

Municipalities Seek Update to EPA's Affordability Approach

The National Association of Clean Water Agencies (NACWA) leads the clean water community in assessing the impact of policies and regulations on publicly owned wastewater treatment utilities and advocates for responsible national policies that advance clean water and a healthy environment. Wet weather discharges including sanitary and combined sewer overflows continue to be top enforcement priorities for the U.S. Environmental Protection Agency (EPA) and the government has set specific goals for addressing these wet weather compliance issues. NACWA understands that more work is needed in this area, but believes that EPA's enforcement practices must recognize and be responsive to wastewater utilities' environmental stewardship and fiduciary responsibilities to its ratepayers, especially against the backdrop of the current economic turmoil.

Since the passage of the Clean Water Act in 1972 a transfer of near total financial responsibility to local utilities has taken place. This, when combined with ever more stringent CWA regulations and enforcement, is producing a nearly untenable fiscal situation for the nation's clean water utilities. Recent investments that many communities have made in significant and costly wet weather projects illustrate these economic impact, which include larger percentages of municipal budgets going to servicing expanding debt loads, continued difficulty accessing the bond market and, in some cases, a potential downgrade to junk-bond status.

In light of these disturbing trends, NACWA believes that it is time for the EPA to review and update its 1997 guidance document, *Combined Sewer Overflows – Guidance for Financial Capability Assessment and Schedule Development*. Other stakeholders, including the Environmental Finance Advisory Board (EFAB) and the U.S. Conference of Mayors are also recommending changes to EPA's current policies and guidance on affordability/financial capability.

EPA's *Financial Capability Assessment* Must Be Revised to Incorporate Broader Indicators of Community Health:

- Financial capability – Currently, EPA relies heavily on a single indicator – percent of Median Household Income (MHI) - to determine whether a community can afford to implement a particular requirement under the CWA.
- Reliance on a single indicator like MHI does not accurately reflect a community's true economic situation - it often does not adequately account for pockets of low-income groups or future demographic shifts in population, for instance.
- EPA's financial capability models should account for indicators of fiscal health beyond MHI, such as local economic conditions including the housing market and unemployment.
- EPA's current approach does not account for other competing water-investment needs, such as needed stormwater controls or advanced treatment requirements, which utility ratepayers must also absorb, let alone other environmental investments a municipality must make.
- In addition, EPA should examine scheduling requirements for implementation to determine whether and to what extent flexible implementation schedules can reduce ratepayer shock and allow for innovative alternative implementation methods to succeed.

In short, the economic downturn has taught us a vital lesson — things change over time and timelines, schedules and solutions must be able to adapt to changing economic realities and emerging innovations.

NACWA urges inclusion of the following provision in FY11 EPA Appropriations bill:

Not later than 180 days after the date of enactment of this Act, the Administrator shall update the document entitled “Combined Sewer Overflows–Guidance for Financial Capability Assessment and Schedule Development” dated February 1997. To carry this out, the Administrator shall—

- (1) collect and take into consideration information that can be used to assess the financial condition of permittees under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);*
- (2) consult with the affected States, municipalities, and other interested parties, as determined by the Administrator; and*
- (3) conduct a public outreach process*

The National Association of Clean Water Agencies (NACWA) is the leading advocate for national policies that advance clean water and a healthy environment. NACWA represents the collective interests of over 300 American clean water utilities – dedicated public servants and true environmental champions that treat eighty percent of all sewered communities. For nearly 40 years, NACWA has been the clean water community’s voice in Washington.