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## NACWA

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## Sen. Udall, Rep. Edwards Reintroduce Important Stormwater Legislation

Senator Tom Udall (D-NM) and Representative Donna Edwards (D-MD) reintroduced legislation on November 12 to provide critical support to innovative stormwater strategies, while improving the ability to effectively manage polluted runoff and sewage overflows and relieving pressure on aging infrastructure. *S. 1677/H.R. 3449*, The Innovative Stormwater Infrastructure Act of 2013 (formerly known as The Green Infrastructure for Clean Water Act), would promote the use of innovative stormwater infrastructure, provide implementation grants for community-based stormwater control projects, and establish up to five Centers of Excellence throughout the country to conduct research, develop recommendations, and provide training and technical assistance for implementing management practices for stormwater control and management.

For the last three Congresses, NACWA has been working other allied organizations, including American Rivers, the American Society of Landscape Architects (ASLA), National Resources Defense Council (NRDC), and the Water Environment Federation (WEF) to provide technical assistance to the bill's sponsors, familiarize more Members of Congress with the merits of innovative stormwater infrastructure, and amass widespread support for this legislation.

The Innovative Stormwater Infrastructure Act of 2013 contains two changes from its previous versions. The first is a departure from the term "green infrastructure" to "innovative stormwater control infrastructure" to better reflect the varying nature and characteristics of this technology in different geographic regions. The second is a new emphasis on the importance of public-private partnerships and innovative financing mechanisms in the implementation of innovative stormwater control infrastructure.

NACWA's *Water Resources Utility of the Future Blueprint For Action* documents that communities across the

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## New Congressional Clean Water Caucus to Explore Technology & Innovation

A Congressional Clean Water Caucus was officially established in the 113th Congress in November by Representatives John Duncan (R-TN) and Timothy Bishop (D-NY). Rep. Duncan is a former chair of the House Water Resources & Environment Subcommittee and Rep. Bishop is the Subcommittee's current Ranking Member. As called for in NACWA's *Water Resources Utility of the Future . . . A Call for Federal Action*, the bipartisan Caucus will bring focus to Utility of the Future (UOTF) priority issues and advance cutting-edge technologies and innovative techniques and approaches in the water sector.

NACWA appreciates the leadership of Representatives Duncan and Bishop on the formation of the Caucus, and will begin work immediately through its membership and its UOTF partners — the Water Environment Federation (WEF) and the Water Environment Research Foundation (WERF) — to ensure that a broad array of Members of Congress join the Caucus.



## New Legislative & Regulatory Tracking Tool to Benefit Association Members

NACWA introduced *State Action Track*, a web-based tool that allows Member Agencies and Affiliated to search and track regulations and bills across a variety of clean water topics by state. *State Action Track* is really two tools, one that tracks state legislation and the other, state regulation, providing members with real-time reports of clean water bills (or regulations, respectively) by state and by issue. *State Action Track* demonstrates NACWA's commitment to increasing state and regional collaboration by enhancing our ability to monitor state and regional issues and inform our effective federal advocacy.



### State & Regional Initiatives on the Rise

Development of the tool is the most recent in a series of efforts by NACWA and its members to be informed and engaged in state and regional clean water issues. Over the last year, the Association has hosted

*Integrated Planning Workshops* in six U.S. Environmental Protection Agency (EPA) regions that brought together hundreds of utilities and regulators. Many were co-hosted with state advocacy groups like the Oregon Association of Clean Water Agencies (ORACWA) or New York Water Environment Association (NYWEA). NACWA continues to send staff and members to speak at conferences hosted by clean water advocates around the nation, including meetings in California, Pennsylvania, and Kentucky, to name a few. The Association's bimonthly *Clean Water Exchange* is distributed to state and regional groups to inform them of NACWA's federal advocacy initiatives and garner both engagement and feedback. The Association also plans a formal coalition of state and regional organizations to further enhance shared positions on issues and leverage combined advocacy efforts. State or regional clean water group that have yet to benefit from the Exchange, join the coalition, or are interested in learning more about NACWA's advocacy are invited to contact the Association at [info@nacwa.org](mailto:info@nacwa.org).

## NACWA Launches *Toilets Are Not Trash Cans* Initiative

In early October, NACWA Executive Director, Ken Kirk, announced that the Association was stepping its efforts to protect the pipes, pumps, plants, and personnel at clean water agencies with a targeted initiative aimed at reducing the harmful materials that are flushed or drained into the sewer system. The Association's *Toilets are Not Trash Cans* initiative will focus its sights on wipes, pharmaceuticals, paper towels, feminine hygiene products, dental floss, FOG (fats, oils, and greases), as well as product additives such as triclosan.

Through the initiative, NACWA will focus on changing consumer behavior and work collaboratively with its members and other groups to ensure that manufacturers and consumers understand that toilets are not trash cans. As part of this effort, the Association will also be working with industry and retailers to improve labeling and product stewardship through a facilitated technical workgroup on flushable wipes. On November 19, NACWA's Board of Directors authorized Targeted Action Funds (TAF) to support the technical workgroup as a means to move toward consensus on flushability standards for wipes and other products that are likely to be flushed. The workgroup will consist of representatives from NACWA, the Water Environment Federation (WEF), the American Public Works Association (APWA), and INDA (the trade association of the nonwoven fabrics industry).



### Attention on Wipes on the Rise

Wipes and other non-dispersible products have received tremendous media attention recently, including a multitude of newspaper articles and local television spots featuring NACWA and its member utilities (see [www.nacwa.org/flushables](http://www.nacwa.org/flushables) for media links and other information). The Association will continue to directly address this expensive problem, building on the work that it has done in the past years with the Water Environment Federation (WEF), the American Public Works Association (APWA), and INDA (the association of the nonwoven fabrics industry) to improve flushability guidelines and product labeling with the "do not flush" logo as one strategy to keep these products out of the sewer system.

These efforts to protect pipes, pumps, plants, and personnel will be a key focus at upcoming NACWA meetings and members whose systems are being impacted by wipes or other products should contact Cynthia Finley at [cfinley@nacwa.org](mailto:cfinley@nacwa.org) to share their stories and become active in the NACWA working group on wipes and appropriate NACWA committees.



## No Shutdown for Public Comment on Key Regulations, Initiatives

**D**espite the government shutdown, the public comment clock has continued to count down for several important rulemakings from both the U.S. Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA). NACWA has been actively working to collect input from the members and develop comment letters on three main rules, plus a number of other initiatives.

### NACWA Supports FDA Rule

First up is an FDA rule designed to increase the safety of produce grown for human consumption. The comprehensive food safety rule focuses on a range of activities, but for the clean water community the most important section deals with the use of soil amendments. The rule prohibits the use of human waste as a soil amendment for growing produce intended for human consumption, except sewage sludge or biosolids applied in accordance with EPA's Part 503 regulations. NACWA's November 15 comments expressed strong support for the FDA provisions, noting that by deferring to EPA's regulations the FDA was avoiding unnecessary duplication, while ensuring that public health would be protected. NACWA highlighted the extensive risk assessment process EPA conducted when developing the Part 503 rules and the numerous studies that have confirmed the protectiveness of those rules.



### Strategic Revisions to WQS Anticipated

Comments are due December 3 on a proposed rule that would make several strategic revisions to EPA's Water Quality Standards (WQS) regulations. EPA first tried to overhaul its WQS regulations in 1998, with a comprehensive Advanced Notice of Proposed Rulemaking, outlining a number of potential changes. The current proposal, published September 3, takes a more modest, surgical approach to changing six key components of the WQS rules. While the rule changes will most directly impact state regulators and their WQS programs, the revisions will eventually have an impact on how state standards guide implementation of the Clean Water Act permit program, and therefore have an impact on clean water agencies. Several of the proposed changes are positive, including those relating to the administrator's determination and elements of the proposals on variances and compliance schedules. NACWA's comments will support those elements of the rule. EPA's proposals relating to designated uses and antidegradation, however, are more problematic. NACWA will stress that much of what the Agency hopes to accomplish through the regulatory revisions could be accomplished through enhanced communication and cooperation with the states, and that the additional regulation could constrict state programs that are currently working well.

### E-Reporting to Have Significant Impact – Data Quality a Top Concern

EPA's e-reporting rule stands to have the most widespread impact on the regulated community, and NACWA is preparing comments in advance of the December 12 comment period deadline. The rule, drafted by EPA's enforcement office, seeks to take the entire Clean Water Act program into the digital age – requiring electronic reporting for every element of the National Pollutant Discharge Elimination System (NPDES) permit world. The most problematic provision of the rule is the timeframe in which EPA is expecting states to come into compliance. If states fail to develop the systems and procedures necessary to accept electronic submittals within two years of issuing the final rule, permittees would be required to submit all of their reports directly to the federal government. The

short timeframe has been flagged by state regulators as a major issue, and NACWA will raise it in the Association's comments as well. Data quality has been a top concern for NACWA with past attempts at maintaining reporting information in a national database, and that will again be a major issue raised in comments. Most stakeholders believe that phased implementation of the rules, to ensure that all systems are working

smoothly, is a more rational approach.

### Affordability & Climate Change Initiatives Continue

NACWA is also working to develop comments on two non-regulatory EPA initiatives relating to affordability and climate change. On affordability, EPA released a draft financial capability framework in October, as a companion to its 2012 Integrated Planning Framework and as a supplement to its 1997 guidance. NACWA is coordinating with the U.S. Conference of Mayors, National League of Cities (NLC), and National Association of Counties (NACo), who will meet with EPA in the coming weeks to discuss the draft. The current draft provides little new information and continues to rely on the Agency's 1997 guidance as the foundation for all financial capability analyses. NACWA continues to believe that more comprehensive change is needed, including a complete overhaul of the 1997 guidance, and will be providing comments to EPA later this year or in early 2014, following the next meeting between the Mayors/NLC/NACo and Agency officials. NACWA is also reviewing a new Executive Order on climate and resiliency and companion EPA strategy released in early November. The Association is seeking input from the membership and plans to provide comments by the January 3 deadline. 🌊





### Kirk Recognized at WEFTEC13

NACWA Executive Director, Ken Kirk, received the Water Environment Federation’s Honorary Membership Award from WEF President, Cordell Samuels (left) at the WEF Awards & Presidential Celebration in October. The Award recognizes pre-eminence in the water profession.

## Bipartisan Trust Fund Legislation Introduced

Representative Earl Blumenauer (D-OR), along with Representatives Richard Hanna (R-PA), Tim Bishop (D-NY), John Duncan (R-TN), Donna Edwards (D-MD), Ed Whitfield (R-KY), Jim Moran (D-VA), and Thomas Petri (R-WI) introduced bipartisan legislation, *The Water Protection and Reinvestment Trust Fund Act of 2013* (H.R. 3582), to establish a voluntary federal trust fund for investments in clean water infrastructure. *The Water Protection and Reinvestment Act* establishes a voluntary federal trust fund for investments in clean water infrastructure. Under the legislation, the makers of water-based beverages and flushable products could opt to put a clean water logo on their products in exchange for a 3-cent fee on each bottle or product. The revenue from this fee would go towards a *Water Infrastructure Investment Trust Fund*, of which 85 percent would be allocated to the Clean Water State Revolving Fund. The remaining 15 percent would fund a *Water Infrastructure Finance & Innovation Authority* (WIFIA) that would provide low-cost capital to clean water infrastructure projects. NACWA has long supported a national clean water trust fund as a way to provide communities with federal support to meet Clean Water Act goals. The Association marked the bill’s introduction with a [press release](#) applauding Rep. Blumenauer for his leadership. 🌊

## Leadership Retreat Offers Insights, Drivers & Priorities

An array of key stakeholder groups gathered for a facilitated discussion on November 18 in San Antonio, as part of NACWA’s *Fall Strategic Leadership Retreat*, to share organizational perspectives and priorities on the emergent water sector utility. Participants included both utilities and federal agencies such as the U.S. Environmental Protection Agency (EPA), the Department of Energy (DOE) – as well as association representatives from throughout the water sector including the Association of Clean Water Administrators (ACWA), the American Public Works Association

(APWA), the Association of Metropolitan Water Agencies (AMWA), the Water Environment Federation (WEF), the Water Environment Research Foundation (WERF), the American Water Works Association (AWWA), the WaterReuse Association, the U.S. Water Alliance (USWA), and NACWA. The dialogue identified ‘influential drivers’ impacting the water sector and its utilities – as well as ‘ingredients for success’ and the key priorities of the participating organizations. All participating organizations will be provided a high level synthesis of the dialogue, and future opportunities for collaboration are anticipated. 🌊

### NACWA Law Seminar a Resounding Success

Over 100 clean water attorneys, professionals, and utility managers from around the country gathered in San Antonio at the end of November to discuss critical legal and regulatory challenges facing the clean water community as part of NACWA’s 2013 *National Clean Water Law Seminar*. The three-day program, held in association with the Texas Association of Clean Water Agencies (TACWA), featured top legal experts from around the country covering a wide range of key issues impacting municipal wastewater and stormwater utilities.

Speakers included the U.S. Environmental Protection Agency’s key staff for its Integrated Planning initiative, Mark Pollins (left), Director, Water Enforcement Division, Office of Enforcement & Compliance Assurance, and Deborah Nagle, Director of the Water Permits Division, Office of Water. Presentations are available on NACWA’s [website](#).



## NACWA Takes Clean Water Message to Key Audiences

**N**ACWA is increasingly focused on bringing the clean water community's message on advocacy issues to key audiences across the country. The Association and a number of its utility members have been featured on panels, participated in productive dialogues, and presented NACWA's priority issues at a number of these key meetings in October and November.

NACWA was highlighted prominently at WEFTEC'13 in Chicago this October. NACWA staff briefed public agency leaders on priority clean water issues at the annual Hot Topics Breakfast and Utility Executives Forum. Additionally, Cynthia Finley, NACWA's Director of Regulatory Affairs, was featured in an afternoon session, *Wipe Out: Reducing the Burden of Wipes in the Pipes*, discussing the problems created by wipes and other products that are inappropriately flushed into the sewer system and the Association's efforts to address these challenges. Nathan Gardner-Andrews, NACWA's General Counsel also participated on a *Legal Hot Topics* panel that focused on recent decisions in the blending and nutrient arenas.

Adam Krantz, NACWA's Managing Director, Government & Public Affairs carried NACWA's advocacy message on the Utility of the Future, integrated planning and affordability issues to the *3 Rivers Wet Weather Sewer Conference*, in mid-October, with over 300 people in attendance from utilities and collection systems across Pennsylvania. A number of NACWA Member Agencies were featured prominently at the *2013 American Water Summit* in Washington, D.C. on November

5-6. Focused on uniting private and public water sector leaders, several NACWA members discussed key public sector advantages and challenges, including Association President, Julius Ciaccia, Executive Director, Northeast Ohio Regional Sewer District; Karen Pallansch, NACWA Vice President and CEO, Alexandria Renew Enterprises; Carter Strickland, Association Board Member and Commissioner, New York City Department of Environmental Protection; Dax Blake, NACWA Facilities & Collection System Co-Chair and Administrator, Division of Sewerage and Drainage, Columbus, Ohio; and Tom Sigmund, Chair of NACWA's Utility & Resource Management Committee and Executive Director, New Water in Green Bay, Wisc.

The Association hosted a *New York State Integrated Planning (IP) Workshop* in Albany on November 13 in partnership with the New York Water Environment Association (NYWEA). Utilities voiced their experiences with IP and participated in a spirited discussion with state regulators from the New York State Department of Environmental Conservation, as well as EPA Region 2 and Headquarters staff.

NACWA Executive Director, Ken Kirk, presented at the Water & Wastewater Equipment Manufacturers Association's (WWEMA) *105th Annual Meeting* November 14-16. Kirk's remarks focused on the Water Resources Utility of the Future initiative and the need for continued and increased collaboration with municipal groups, states, NGOs, industry and manufacturers to achieve shared advocacy goals. 🌊

## With Lee White's Passing, NACWA Celebrates a Life Well-Spent

**N**ANACWA, and its predecessor the Association of Metropolitan Sewerage Agencies (AMSA), lost not only a friend and colleague when Lee C. White passed away on October 31, but also an important contributor to the Association's first quarter century. White served as the Association's General Counsel for its first 25 years of existence. An engineer and a lawyer, he came to work with AMSA after a distinguished career with the Tennessee Valley Authority, as an advisor to presidents, and chair of the Federal Power Commission.

Described by *The Washington Post* as "... a low-profile presidential adviser who in the 1960s helped the Kennedy and Johnson administrations coordinate their strategies on civil rights during moments of crisis and triumph", White spent his early career as "a trusted troubleshooter" for both President Kennedy and President Johnson. His White House portfolio involved a spectrum of legal issues – civil rights but also veterans affairs, natural resources, small business, pardons and military construction bills.

After leaving the Johnson White House in 1966, White served as chair of the Federal Power Commission (now the Federal Energy Regulatory Commission), and was campaign manager for R. Sargent Shriver Jr., the vice presidential candidate on the losing ticket headed

by Sen. George McGovern (D-SD) in 1972. White spent the rest of his career in private practice, specializing in laws affecting utilities. It was in this timeframe that he provided invaluable counsel to the Association in its formative years. Lee C. White was inducted into the *NACWA Hall of Fame* in 2010, and will be remembered for his strategic insights –always peppered with a joke and a wink. He will be missed. 🌊



Lee White (right) speaks with NACWA Executive Director, Ken Kirk at NACWA's National Environmental Policy Forum in 2011.

## Stormwater

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country are implementing innovative technology, like green infrastructure, to better manage stormwater, save money, and improve quality of life more broadly. This is contributing to a broader shift seen among clean water utilities as they transform from basic providers of wastewater services to comprehensive resource recovery agents. See the box associated with the article for a snapshot of just some of the green infrastructure projects NACWA members have undertaken. Many additional communities are in various stages of planning and implementation.

With more communities across the country pursuing creative solutions like innovative stormwater infrastructure to manage their stormwater runoff, this legislation would help to secure the resources needed to transform this approach into a mainstream practice. NACWA commends Senator Udall and Representative Edwards for their leadership on this issue and urges swift passage of this legislation. ♡

### Member Agencies Pursue Green Infrastructure, Stormwater Initiatives

*Green City, Clean Waters* is a partnership between Philadelphia and EPA that involves a \$2 billion investment in green infrastructure to better manage Philadelphia's stormwater. The 25-year agreement could be a national model for other cities interested in implementing green infrastructure.

The Metropolitan Sewer District (MSD) of Greater Cincinnati's *Project Groundwork* is a two-phase initiative involving the rebuilding and improving of the city's sewer system. Green infrastructure projects such as retention basins and pervious pavement are being used to control [combined sewer overflows](#). Phase 1 involves completion of 45 construction projects in and around the city by 2018; Phase 2 (after 2018) comprises 256 construction projects across Hamilton County. The entire [plan](#) is estimated to cost \$3.5 billion.

In September 2011, Los Angeles passed the Low Impact Development Ordinance, which requires that all development projects greater than 500 square feet be designed to capture, reuse, or infiltrate stormwater runoff. Los Angeles' *Green Alleys Initiative* program will add permeable pavement, bioswales, and drought-tolerant vegetation to urban alleys. These [projects](#) will improve water quality, reduce flooding, and reduce water demand while creating recreational opportunities and more.

## Harlan Kelly, Jr. Appointed to NACWA Board

**H**arlan L. Kelly, Jr., General Manager of the San Francisco Public Utilities Commission (SFPUC) was appointed to an At-Large Board seat when NACWA's Board of Directors met on November 19 in San Antonio. Kelly's civil engineering career spans nearly three decades and includes service as SFPUC's Assistant General Manager, Infrastructure. In that capacity he was responsible for implementing over \$10 billion in capital programs for water, sewer and power. Kelly is the recipient of the Municipal Fiscal Advisory Committee's Public Municipal Excellence Award from the San Francisco Planning & Urban Research Association; the Public Works Leader of the Year Award from the American Public Works Association - Northern California Chapter. In making the appointment NACWA President, Julius Ciaccia, said "I am certain that Harlan will be an incredible asset to our Board".

### NACWA Board Approves Key Targeted Action Fund Projects

NACWA's Board also acted to approve several important Targeted Action Fund (TAF) projects at its November meeting. Projects approved include NACWA's participation in a Washington State biosolids appeal of a state court legal decision affirming a land application ban passed by a local county; Chesapeake Bay total maximum daily load (TMDL) litigation following the Farm Bureau's appeal; and, an appeal

in the *Southern Appalachian Mountain Stewards v. A&G Coal Corp.* case that could limit dischargers' ability to use compliance with permit terms as a full defense or shield against claims concerning Clean Water Act violations. The Board also agreed to provide TAF support for an update of NACWA's popular *Consent Decree Handbook*. The *Handbook* will provide new and valuable information and strategies to maximize utility success in consent decree negotiations, with a focus on new developments such as integrated planning, flexibility in making affordability determinations, and increasing use of green infrastructure techniques.



The Board also approved important projects recommended by the Association's Legislative & Regulatory Policy Committee, including support for a facilitated workgroup to work toward consensus between INDA (the non-woven fabrics industry association), NACWA, the Water Environment Federation (WEF) and the American Public Works Association (APWA) on flushability standards (*see related article this issue*) and funds for a critical review of EPA's use of its technical support document for setting numeric nutrient permit limits. ♡



## NACWA . . . Growing Strong

A growing NACWA membership is critical as the Association advances key advocacy initiatives on behalf of the clean water community. As membership grows, so does the Association's ability to shape national policy. The Association is proud to welcome two new Public Agencies, one new Corporate Affiliate, and two new Legal Affiliates.

### PUBLIC AGENCIES

#### City of Meridian, ID

*Represented by Mollie Mangerich, Environmental Programs Manager*

With Joining NACWA in early October, the City of Meridian, ID is a public wastewater system that serves a population of 78,000. Meridian offers services in collection, treatment, reclaimed water, and municipal stormwater.

#### City of Joliet, Department of Public Utilities, IL

*Represented by James Eggen, Director of Public Utilities*

The City of Joliet, Department of Public Utilities operates with the primary mission of providing exceptional water and sanitary sewer services to the 148,000 citizens of Joliet. Joliet offers services in collection, treatment, potable water, and municipal stormwater.

### CORPORATE AFFILIATE

#### The Baylis Group, LLC

*Represented by Jack Baylis, President and CEO*

The Baylis Group serves public and private sector clients in the infrastructure and environmental fields providing strategic, management, and technical consultation.

### LEGAL AFFILIATES

#### Troutman Sanders LLP

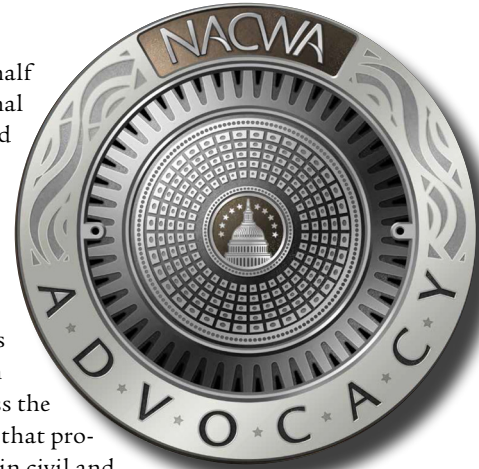
*Represented by Brooks M. Smith, Partner*

Troutman Sanders LLP is an international law firm with offices located across the United States and China that provides counsel and advice in civil and commercial law related to the firm's core practice areas: Corporate, Energy and Industry Regulation, Finance, Litigation and Real Estate.

#### Evans & Dixon LLC

*Represented by Aimee Davenport, Attorney*

Evans & Dixon LLC is one of the largest insurance defense practices in the Midwest. For more than 65 years, they have provided support to businesses, employers, insurance companies and the self-insured throughout a variety of industries including, municipalities, and federal and state agencies.



NACWA's most powerful tool in growing the Association's membership is its current members. Sharing your membership experience with potential members is one of the most effective ways to communicate the value of membership. The Association thanks all who have shared the many benefits of membership with a colleague. If you are aware of a clean water agency or organization that would benefit from NACWA membership, please contact [membership@nacwa.org](mailto:membership@nacwa.org).

## Plan to Join Us in 2014!

**N**ACWA's conferences, policy forums, workshops, and web seminars offer invaluable information on current and evolving legislative, regulatory, and legal developments – and the ability to engage in new federal initiatives and programs that may benefit your utility. Plan to join your clean water colleagues for the following offerings in 2014!

February  
2 - 5

**WINTER CONFERENCE**  
*Compliance, Collaboration  
& Cost . . . Critical Drivers  
for Clean Water*  
La Fonda on the Plaza  
Santa Fe, NM

April  
7 - 9

  
**WaterWeek  
2014**  
*featuring the*  
**NATIONAL WATER  
POLICY FORUM  
FLY-IN & EXPO**  
*Presented by NACWA,  
WEF & WERF*  
Capital Hilton  
Washington, DC

May  
13 - 16

**NATIONAL  
PRETREATMENT &  
POLLUTION  
PREVENTION  
WORKSHOP**  
The Depot Renaissance  
Minneapolis Hotel  
Minneapolis, MN

Visit [www.nacwa.org/meetings](http://www.nacwa.org/meetings) to register and find the most up-to-date information on upcoming conferences!