



August 5, 2010

## **NACWA Provides EPA with Comments on Sanitary Sewer System Rule-Making**

NACWA submitted [comments](#) August 2 in response to EPA's June 1 *Federal Register* notice requesting public input on potential sanitary sewer collection system regulations, including whether the Agency should consider pursuing a comprehensive national policy to address sanitary sewer overflows (SSOs). NACWA's comments applaud EPA for taking an important first step towards addressing SSOs and encourage the Agency to pursue a comprehensive, holistic approach to the regulation of sanitary sewer collection systems and SSOs that will provide clean water utilities with much-needed regulatory predictability and consistency. The comments outline NACWA's position on a number of sanitary sewer collection system issues that EPA highlighted in the request for public input, including reporting and notification issues; capacity, management, operation, and maintenance (CMOM) requirements; permitting of satellite collection systems; and how to address peak wet weather flows at wastewater treatment plants.

The submission of these comments by NACWA marks the culmination of significant participation by the Association in EPA's stakeholder input process regarding sanitary sewer collection issues, including NACWA attendance at all of EPA's Listening Sessions and a public statement at the Washington, DC Listening Session in July. NACWA will continue to communicate closely with EPA regarding the Agency's possible next steps on sanitary sewer collection system and SSO issues and will keep you updated on any developments.

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## **NACWA Takes Strong Position in Comments to EPA on Sewage Sludge as Solid Waste**

NACWA submitted [comments](#) August 3 in response to EPA's June 4 proposed rule that defines sewage sludge bound for incineration as a non-hazardous solid waste. While EPA downplays the impact of the rule, NACWA's comments highlight that the proposal, if finalized, will have an immediate and significant impact on the ability of many of NACWA's members to manage the sewage sludge they generate on a daily basis. With the list of available options for managing biosolids continuing to shrink for many municipalities, NACWA's letter underscores that EPA's proposed action will have a devastating impact on sewage sludge incineration – which is used to manage approximately a fifth of the sludge generated annually in the U.S. Under EPA's proposed approach, combustion units burning solid wastes would be regulated under the more onerous Section 129 Clean Air Act (CAA) requirements, while those burning 'legitimate secondary materials' (i.e., not solid wastes) would be regulated under Section 112 of the CAA. Beyond incineration, EPA's proposal will also "eviscerate progress toward a new, viable source of renewable energy for the country," as any combustion unit burning sewage sludge will be required to meet the more stringent Clean Air Act Section 129 requirements.

NACWA plans to meet with EPA in the coming weeks as it reviews the comments on the proposal. In addition, NACWA is expecting EPA to release proposed CAA Section 129 standards for SSIs in August and NACWA is preparing to review and comment on that proposal as well. NACWA will keep you informed of developments on

both the SSO and SSI efforts.

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## Representative Norton Introduces Bill Requiring Federal Payment of Stormwater Fees

Rep. Eleanor Holmes Norton (D-D.C.) introduced legislation (H.R. 5724) that seeks to clarify the federal government's responsibility to pay reasonable fees for stormwater management services provided by local utilities. The legislation, introduced at the urging of NACWA and its member agency DC Water, is a companion bill to S. 3481, introduced recently by Senator Ben Cardin (D-Md.). Both bills seek to clarify that fees charged for the control and abatement of water pollution, including stormwater management fees, shall not be considered a tax and, therefore, must be paid by federal agencies pursuant to their obligations under the Clean Water Act (CWA). The issue gained attention in April when the General Services Administration (GSA) delivered a preliminary determination that federal facilities located in Washington, D.C. are not required to pay impervious area charges levied by the local municipal sewer authority. The GSA claimed that the fee amounts to a tax on the federal government and, as such, is unconstitutional. To view the legislation and NACWA's press release expressing its strong support, please visit NACWA's [stormwater management webpage](#). NACWA's press release can be viewed [here](#).

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## House Interior Panel Approves FY11 EPA Spending Bill, Discussion Focuses on Affordability Provision

The House Interior, Environment and Related Agencies Subcommittee approved their Fiscal Year (FY) 2011 appropriations bill. During consideration, Representative Steven LaTourette (R-Ohio) offered an amendment that sought to require the EPA to update its outdated 1997 "*Combined Sewer Overflow-Guidance for Financial Capability Assessment and Schedule Determinations*". The amendment garnered significant discussion among all Members including strong case studies of affordability concerns in Ohio and Kentucky. After lengthy consideration, the subcommittee rejected the amendment due to a procedural objection from Representative James Oberstar (D-Minn.), Chairman of the House Transportation and Infrastructure Committee who wants to keep jurisdiction over this important issue. Chairman Oberstar asked Members of Congress to bring their "affordability concerns" to him directly indicating positive momentum for continued legislative efforts in the next Congress and the increasing importance of NACWA's *Money Matters* efforts.

The legislation approved by the Subcommittee provides \$10 billion for EPA, including \$1.89 billion for the Clean Water State Revolving Fund and \$1.2 billion for the Drinking Water State Revolving Fund. This represents a decrease of approximately \$100 million for the SRFs from the President's FY 2011 budget request and a \$210 million decrease from FY10 enacted levels, excluding the \$4 billion in stimulus funds. The approved bill also includes \$473 million for the restoration of the nation's great water bodies, demonstrating the ongoing focus on watershed approaches in Congress. The full committee now must consider the legislation which could occur before the August recess.

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## Briefing on Water Trust Fund Garner Significant Attention on Capitol Hill

NACWA, in conjunction with the Water Infrastructure Network, the Associated General Contractors of America (AGC), United Rentals and the National Wildlife Federation (NWF), held a briefing on Capitol Hill July 26 highlighting the significant need for Congress to enact a dedicated trust fund for water and wastewater infrastructure investments. The briefing garnered significant attention with over 100 attendees gathered to hear compelling statements from a diverse set of panelists highlighting the economic, environmental and job-creation benefits a trust fund would provide.

George Hawkins, General Manager of DC Water, participated on behalf of NACWA in the briefing and

underscored the importance of advancing the *Water Protection and Reinvestment Act of 2009* (H.R. 3202) — the water trust fund bill introduced by Rep. Earl Blumenauer (D-Ore.). Mr. Hawkins' comments emphasized the clean water infrastructure needs throughout the Nation are in the hundreds of billions of dollars as estimated in the recent EPA *Clean Watersheds Needs Survey*. Mr. Hawkins stressed the benefits of H.R. 3202, underscoring that it would be a deficit-neutral source of funding that would re-establish the federal government as a long-term partner with states and municipalities in clean water investment.

Also making presentations at the briefing were Shirley Franklin, former Mayor of Atlanta (2002-2010); Tom McCauley, Mayor of Buhl, Idaho; Ken Simonson, AGC's Chief Economist; Paul I. McDonnell, Senior Vice President of United Rentals; and Maria Hale, NACWA's Director of National Restoration and Water Resources Campaigns.

With the momentum created by this briefing, NACWA urges your state and regional organizations to contact your Representatives and encourage them to add their names to the 40 co-sponsors of H.R. 3202.

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## House Approves Drinking Water SRF Reauthorization Bill by Voice Vote

The U.S. House of Representatives approved the *Assistance, Quality and Affordability Act of 2010* (H.R. 5320) by voice vote. The bill provides \$4.8 billion for the Drinking Water State Revolving Fund (SRF) over three years. The bill also seeks to reduce lead content in drinking water systems and expand the Endocrine Disrupting Substance Screening Program. With House passage the only remaining obstacle for Clean Water and Drinking Water SRF reauthorization is passage of the *Water Infrastructure Financing Act* (S.1005) in the Senate. At this point in time, no movement is expected on S. 1005 before Congress adjourns for its annual August recess but NACWA and the Water Infrastructure Network continue to push for Senate passage. NACWA will keep you informed on any developments as they occur.

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## NACWA, NAFSMA Expand Support for Stormwater Advocacy Efforts

NACWA facilitated a meeting with a number of municipal and state advocacy organizations to discuss a host of stormwater issues currently facing the clean water community and ensure a coordinated response. The meeting resulted in a very productive conversation among the municipal groups regarding the stormwater challenges communities are now facing. The meeting also produced a commitment from the groups for a collaborative effort in response to a variety of issues such as EPA's forthcoming Information Collection Request (ICR) for municipal stormwater utilities as well as current legislation pending in Congress to ensure federal government facilities pay local stormwater fees. Other issues addressed during the meeting included an update on EPA's ongoing stormwater rulemaking process and a discussion of current trends in stormwater permitting. In addition to NACWA, the other municipal and state groups in attendance were the National Association of Flood & Stormwater Management Associations (NAFSMA), the National League of Cities (NLC), the National Association of Counties (NACO), the American Public Works Association (APWA), and the National Governors Association (NGA). NACWA looks forward to continued collaboration and future meetings with these organizations to craft a consistent, unified response to the growing number of stormwater concerns confronting the clean water community.

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Please feel free to contact Thea Graybill, Government Affairs Assistant with any questions or concerns at [tgraybill@nacwa.org](mailto:tgraybill@nacwa.org).

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