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SECTION-BY-SECTION SUMMARY OF THE FINAL WORKING DRAFT OF NACWA'S WATER QUALITY IMPROVEMENT AND INVESTMENT PRIORITIZATION ACT

Sec. 1 — Title: The Water Quality Improvement and Investment Prioritization Act

This title addresses the two most important legislative goals set out by the *Money Matters* Task Force and other key stakeholders in creating the legislation. It succinctly restates the goals of both the campaign and the legislation by focusing on the notion that regulatory priorities must be developed in order to ensure the shared objective of all stakeholders — improving/maximizing water quality improvement.

Sec. 2 — Findings

This section lays out key facts and factors that make the regulatory prioritization necessary. The findings section is meant to tell a brief, fact-based story about why the legislation is needed but is not itself binding law. These facts include the widening clean water funding gap, the aging infrastructure challenge, the decrease in federal clean water funding, expansion of regulatory requirements, the advent of innovative approaches, and the difficult financial circumstances that municipalities face — all of which point to the need for a new regulatory prioritization approach.

Sec. 3 — Developing EPA Guidelines for State Water Quality Attainment Plans

EPA would publish guidance setting out a process and some key considerations to guide each State in the development of a water quality attainment plan. The guidelines would be established in close consultation with states and communities and with a full notice and public comment period. The legislation also lays out six key considerations that must be included in the guidelines. EPA can add as many others as the Agency deems necessary. Examples of these key considerations include: 1) the relative contribution of pollution from community wastewater systems as compared to other sources; 2) the costs of new or additional regulation relative to their health and environmental benefits; 3) benefits from innovative technologies, such as green infrastructure, as well as innovative management approaches, including watershed management; 4) community financial capability to achieve Clean Water Act compliance; 5) the impacts of shifts in population size, economic conditions, and climatic conditions; and 6) compliance with interstate agreements. The EPA guidelines would have to be completed one year after enactment of the legislation and updated every ten years thereafter.

Sec. 4 — Procedures for the Development of State Water Quality Attainment Plans and EPA Approval

Within one year after completion of EPA's guidelines (See Sec. 3), the States' water pollution control agencies (or EPA in those States that do not have delegated authority) must complete their water quality attainment plans that outline compliance priorities for community wastewater systems. If any State fails to do so EPA must step in and complete such an attainment plan on behalf of the State. The process also ensures that community wastewater systems be consulted in the development of these plans and that a notice and

comment period be included. EPA must review these State plans within 90 days of receipt and this Section sets out a process in the event EPA disapproves of the State plan.

Sec. 5 – Procedures for the Development of Community Wastewater Systems Priority Plans and State Approval

This Section builds on Section 4 and requires each State water pollution control agency (or EPA where a State does not have delegated authority) to develop, in addition to the water quality attainment plan, an application and approval process for community wastewater systems (see below under Sec. 7 – Definitions) seeking a change/s to their existing compliance schedules.

This section also sets out the procedural provisions for the community wastewater system priority plans, which must include the opportunity for notice and comment, minimization of paperwork for municipal prioritization applications, and a quick (90 day) response by the State to any municipal prioritization applications.

This section also provides for the key “changed circumstances” that can trigger a municipal prioritization application. These include: 1) new scientific data, modeling or other predictive calculations; 2) proposed innovative treatment approaches; 3) new or additional regulatory, permitting or other enforceable requirements, including judicial or administrative consent orders; 4) efficacy of existing treatment and management techniques as well as the advent of new management techniques; 5) changes in a system’s population served; and, of course, 6) changes in the financial capability of the community served by the system.

This section also requires that once the State approves a priority plan application, it must incorporate relevant changes into the community wastewater system’s permit within 60 days.

Sec. 6 – Permit Term Limits

This Section would modify the Clean Water Act by fixing permit terms at 10 years rather than 5 years. This would allow community wastewater systems, and those who regulate them, to operate under permits with longer terms to accommodate long-term planning and construction projects, and to have reasonable expectations of permit compliance. It would also help States address the growing permit back-log and resource constraints.

Sec. 7 – Definitions

This Section defines several key terms but is self-explanatory in the legislation. NACWA took great care to ensure that the definition of a “community wastewater system” be carefully crafted to include publicly owned treatment works, municipal wastewater collection systems, sanitary or combined sewer overflow systems, and municipal separate storm sewer systems. The Definitions Section also defines “State Water Quality Attainment Plan” and “Community Wastewater Priority Plan”.