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

Chair of Homeland Security Committee Introduces Chemical Security Bill Covering Water Sector Facilities

Rep. Bennie Thompson (D-Miss.), chair of the House Homeland Security Committee introduced the Chemical Facility Anti-Terrorism Act of 2008 (H.R. 5577) on March 13 to reauthorize and make permanent the Chemical Facility Anti-Terrorism Standards (CFATS) issued in 2007. The bill would, for the first time, regulate water and wastewater utilities in the same manner as for-profit chemical manufacturers and transfer authority over water and wastewater security matters from the U.S. Environmental Protection Agency (EPA) to the Department of Homeland Security (DHS). In an odd procedural move, the House Homeland Security Committee already marked up and reported out the draft Chemical Facility Anti-Terrorism Act of 2008 on March 6 in the form of a committee print. A summary (PDF) is available on the committee's website.

Key water sector groups continue to urge lawmakers that water and wastewater utilities be exempt from legislation intended for private chemical manufacturers and suppliers but congressional staff were not willing to explore a blanket exemption. The water sector is now looking to a developing jurisdictional struggle in the House. Rep. Albert Wynn (D-Md.), chair of the House Energy and Commerce Subcommittee on Environment and Hazardous Materials, which has jurisdiction over the Safe Drinking Water Act, has exerted jurisdiction by introducing H.R. 5533 on March 5. As a result, H.R. 5577 has been referred to both the House Homeland Security Committee and the House Energy and Commerce Committee. The House Transportation & Infrastructure (T&I) Committee, which has traditionally exerted jurisdiction over wastewater infrastructure and the Clean Water Act, is also exerting jurisdiction. If these committees are successful, it is likely that water and wastewater facilities will be exempted from H.R. 5577.

Stakeholders Meet with EPA on Research Plan for Recreational Water Criteria

U.S. Environmental Protection Agency (EPA or Agency) officials met with several stakeholder groups on February 20 to discuss the Agency's planned research for developing new recreational water quality criteria. Driven by recent litigation in Natural Resources Defense Council (NRDC) v. EPA over EPA's failure to fulfill certain requirements under the Beaches Environmental Assessment and Coastal Health (BEACH) Act, the Critical Path Science Plan outlines the research the Agency believes is necessary to develop new or revised recreational water quality criteria for all waters, including inland rivers, lakes, and streams, even though these waters are not covered by the BEACH Act. Water sector

representatives highlighted the need for transparency throughout the Agency's planned data collection effort set for 2008-2010, and during the criteria development phase, which is scheduled for 2011 - 2012. State regulators at the meeting echoed these comments that EPA must begin discussions with stakeholders on the level of protection the Agency hopes to achieve with the new criteria - for example, the level of risk associated with swimming that the Agency is willing to accept. The next step for the BEACH Act litigation is a hearing on the motions for summary judgment scheduled for March 24.

Rep. Earl Blumenauer Releases Draft Outline for Clean Water Trust Fund Bill

Reps. James Oberstar (D-Minn.), chair of the House Transportation and Infrastructure (T&I) Committee, and Earl Blumenauer (D-Ore.), a member of the House Ways and Means Committee, hosted the second in a series of discussions Feb. 27 to develop a strategy for moving clean water trust fund legislation, which both have acknowledged is a priority. Rep. Blumenauer is championing a trust fund bill for drinking water and wastewater utilities as a key part of a broad-based infrastructure plan for the 21st century. He distributed an outline for the trust fund bill at the meeting that is based on draft Water Infrastructure Network (WIN) legislation from October 2005. The WIN draft also served as the basis for trust fund legislation introduced in the 109th Congress by Rep. John Duncan (R-Tenn.).

Rep. Blumenauer reiterated his hope to move on this issue and begin outreach to generate support with local lawmakers and community heads. He urged those in attendance to activate their local organizers and set up forums in each congressional district to facilitate conversations about water infrastructure and the need for a strong federal role in addressing the funding gap. Chairman Oberstar also reiterated his commitment to trust fund legislation, but does not want to introduce a bill until the Government Accountability Office (GAO) completes its study on potential revenue sources, which is due Jan. 15, 2009. The GAO study was requested in a Jan. 30 letter from Oberstar, Blumenauer, and Rep. Eddie Bernice Johnson (D-Texas), chair of the T&I Subcommittee on Water Resources & Environment.

Water Sector Responds to Stories on Biosolids, Compounds in Drinking Water

In the past several weeks, news articles have appeared in the media that are of significant interest to the water community. On Friday, March 7, the Associated Press (AP) ran an article raising concerns about the practice of land applying biosolids. Representatives from the Water Sector, the Environmental Protection Agency (EPA), and other stakeholders were contacted for the story on biosolids which is based on a recent U.S. District Court decision regarding claims that biosolids land application resulted in contaminated pastureland. The district court's decision makes several controversial statements questioning the safety of biosolids and land application, and the AP story used those statements in its article. It is possible that this is only the first of a series of articles on biosolids, but it is unclear on what additional coverage is planned.

The AP released another story that ran in many newspapers and was discussed on television news programs March 9 and 10, which focused on its investigation on the presence of trace amounts of various pharmaceuticals and other compounds in the drinking water of 24 cities. This story notes that "the concentrations of these pharmaceuticals are tiny, measured in quantities of parts per billion or trillion, far below the levels of a medical dose" and points out that current scientific information has not called into question the safety of drinking water. However, the range of compounds highlighted in the article - antidepressants, antibiotics, pain killers, medicines for asthma, epilepsy, heart problems, and neurological disorders, among others - has caused public alarm. Water sector groups have focused a significant amount of attention and resources on the issue and are working to provide any necessary resources or information to the press to ensure the public has the facts on this issue. Both the House and Senate are going to hold hearings on the issue.

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