

# CLEAN WATER ADVOCATE

Senator James Inhofe (R-OK) was named as the Chairman of the Senate Committee on Environment and Public Works for the 114th Congress. Senator Barbara Boxer (D-CA) will serve as the Committee's Ranking Member.



A Clear Commitment to America's Waters



DECEMBER 2014/JANUARY 2015

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## NACWA Legislative Advocacy Underway as 114th Congress Convenes

The 114th Congress was sworn in January 6 with new Republican leadership in the Senate and much anticipation over how this Congress and the Administration will work together over the next two years to address a number of environmental, energy and economic issues, including new rules with respect to Clean Water Act jurisdiction.

### Key Committee Leaders Named

While the leadership team in the House remains the same, the Senate has a new Majority Leader in Senator Mitch McConnell (R-KY) and new leadership of key committees. Senator James Inhofe (R-OK) takes over as Chair of the Senate Environment & Public Works Committee (EPW) and Senator Dan Sullivan (R-AK) will assume the chairmanship of the renamed Fisheries, Water & Wildlife Subcommittee. On Senate Appropriations Committee, Senator Thad Cochran (R-MS) becomes Chair of the full Committee, with Senator Lisa Murkowski (R-AK) becoming Chair of the Interior & Environmental Protection Agency (EPA) Subcommittee. Key Senate Democrats with leadership posts on these committees include Senator Barbara Boxer (D-CA) who becomes Ranking Member of Senate EPW and Senator Tom Udall (D-NM), who replaces Senator Jack Reed (D-RI) as the top Democrat for the Interior & EPA Appropriations Subcommittee. Democrats have not named a Ranking Member for the Fisheries, Water & Wildlife Subcommittee as of this writing. Senator Barbara Boxer announced that she will not seek reelection in 2016, which not only means a race in California, but a new top Democrat will replace her on the Senate EPW Committee for the next term of Congress. Currently, Senator Tom Carper (D-DE) is in line, but should he retire, Senator Cardin would likely assume that position.

The same cast of House Members from the 113th Congress return to leadership roles, however given the reelection defeats on the Democratic side, Congressman Peter DeFazio (D-OR) is now Ranking Member on the House Transportation & Infrastructure Committee and Grace Napolitano (D-CA) will serve as Ranking Member for the Water Resources & Environment Subcommittee.

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## Flushable Wipes Agreement Reached

NACWA, the Water Environment Federation (WEF), and the American Public Works Association (APWA) have reached an agreement with INDA (the trade association of the nonwoven fabrics industry) to move forward with developing new flushability guidelines for wipes – and improving consumer awareness of proper wipe disposal.

The four associations will be joined by the Canadian Water & Wastewater Association (CWWA) on a workgroup charged with developing new, consensus flushability guidelines for wipes that will be protective of collection systems and wastewater treatment plants. Development of the new guidelines will help to ensure that any wipes labeled “flushable” will break up rapidly in the sewer system and not cause clogs and other



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## Development of Virus-Focused Criterion Raises Concern

For decades, Clean Water Act (CWA) programs have relied on bacterial indicators such as fecal coliform or E. coli and enterococcus to evaluate public health risk associated with effluent, combined sewer overflow (CSO) control, and other programs. Treatment plant disinfection has been designed based on these indicators, CSO long-term control plans use these as targets and hundreds of total maximum daily loads (TMDLs) have been developed to address related impairments. But ever since the U.S. Environmental Protection Agency (EPA) last revised its criteria for bacteria in the late 1980s, Agency scientists have been looking to move to a new indicator, one that they say would better measure the potential for human health impacts. In 2014, NACWA learned that EPA scientists had reached a point where they felt comfortable with the available research and had begun to develop a water quality criterion for bacteriophage, a viral indicator with properties similar to many of the viruses with which the Agency is most concerned. To EPA, this is an advancement in the science, but to the thousands of wastewater treatment utilities with disinfection processes designed to meet bacteria-based standards, this could have major implications.

### Potential Strong for Major Implications for Clean Water Agencies

Since learning of EPA's efforts, NACWA has been raising the alarm to ensure that all involved are aware of the implications. The Association first met with key staff from EPA's Office of Science & Technology (OST) in June 2014 to discuss the Association's concerns. EPA briefed

NACWA on the Agency's efforts to develop a bacteriophage criterion based on existing data in the peer-reviewed literature, as well as to develop and validate a test method for bacteriophage for use in CWA programs. EPA's current timetable would have a proposed criterion ready for public comment in late 2015. NACWA urged the Agency to move forward cautiously and encouraged OST staff to work closely with their counterparts in the Office of Wastewater Management to evaluate the impact on the CWA permitting program.

Since June, NACWA has worked to coordinate with its partners at the Water Environment Federation (WEF), and at the Water Environment Research Foundation (WERF) – to identify where additional study on how bacteriophage behaves in wastewater treatment plants, how it is affected differently by current disinfection practices, and how levels of bacteriophage compare to current indicators that are tracked by clean water agencies, may be needed. The three groups met during WEFTEC 2014 and were briefed by Betsy Southerland, Director of OST, on the latest developments. In early December 2014, the three groups met together with EPA to get the latest update on the Agency's efforts and to discuss work underway in the water sector to help shed light on the critical issue areas that EPA must address as it proceeds with criterion development. WEF will be forming a special task force to address this issue and NACWA will continue to work through its Water Quality Committee and engage EPA throughout 2015 to encourage a more open process that involves the wastewater community throughout criterion development. ♦

## NACWA Busy With Legal Advocacy

Winter chills may be sweeping much of the country right now, but NACWA's legal advocacy has been heating up in recent weeks with activity in a number of important litigation matters. Additional information on these cases and all of NACWA's litigation activities is available on the Association's [Litigation Tracking](#) webpage.

### Brief Filed in Biosolids Land Application Case

NACWA joined other municipal clean water organizations in late December to file a [brief](#) with the Pennsylvania Supreme Court in an important case addressing land application of biosolids. The key issues in the case, [Gilbert v. Synagro](#), is whether the land application of biosolids is an agricultural activity protected under Pennsylvania's Right to Farm Act. Ensuring that land application is considered a normal agricultural practice under right to farm laws is critical for clean water utilities because it provides land application programs with additional legal protections from lawsuits challenging the practice. NACWA's brief, submitted jointly with the Pennsylvania Municipal Authorities Association (PMAA) and NACWA member Agency the Allegheny County Sanitary Authority (ALCOSAN), argues that a large body of lit-



erature, facts, and state and federal law demonstrates that land application is an accepted farm practice across the United States.

### Important 'Win' in New York Court of Appeals Stormwater Case

In early January, NACWA participated with other interested parties to file a [brief](#) with the New York Court of Appeals discussing the

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## Winter Conference Examines Collaboration

**N**ACWA's 2015 Winter Conference, *Leaving the Comfort Zone ... Collaborating for Clean Water*, is just days away. Clean water agency leaders – from utilities across the country – will meet February 1 – 4 in Charleston, S.C. to examine innovative approaches to addressing water quality challenges through collaboration with non-traditional partners. Collaborations in the

agriculture, finance, energy, reuse and product stewardship sectors will be featured, including examples of how improved dialogue resulted in enhanced water quality and strengthened capabilities all around. The [conference agenda](#) features key speakers and panels – and [registrations](#) are still being accepted. ●

## Nutrients Remain Top Priority

**N**utrient-related water quality challenges remain a top priority for NACWA and the past several months have been active on several fronts. A recent development in Iowa, where a water supplier is threatening to file suit if agricultural discharges of nitrogen are not addressed, is serving as a reminder of the complexity of this issue. While frustrations are running high for some, many are pointing to the importance of collaboration to make substantive progress on nutrients.

### Association Members Engage in RCPP Collaborations

Collaboration among dischargers at the watershed level can be a powerful tool. The U.S. Department of Agriculture (USDA) announced on January 14 award recipients for the first round of funding under the newly established Regional Conservation Partnership Program (RCPP). Four NACWA Member Agencies were among those receiving awards – either as a lead project partner or as a participating partner.

The City of Cedar Rapids will be a leading partner for the Middle Cedar Partnership Project. The initiative will focus on working with local conservation partners, farmers and landowners to install best management practices such as cover crops, nutrient management, wetlands, and saturated buffers to help improve water quality, water quantity and soil health in the Cedar River Watershed.

Other NACWA Member Agencies playing key partnership roles in project awards include the Madison Metropolitan Sewage District, a key partner for the Yahara Watershed Pilot project led by the Dane County Land and Water Resources Department. The project will be the first in the nation to test the Watershed Adaptive Management Program – an innovative regulatory compliance option for addressing phosphorus. The City of Columbus, OH is a participating partner in a watershed project in the Upper Big Walnut Creek watershed which supplies drinking water to the City. And the City of Baltimore is a participating partner in the Mason-Dixon Working Lands Partnership focusing on wetlands restoration and the health of the Chesapeake Bay watershed. These projects were selected from a competitive pool of nearly 600 applicants. In this first round of funding, USDA awarded \$400 million to 115 projects. A second round of funding will be announced in spring 2015.

The RCPP is a new program established under the 2014 Farm Bill to encourage partnerships between agricultural producers and other enti-

ties, including municipalities and wastewater authorities, to tackle water quality challenges and other natural resource problems. NACWA led the Healthy Waters Coalition of municipal water and wastewater organizations, environmental NGOs and state regulators in advocating for strengthening the links between agricultural policy and water quality during last year's Farm Bill reauthorization debate.

### Advocacy Efforts Focus on EPA Permit Writer Training

NACWA is continuing its efforts with the U.S. Environmental Protection Agency (EPA) headquarters to influence the Agency's approach to developing nutrient permit limits for clean water agencies. In 2014, NACWA utilized its Targeted Action Fund (TAF) to conduct a critical review of EPA's application of the 1991 *Technical Support Document (TSD) for Water Quality-based Toxics Control* to the development of nutrient permit limits. The Association is using the final report, released to the membership in June 2014, as it meets with EPA and the

Association of Clean Water Administrators (ACWA) to outline recommendations for more scientifically-valid approaches to establishing nutrient permit limits. Based on initial discussions with EPA, NACWA is setting up a series of meetings to discuss its recommendations in more detail with key Agency staff. The first meeting has been scheduled for early February 2015, and NACWA anticipates several meetings throughout 2015.



### NACWA, Milk Producers Begin Work on Memorandum of Understanding

NACWA and the National Milk Producers Federation (NMPF) have begun work to implement the *Memorandum of Understanding (MOU)* signed by the two organizations in September 2014. The MOU seeks to identify opportunities for NMPF-member dairy cooperatives and NACWA Member Agencies to work together to address water quality on a watershed level. The focus of the MOU is improving the management of dairy cow manure. Current land application practices for manure are leading to excess nutrient levels in the nation's waters and NMPF is looking for ways to help their members put that manure to good use. The MOU envisions collaboration on anaerobic digestion of manure – leading to the production of green energy – and better management of the nutrient content in manure, through on-field practices and innovative nutrient recovery technologies. NACWA and NMPF are working to identify areas of the country ripe for these types of partnerships and have initiated discussions with a NACWA member agency in southern California. ●

## Save the Date for these Invaluable Offerings in 2015

**N**ACWA webinars, conferences, and workshops offer timely information that is invaluable to the clean water community. Here is just a sample of the Association's future informational and educational opportunities.

### Water Week 2015, Policy Forum Planning Underway

Planning is already underway for Water Week 2015 and its anchor event – the *National Water Policy Forum, Fly-In & Expo*. Water Week 2015 will take place April 12 – 18, 2015 – and will include the *U.S. Water Prize Ceremony & Reception* (sponsored by the U.S. Water Alliance), as well meetings of what is anticipated to be a growing list of state, regional, and national water sector organizations. The Water Week website ([www.waterweek.us](http://www.waterweek.us)) has been enhanced and improved, and now features a short video capturing the Water Week experience. New content – and Water Week events – are regularly added to the site.

The *National Water Policy Forum, Fly-In & Expo* will convene in Washington, D.C. from April 13 – 15, 2015. The *Policy Forum* is a collaborative effort of NACWA, the Water Environment Federation (WEF), the Water Environment Research Foundation (WERF) – and new this year – the Water Reuse Association. The *Forum* will take place at the Westin Washington D.C. City Center – and will feature distinguished speakers, conference sessions, Capitol Hill visits, and technical roundtables. Plan now to attend and bring the vision and value of the water sector to Washington this April.



### Legal Advocacy CONTINUED FROM PAGE 2

proper regulatory requirements in municipal stormwater discharge permits. The joint brief in *Natural Resources Defense Council v. New York State Department of Environmental Conservation* addresses whether the explicit standard in the Clean Water Act (CWA) for municipal stormwater discharges to “reduce the discharge of pollutants to the maximum extent practicable” (also known as the MEP standard) supersedes the requirement that CWA permits ensure strict compliance with water quality standards – including the possibility of numeric effluent limits. The brief argues that MEP is a unique standard created for municipal stormwater that does not require strict compliance with water quality standards nor requires numeric permit limits, but instead allows necessary flexibility for site-specific stormwater controls based on cost-effectiveness. NACWA joined with the City of New York, the National Association of Flood & Stormwater Management Agencies (NAFSMA), and other organizations to file the brief. On January 15, the Court of Appeal dismissed the challenge to a lower court ruling in the case that endorsed the municipal position on MEP, marking an important win for NACWA and its partners.

### Exciting Legal Educational Opportunities Ahead

Join NACWA on March 18 at 2:00 pm Eastern for the next installment of its *Legal Hot Topics Web Seminar Series*. These webinars provide key updates and valuable analysis on some of the most important legal developments and issues impacting the municipal clean water community.

Back by popular demand, NACWA is pleased to announce the dates and location for its 2015 *Consent Decree Workshop* – April 29-30 in Philadelphia. Building on the success of the 2014 Workshop, this year's event will provide updates, information, and analysis on the latest wet weather enforcement trends, as well as provide participants an opportunity to discuss key enforcement issues in a roundtable format with their clean water peers.

### Pretreatment & Pollution Prevention Workshop Heads to Greenville

NACWA's annual *Pretreatment & Pollution Prevention Workshop* will be held May 13-15 at the Hyatt Regency Greenville in Greenville, S.C. The *Workshop's* diverse agenda will include pretreatment case studies, the U.S. Environmental Protection Agency's (EPA) proposed dental amalgam separator rule, and a look at the progress on emerging contaminants and flushable wipes. Networking opportunities will also be available with the EPA Regional Roundtable sessions and small-group discussions on pretreatment issues. An optional pretreatment training course will be held prior to the *Workshop* on May 12, with a beginning level course and a concurrent advanced level course.

Information on these – and other offering – is available on NACWA's [Conferences & Professional Development webpage](#).

### NACWA Active in Chesapeake Bay TMDL Litigation

Oral arguments were held in litigation over the final Chesapeake Bay total maximum daily load (TMDL) in mid-November, and NACWA and its municipal partners in the case were active participants. The judges hearing the case seemed inclined to agree with the position advanced by NACWA, EPA, and others that the TMDL properly pursues a watershed approach to address water quality concerns, including the assignment of allocations to nonpoint sources. NACWA [participated](#) in the case along with the Virginia Association of Municipal Wastewater Agencies (VAMWA) and the Maryland Association of Municipal Wastewater Agencies (MAMWA) to help defend the watershed approach, represent the municipal clean water perspective, and ensure all sources of impairment are part of the solution to improving water quality.

# The Power of Membership - Creating a Bolder Clean Water Presence

**N**ACWA membership growth strengthens the Association's advocacy presence not only in Washington, but nationwide. It enhances NACWA's ability to speak on behalf of the clean water community and showcase the initiatives of those dedicated to excellence in water quality and environmental improvement. The Association is pleased to welcome four new Public Agency Members and one new Corporate Affiliate Member.

[City of Greensboro Water Resources Department, NC](#)

*Represented by*

*Martie Groome, Laboratory & Industrial Waste Supervisor*

Servicing a population exceeding 200,000, the City of Greensboro Water Resources Department is dedicated to providing dependable water, wastewater and stormwater services.

[City of South Bend, IN](#)

*Represented by Al Greek, Utilities Director*

Located in the north-central part of Indiana, the City of South Bend represents a service area of approximately 130,000 and provides excellence in collection, treatment, municipal stormwater, wholesale drinking water and drinking water distribution services to its customers.

[Greer Commission of Public Works, SC](#)

*Represented by Jeffrey Tuttle, General Manager*

Established in 1913, Greer Commission of Public Works' mission is to make optimum use of its human and technical resources in order to provide the best possible water, natural gas, electric, and wastewater services at the least possible cost to the residents of Greer and other designated customers.

[Portland Water District, ME](#)

*Represented by Ronald Miller, General Manager*

The Portland Water District is a quasi-municipality providing water, wastewater, and environmental services to 11 Greater Portland communities.

[MMO Consulting](#)

*Represented by Monica Oakley, President*

MMO Consulting provides water quality assistance to municipal treatment facilities in the San Francisco Bay Area, drawing on 30 years of experience in problem solving and strategic initiatives for wastewater agencies.



NACWA is dedicated to the continued recruitment of new members to advance the Association's advocacy agenda. One of NACWA's most powerful recruitment tools is its members. Sharing your 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 [Kelly Brocato](#), Director, Membership Development & Retention. 🌊



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114th Congress CONTINUED FROM PAGE 1

**Insights into Environment & Energy Agenda Offered**

Early indication of the policy focus this Congress will pursue at least with respect to an environmental and energy agenda has been offered. The fight over the Keystone XL oil pipeline is the first order of business though while certain to pass both chambers, President Obama already stated he would veto it and, at this point, there are not enough votes to override it. Republicans have also indicated that they intend to push back on the Administration over its proposed rule on [Waters of the U.S.](#) and on the proposal to address greenhouse gas emissions under the Clean Air Act.

Aside from the regulatory scrutiny Congress will apply to the Administration's environmental agenda, Congress does intend to reauthorize a package of programs relating to surface transportation

which expires at the end of May. This reauthorization effort could present an opportunity for NACWA members to raise the importance of stormwater impacts from our transportation infrastructure. In addition, House Transportation & Infrastructure Committee Chair Bill Shuster (R-PA) has already suggested he would like to undertake reauthorization of the *Water Resources Reform & Development Act* (WRRDA) which last year provided a legislative vehicle to substantially revise the [Clean Water State Revolving Fund](#) program. While greater oversight of EPA is anticipated from a Republican-controlled Congress, there will continue to be opportunities to raise awareness of clean water issues important to NACWA members. ●

**Award Program Celebrates Facilities at the Peak of their Performance**

**H**onoring NACWA member agency facilities since 1987, the Association's [Peak Performance Awards Program](#) is pleased to be accepting applications for the 2014 calendar year. This year, the program has expanded its criteria to include facilities that operate under a Federal or state equivalent NPDES permit, and underground injection control permit, or a state control mechanism that regulates effluent quality and reuse of reclaimed flows. The Association fully anticipates that with these enhancements, recognition will eclipse last year's record number of honorees.



The program will continue to honor facilities in three categories – *Platinum, Gold and Silver*. Receiving recognition in any of the three *Peak Performance Award* categories truly signifies a commitment to environmental protection and the hard work and diligence it takes to be successful service providers. Completed applications are due in April 3, 2015. Learn more about the eligibility requirements for this awards program by downloading the [application packet](#). ●

Flushable Wipes CONTINUED FROM PAGE 1

problems with equipment. Frank Dick, Industrial Pretreatment Coordinator for the City of Vancouver Department of Public Works and Vice Chair of NACWA's Pretreatment & Pollution Prevention Committee, will represent the Association. The workgroup will hold its first meeting in late January 27 and complete the new guidelines by June 2016.

**Labeling Improvements Essential**

Wipes that are not designed to be flushed, such as baby wipes, usually do not have package labeling with a prominent "Do Not Flush" logo or other instructions for disposal. Through a product stewardship initiative, the associations plan to promote better labeling as a first line of consumer education, with the potential for a broader consumer education effort on proper disposal of wipes and other products. This initiative will begin this spring, with 14 companies

from the wipes industry already planning to participate.

This agreement is the culmination of a technical workgroup formed by the groups and funded in part by NACWA's Targeted Action Fund (TAF). The workgroup held a series of in-person meetings and conference calls to discuss the problems caused by wipes and the potential solutions involving wipes manufacturers. The workgroup and resulting agreement are an important component of NACWA's *Toilets Are Not Trash Cans!* campaign, which is focused on reducing the inappropriate items that are commonly disposed of via the sewer system, including wipes and other non-disposable products, unused pharmaceuticals, and harmful chemical additives in consumer products. ●

