

December 21, 2012

Connie Bosma

Municipal Branch Chief, Office of Wastewater Management

U.S. Environmental Protection Agency, Office of Water

Ariel Rios Building

1200 Pennsylvania Avenue, NW

Washington, DC 20460

Via Electronic Mail: Bosma.Connie@epamail.epa.gov

Re: Local Government and Municipal Organization Stormwater Rule Meeting

Dear Connie:

The American Public Works Association (APWA), the National Association of Clean Water Agencies (NACWA), the National Association of Counties (NACo), the National Association of Flood & Stormwater Management Agencies (NAFSMA), and the National League of Cities (NLC) would like to thank the U.S. Environmental Protection Agency (EPA) for providing an update on the development of a new national stormwater rule to our organizations on November 7. Because our organizations will be involved in facilitating the final rule implementation, we appreciate the Agency's willingness to participate in a productive dialogue, while considering our questions and concerns.

As EPA progresses with the rule development process, the local government and utility communities are eager to continue the dialogue with the Agency to ensure the new rule will meet the goals of the Agency and the communities we serve. As a result of our recent meeting, we now have a deeper understanding of the complex issues and challenges surrounding the rule and appreciate that our concerns are being taken into account.

As part of an ongoing discussion with EPA regarding the stormwater rule, we are respectfully requesting additional clarification and discussion on the following issues.

Performance Standard Implementation

We recommend that EPA provide flexibility under the rule for implementation of new development and redevelopment performance standards, namely long, multi-year implementation schedules. This "phasing-in" of code and ordinance changes would allow local governments to integrate the changes with other infrastructure and maintenance plans and minimize overall cost for cities, counties and utilities. It is important that the rule recognize the significant financial challenges cities, counties and utilities face during the current economic recovery.

Retrofit Component

We have concerns about the possible inclusion in the rule of a requirement to manage discharges from existing areas of impervious surfaces. We understand that EPA is no longer referring to this potential approach as a "retrofit requirement." However, from a local government and municipal utility perspective, such an element in the rule would essentially require retrofits of existing areas of impervious surface separate and apart from any planned redevelopment with the potential to impact roadways and

other public spaces. Further clarification from EPA on how a retrofit component might be structured would be very helpful.

Jurisdictional Changes

One of the issues discussed at the meeting as a potential element in the rule is an expansion of federal stormwater regulatory jurisdiction. As part of this approach, EPA discussed the possibility of targeting individual stormwater dischargers located outside of existing jurisdictional boundaries if the discharger is contributing to water quality impairment. We have some concerns with exactly how this process would work and which entities would be responsible for enforcing such permits, and would appreciate additional information from EPA on this point.

Rulemaking Schedule

We understand that under the current timetable for rule development, EPA plans to release a draft for public comment in June 2013 and a final rule in December 2014. We also understand EPA is considering a 90-day public comment period. We believe the 90-day public comment period is the minimum amount of time necessary for productive and thoughtful public input. We hope you agree.

APWA, NACWA, NACo, NAFSMA, and NLC all appreciate the opportunity to discuss a new national stormwater rule with EPA. We would welcome the opportunity to meet with you again to continue our discussion, and look forward to continued engagement with EPA over the coming months as the Agency works to finalize a stormwater rule proposal.

Sincerely,



Matthew Chase
Executive Director
National Association of Counties



Peter King
Executive Director
American Public Works Association



Ken Kirk
Executive Director
National Association of Clean Water Agencies



Susan Gilson
Executive Director
National Association of Flood & Stormwater
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Donald Borut
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