



March 4, 2015

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NACWA Requests Withdrawal of Dental Amalgam Separator Rule

NACWA submitted [comments](#) on February 20 on EPA's [proposed Dental Amalgam Separator rule](#), asking the Agency to withdraw the rule because it is unnecessary and its costs are not justified by its environmental benefits. The rule would require the over 100,000 dental offices that place or remove amalgam to have separators installed. Utilities with pretreatment programs would be required to provide oversight of these dental offices, which must also submit annual certifications and follow best management practices.

NACWA requested that EPA withdraw the rule since states and utilities have the authority to establish dental amalgam separator programs when needed, and many have already established successful programs. Utilities that do not have mercury problems with their effluent or biosolids could better spend their resources on other environmental issues. NACWA also stated that "EPA's analysis to justify the rule is fatally flawed." EPA used the out-of-date *50 POTW Study* to determine mercury removal efficiencies, underestimating current mercury removal capabilities of wastewater treatment plants. The Agency also overestimated the number of dental amalgam fillings that are placed and removed, leading to an overestimation of the amount of mercury that is currently discharged to POTWs from dental offices. The costs to utilities was severely underestimated, with EPA allowing less than 10 minutes to verify compliance of each dental office in the U.S.

In its comments, NACWA extensively used the information submitted by over 200 wastewater treatment utilities in the Association's *Mercury & Dental Amalgam Separator Survey* which some of our State and Regional partners generously helped circulate. The survey data demonstrated that utilities do not have problems meeting their effluent and biosolids requirements for mercury. Additionally, the data submitted by utilities that already have dental amalgam separator programs enabled NACWA to estimate the cost of the rule to utilities and other control authorities as \$12 million/year, plus an initial cost of \$24 million to develop dental amalgam separator programs.

EPA's estimate for utilities and other control authorities was \$960,000/year. NACWA will continue to push for withdrawal of the proposed rule.

Administration Releases FY2016 Budget Request

On February 2, the Obama Administration released its [FY 2016 Budget Request](#). Overall spending for EPA would increase by \$460 million to \$8.6 billion and spending levels on investments in water and wastewater infrastructure would be maintained near FY 2015 levels at \$2.3 billion. The budget does, however, propose some shifts in this spending including a \$333 million cut to the Clean Water State Revolving Fund (CWSRF) and a \$279 million increase to the Drinking Water State Revolving Fund (DWSRF), dedicating \$1.118 billion and \$1.186 billion respectively to these programs. NACWA has learned that this shift is largely due to the fact that the DWSRF has not enjoyed the levels of funding that the CWSRF has, coupled with the concern over the events in Toledo and the need to better protect drinking water sources.

The Administration is also requesting \$50 million for technical assistance, training, and other efforts to enhance the capacity of communities and states to plan and finance drinking water and wastewater infrastructure improvements, of which \$5 million would be used to administer the *Water Infrastructure Finance & Innovation Act (WIFIA)*.

This year's budget proposes a new bond program called *America Fast Forward Bonds*, similar to the *Build America Bonds*, which would provide state and local governments with an optional taxable bond alternative to traditional tax-exempt bonds. The Federal Government will share in the cost of these bonds so they are as affordable to issuers as tax-exempt bonds, and the proceeds can be used to further finance governmental capital projects. The Administration is also proposing a new *Qualified Public Infrastructure Bond (QPIB)* program that is intended to incentivize public-private partnerships and would effectively lift the caps currently in place on the *Private Activity Bond* program. These programs require Congressional approval. A more detailed look at the EPA FY2016 budget can be found [here](#).

The Obama Administration Focuses on Infrastructure Finance, 'Predevelopment'

The White House called for the creation of a *Water Infrastructure Finance & Resilience Center* in early 2015 and issued a brief [memorandum](#) that focused on the *Center's* role in increasing federal support for 'predevelopment' activities for public infrastructure projects. 'Predevelopment' refers to the pre-construction stages of a project such as feasibility studies, financial planning, cost-benefit analyses, permitting, and environmental impact assessments. Increased investment in predevelopment is also expected to translate into prioritized projects that use innovative technologies and financing methods – including public-private partnerships. NACWA believes that a focus on predevelopment can lead to increased technical assistance and financial guidance being offered by large, more sophisticated utilities to smaller ones and is also very much in line with both NACWA's advocacy work on integrated planning/affordability, as well as its *Water Resources Utility of the Future* initiative. State and regional clean water organizations would be key in connecting smaller communities depending on how the predevelopment initiative evolves.

A blog post in NACWA's blog, [The Water Voice](#), focuses on the increasing focus on financing rather than funding, and what this means for the clean water community. Clean water organizations around the country need to work with NACWA, the Administration and Congress to make the rhetoric of a bold, bipartisan infrastructure package a reality and to ensure the new *Finance Center* accounts for key public utility positions on financing.

NPDES Rule, Test Method Revisions and Permit Issues at the State Level

EPA has been busy working on updates to its test procedures and NPDES permit issues this winter. On February 19, EPA published a proposed [Methods Update Rule](#), outlining a number of potential changes to its test procedure regulations in 40 CFR Part 136. The proposed changes include the addition of new and revised methods and amendments to the procedure for determining method detection limits (MDL) to address lab contamination and to better account for intra-lab variability. NACWA is reviewing the proposed changes and will develop comments on the proposal prior to its April 20, 2015 deadline.

EPA has also resurrected a long-planned update to its NPDES permit program and application and staff from the water office's State and Regional Branch met with a select group of NACWA members on January 27 to begin a dialogue on the [NPDES Application and Program Updates Rule](#). This rule is intended to address application, permitting, monitoring and reporting requirements that have become obsolete or outdated over the past 35 years. Utilities may be impacted by the five key categories expected in the proposal, including application updates, updated Whole Effluent Toxicity (WET) and pesticide definitions, and clarifications to anti-backsliding, anti-degradation, and design flows. The Office of Management and Budget (OMB) may review the rule in late Summer 2015.

NACWA is also tracking permit developments at the state level that the clean water community should pay close attention to. While WET issues have been relatively quiet lately, a tentative permit for the Los Angeles County Sanitation Districts' (LACSD) San Jose Creek Water Reclamation Plant would have required use of the test of significant toxicity (TST), a WET test result evaluation methodology that has not been approved by EPA and that NACWA has raised significant concerns over in the past. In addition, the permit would limit LACSD's ability to use existing tools, like multiple concentration/dilution testing and dose response evaluation, that help to improve the reliability of WET tests. While NACWA rarely comments on matters impacting individual treatment plants, the tentative permit in question includes provisions that could have significant statewide and national impacts, so the Association submitted a letter outlining its concerns and many of the same objections it raised with EPA when it first attempted to use the TST.

USDA Announces Regional Conservation Partnership Program Funding; Pioneered by Clean Water Utilities

The U.S. Department of Agriculture (USDA) [announced](#) awardees for the first round of funding (\$370 million) under the newly established Regional Conservation Partnership Program (RCPP). Four projects receiving awards involve NACWA members either as a lead partner or as a participating partner, including:

- The City of Cedar Rapids, Iowa, as the leading partner for the Middle Cedar Partnership Project,
- The Madison Metropolitan Sewerage District, Wisconsin, a key partner for the Yahara Watershed Pilot project,
- The City of Columbus, Ohio, as a partner in a watershed project in the Upper Big Walnut Creek, and
- The City of Baltimore, Maryland, as a partner in the Mason-Dixon Working Lands Partnership.

The RCPP is a new program established under the 2014 Farm Bill to encourage partnerships between agricultural producers and other entities, including municipalities and wastewater authorities, to tackle water quality challenges and other natural resource problems. NACWA led the Healthy Waters Coalition in advocating for strengthening the links between agricultural policy and water quality during last year's Farm Bill reauthorization. The RCPP reflects the growing importance of embracing partnerships to address water quality issues around the country and accessing new funding sources for projects critical to Water Quality.

House-Senate Hearing Shows Majority's Opposition to Proposed Waters of the U.S. Rule

Republicans and Democrats continue to play political football with the proposed *Waters of the U.S.* rule (WOTUS), with this being clearly displayed during a lengthy [joint House-Senate Hearing](#) on Wednesday, Feb. 4. The hearing's purpose was to examine WOTUS's impacts on state and local governments. EPA is still reviewing the over one million comments they received last year concerning the proposed rule – including those submitted by NACWA and many state and regional clean water organizations.

At the hearing, EPA Administrator McCarthy explained that the purpose of the proposed rule is to "clarify the jurisdictional scope of the Clean Water Act (CWA), simplifying and improving the process for determining waters that are, and are not, covered by the Act". Throughout the hearing, Administrator McCarthy and U.S. Army Corps Assistant Secretary Jo-Ellen Darcy tried to clear up many misunderstandings and concerns regarding the proposed rule.

Despite the efforts to clarify, many Republicans remain dissatisfied. Many lamented EPA's lack of communication and collaboration with the states and pointed to the absence of trust between local stakeholders and the agency. Following the hearing, Rep. Bill Shuster, Chair of the House Transportation & Infrastructure Committee, and Sen. James Inhofe, Chair of the Environment & Public Works Committee, released a [joint statement](#) calling for the withdrawal of the WOTUS proposal arguing that it "would make it difficult to build anything" and that it would "cause greater confusion and increased costs". Included [here](#) are a video recording of the hearing and all written testimony. EPA continues to target late spring for the rule's release.
