

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

Work on Security Continues to Move Forward

Legislation establishing a wastewater security program at EPA was introduced this week by Rep. Eddie Bernice Johnson (D-Texas), chair of the House T&I Subcommittee on Water Resources and Environment. The [Wastewater Treatment Works Security Act of 2009](#) (H.R. 2883) was introduced in response to legislation making its way through the House Homeland Security Committee and the House Energy and Commerce Committee that would divide federal oversight of security issues at drinking water and wastewater facilities between two different federal agencies – the Department of Homeland Security (DHS) and the EPA. The clean water community has argued that wastewater utilities should be under the jurisdiction of EPA just as drinking water facilities are, so facilities would not have to meet the mandates of separate federal agencies.

The bill moving through the House Homeland Security and the House Energy and Commerce committees, the [Chemical Facility Antiterrorism Act of 2009](#) (H.R. 2868), would reauthorize the Chemical Facilities Anti-Terrorism Standards (CFATS) program. Unlike the T&I subcommittee bill, H.R. 2868 would direct that security of wastewater treatment facilities fall under DHS, while protection of drinking water facilities would be within the jurisdiction of EPA. Housing security programs for wastewater and drinking water at one agency would provide consistency and avoid duplicative, burdensome regulatory frameworks that could be costly for both ratepayers and taxpayers with no discernable benefit. It is important that utilities that may be affected by this legislation continue to contact their Representatives and Senators to ensure a sound approach to wastewater security issues as this bill advances.

Climate Change Adaptation Efforts Refocus on Senate

A coalition of water associations and environmental organizations worked with Rep. Lois Capps (D-Calif.) to develop a bill, the [Water Systems Adaptation Act of 2009](#), H.R. 2969, which was intended to amend to the *American Clean Energy and Security Act* (ACES), introduced by Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.). However, it was not included in the final bill, which passed the House in a close vote on Friday. The Capps legislation would establish a competitive grant program at the EPA to support water, wastewater, and stormwater facilities trying to adapt to climate change. These grants would be used “to assist in planning, designing, constructing, implementing, or maintaining any program, strategy, or infrastructure improvement” in several categories, including preservation or improvement of water quality; increased energy efficiency or the use and generation of renewable energy; as well as water reuse and green infrastructure projects.

With climate change legislation now the Senate’s responsibility, the clean water community will refocus its efforts to include this important program in that body’s version of the bill. Because climate change is inherently an issue of water, utilities will need the resources to adapt their infrastructure to changing environmental conditions in order to continue to provide vital services to communities across the United States. *Exchange* members should contact their Senators and urge them to support that provisions similar to those contained in H.R. 2969 be included in the Senate’s climate change bill.

EPA Budget Process Continues to Progress

House

On a related note, the House Appropriations Committee approved the [Interior and Environment Appropriations bill](#) for fiscal year 2010 with \$10.46 billion for EPA, including \$2.3 billion for the Clean Water State Revolving Fund (CWSRF); \$1.4 billion for the (DWSRF); and \$667 million for “Great Bodies of Water,” including \$475 million for the Great Lakes Restoration Initiative. The bill also includes language blocking EPA from implementing regulations requiring large industrial livestock operations from reporting their greenhouse gas emissions similar to what would be required for wastewater treatment operations.

Senate

The Senate Appropriations Committee has recommended to the full Senate a bill giving EPA \$10.19 billion, with \$2.1 for the CWSRF and \$1.39 billion for the DWSRF, and \$478 million for regional water bodies, \$400 million of which is allocated to the Great Lakes Restoration Initiative. *Exchange* members are urged to contact their Senators in support of the higher House funding appropriations.

Senate EPW Moves Several Water-focused Bills

The Senate Environment and Public Works (EPW) Committee reported out three bills June 18, dealing with clean water issues that benefitted from significant input from the clean water community. All three of these proposals had been pending for some time, but now with committee approval, are poised to move to the full Senate for consideration.

Clean Water Act Jurisdiction

The [Clean Water Restoration Act](#) (S. 787) seeks to clarify the jurisdictional reach of the Clean Water Act after two Supreme Court decisions created confusion about which waters could be protected. The legislation removes the term “navigable” from the definition of “waters of the U.S.” and clarifies that a wide range of intrastate and interstate waters is covered by the law. Of critical importance to the clean water community, the bill includes the manmade waste treatment exemption excluding manmade treatment ponds and constructed wetlands used in waste treatment processes from the definition of “waters of the U.S.,” and thus from regulation under the Act. No similar legislation has yet to move through the House, although action is expected soon.

Sewer Overflow Monitoring

EPW also reported out the [Sewage Overflow Community Right to Know Act](#) (S. 937) on a voice vote. The legislation establishes a monitoring and reporting system for all sewer overflows at permitted wastewater treatment facilities. The Senate legislation is identical to legislation passed earlier this year by the House of Representatives and was based on negotiations between NACWA and American Rivers. The full Senate is expected to act on this bill before the summer recess.

Coastal Monitoring and Testing

Finally, the committee also reported out the [Clean Coastal Environment and Public Health Act of 2009](#) (S. 878), to reauthorize the Beaches Environmental Assessment and Coastal Health (BEACH) Act. The legislation would require faster water quality testing and public notification in the event of contamination and would authorize increased spending of \$60 million, up from \$30 million in the current law, for those activities. The Senate bill includes language that would require rapid test method results to be made available within four hours rather than the two hours originally proposed. The House Transportation and Infrastructure (T&I) Committee approved similar legislation June 4 with a six-hour testing requirement.

Pete Silva Nomination to Head EPA Water Office Approved by Senate EPW

The Senate EPW Committee voted June 10 to approve the nomination of Peter Silva to be the EPA assistant administrator for Water. Silva has worked in the water and wastewater fields for more than 30 years, most recently as senior policy advisor for the Metropolitan Water District in Southern California. His nomination now must be approved by the full Senate, but a vote has not yet been scheduled.
