleaning up the Bay is the effective control of nonpoint sources. As this effort moves forward, NACWA will be organizing a working group of members in the Bay states to provide input and direction to Congress as it continues to pursue the task of creating a federal enforcement program that will clean and restore the Chesapeake Bay and its tributaries. NACWA encourages state organizations to get involved in this important program that has the potential to become a model for future watershed-based programs.

Climate Bill Introduced in Senate Reflects NACWA, Clean Water Community Input

On September 30, Senators John Kerry (D-Mass.) and Barbara Boxer (D-Calif.) introduced S. 1733, The *Clean Energy Jobs and American Power Act*, to mitigate greenhouse gas emissions and promote the use of clean energy technology. The proposed legislation, in line with a significant NACWA-led clean water coalition advocacy effort, includes provisions to help states and communities adapt to climate change.

The clean water community's overarching goal was to ensure that the bill recognized that climate change is, in large part, a water issue. Section 1733 of the bill includes several provisions addressing water-related issues, including a provision for which NACWA championed. The bill includes two adaptation programs to help communities deal with water-related impacts: the Water Systems Mitigation and Adaptation Partnerships (WSMAP) and the Coastal and Great Lakes State Adaptation Program (CGLSAP). NACWA helped lead a coalition of water associations and environmental organizations advocating on behalf of the inclusion of the WSMAP. This program would provide 50% matching grant assistance to drinking water, wastewater and stormwater utilities, via the states, to help them address climate-related impacts, including impacts related to water supply and quality issues as well as infrastructure impacts caused by rising sea levels or extreme storm events.

NACWA is pleased that the clean water community's key message that climate change and water resource management are closely intertwined was acted upon by the Senators shaping this legislation. NACWA urges state organizations to join forces with us in continuing to reiterate this message as the legislation moves through the various Senate committees for approval.

Administration's Testimony Bolsters NACWA's Position on Water Sector Security

Officials from the Obama Administration testified on October 1, 2009 before the House Subcommittee on Energy and Environment on the *Drinking Water System Security Act of 2009* (H.H. 3258). The Administration made it clear that water sector security for wastewater and drinking water should be administered by EPA rather than the Department of Homeland Security (DHS). Rand Beers, DHS Undersecretary of the National Protection and Programs Directorate and Peter Silva, EPA Assistant Administrator for Water, appeared before the House panel to present the details of the Administration's position. NACWA and the clean water community has advocated aggressively that wastewater and drinking water utilities be regulated by EPA to avoid bifurcated federal jurisdiction. In support of this effort, NACWA recently sent correspondence to DHS and EPA outlining the clean water community's position and met with Mr. Silva to share concerns on the burdens that bifurcated security oversight and enforcement would place on the clean water industry. In line with NACWA's position, Silva said in his testimony that "establishing a single lead agency for both will promote consistent and efficient implementation of chemical facility security requirements across the water sector."

The announcement by the Administration represents a significant step in the clean water community's efforts to ensure that any security plan does not overburden utilities by requiring duplicative, inconsistent or overly onerous requirements. NACWA will continue to work with member organizations and key House committees involved in this issue to ensure that the voice of the Nation's clean water community continues to be taken into account as this legislation progresses. Should you have any questions on our efforts or would like to become involved please don't hesitate to contact NACWA.

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