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Regional Organizations Support Water Week 2015, Sign Letter for Municipal Funding

Over 40 organizations, including state and regional groups, other Washington-based organizations, and NGO's signed on as supporting organizations of the second annual [Water Week](#) in Washington, DC this month. As a part of this effort NACWA asked its state and regional partners to show their support of full funding for the Clean Water SRF and WIFIA – and for the appropriation of the \$13M requested for integrated planning letter – by signing on to a [letter](#) for use on Capitol Hill during Water Week to illustrate broad national support for clean water funding. In banding together, NACWA, WEF, the Water Environment Research Foundation (WERF), and WateReuse, advance national, state, and regional water priorities more effectively.

NACWA Helps State Water Groups Secure Two Key Legal Victories

A Maryland appellate court issued a decision on April 2 in a closely watched case involving the appropriate regulatory standards for municipal stormwater permits, giving NACWA and its municipal partners in the case an important legal win. The decision in *Maryland Department of the Environment v. Anacostia Riverkeeper* reaffirmed that the Clean Water Act's (CWA) "maximum extent practicable" (MEP) standard for municipal separate storm sewer systems (MS4s) does not require strict compliance with water quality standards. NACWA joined with the Maryland Municipal Stormwater Association (MAMSA) in a municipal coalition to file a [brief](#) in the case, and much of the court's analysis on the MEP issue echoes arguments from the brief.

Ohio TMDL Legislation

The Ohio Supreme Court issued a [ruling](#) on March 24 in the *Fairfield County v. State of Ohio* case, vacating the phosphorus limits in a National Pollutant Discharge Elimination System (NPDES) permit. The limits were vacated because they were derived from an underlying total maximum daily load (TMDL) that should have been promulgated as a rule pursuant to the state Administrative Procedures Act (APA). The court's ruling echoes arguments made by NACWA and the Association of Ohio Metropolitan Wastewater Associations (AOMWA) in a joint [brief](#) filed in the case.

The joint NACWA/AOMWA brief argued that permittees should have an opportunity for meaningful review – and potential legal challenge – of TMDL allocations before incorporation into a discharge permit, and that the failure to provide such review is a violation of due process. Before this ruling, state regulators in Ohio argued that a utility could not mount a legal challenge to a specific TMDL allocation or limit until that allocation was used to derive a particular effluent limit in an NPDES permit. Although this ruling only applies to Ohio, it sets a very positive precedent nationwide for clean water agencies making similar arguments and may impact how other courts elsewhere in the country examine this issue in the future.

NACWA was pleased to partner with MAMSA and AOMWA on these efforts to bring national attention to state issues that could have far-reaching implications, and is always available to work with other state and regional groups as needed.

Clean Water Legislation Round-up

March and April are always busy on the Hill, and this year is no exception! NACWA actively assisted in development or supported a number of bills that benefit the national clean water community:

- Rep. Bob Latta (R-OH) along with Rep. Tim Walz (D-MN) reintroduced the [Clean Water Affordability Act](#) which addresses key affordability concerns that many utilities face in meeting Clean Water Act (CWA) challenges – especially those relating to wet weather management. Specifically, the legislation codifies the *Integrated Planning Framework* and enables NPDES permits to be extended for communities with an approved integrated plan in place; requires the EPA to revise its guidance for determining a community's financial capability to meet wet weather-related CWA compliance obligations; provides communities more tools for managing peak wet weather flows within sanitary sewers; and, establishes a 15% set-aside for rural communities within the Clean Water State Revolving Fund program.
- Sen. Tom Udall (D-NM) and Rep. Donna Edwards (D-MD) re-introduced *The Innovative Stormwater Infrastructure Act of 2015* on April 14, in conjunction with Water Week 2015. [S. 896/H.R. 1775](#) provide critical support to innovative stormwater strategies and increase flexible approaches to effectively manage polluted runoff and sewage overflows – while relieving pressure on aging infrastructure. NACWA worked with other allied organizations, including American Rivers, the American Society of Landscape Architects (ASLA), National Resources Defense Council (NRDC), and WEF to provide technical assistance to the bill's sponsors. A [joint press release](#) was issued by the groups. The Association will continue efforts with this coalition to garner broad and bipartisan support – and applauds the more than 19 co-sponsors for their commitment to providing resources for communities to address stormwater runoff.
- Sen. Ben Cardin (D-MD), along with Sens. Harry Reid (D-NV) and Barbara Boxer (D-CA) re-introduced the [Water Infrastructure Resiliency & Sustainability Act](#). The legislation would help drinking water, wastewater, and stormwater utilities prepare for the impacts of climate-related risks. A House companion measure was introduced earlier by Rep. Lois Capps (D-CA). Under the legislation, utilities could apply for EPA matching funds to implement projects that address the most significant climate-related risks – and benefit the largest numbers of water users. NACWA, along with several water sector associations, helped develop the legislation and together sent a [letter](#) in support.
- NACWA joined five water organizations to send a [letter of support](#) for H.R. 1731, the [National Cybersecurity Protection Advancement Act](#) and H.R. 1560, the [Protecting Cyber Networks Act](#). Both bills passed by simple majority in the House. The two bills propose to: 1) set parameters for how the federal government, private entities, non-federal government agencies, and state, tribal, or local governments share sensitive cyber threat information; 2) authorize private network operators to monitor networks for cyber threats and take appropriate defensive measures when threats are identified; and, 3) offer

protections to encourage private sector participation in these efforts. A vote on the Senate companion bill has yet to be scheduled and it is unclear when it will consider the legislation.

Controversial Clean Water Rule at OMB for Review

The Army Corps of Engineers and U.S. EPA sent the draft final Clean Water Rule, formerly known as the Waters of the United States Rule or WOTUS, to the White House Office of Management and Budget (OMB) April 6 for interagency review. The final rule could be published as soon as early May. A final Clean Water Rule would have far-reaching implications on many CWA programs, and NACWA, along with the entire national water community, is tracking its progress closely. Efforts also continue on Capitol Hill to slow finalization of the rule down and NACWA is tracking these efforts as well.

NACWA Launches State & Regional Stormwater Group

NACWA is establishing a national umbrella coalition for state/regional stormwater groups, similar to NACWA's State and Regional outreach group that already exists, but specific to stormwater. The main goal of this coalition would be to provide a forum for state/regional SW groups to coordinate with each other and NACWA on key stormwater issues they are facing, while also tapping them in to advocacy developments at the national level. The stormwater coalition would be set up in the same fashion as NACWA's existing state and regional outreach with quarterly conference calls and a bi-monthly electronic publication similar to the Clean Water Exchange email but specific to stormwater issues.

Local stormwater groups have a better understanding of their regional issues and need to be able to dictate, to an extent, what the coalition's priorities will be, so this would very much act as a 2- way street. NACWA would provide national perspective and info, and the organizations can have a forum to organize behind specific issues and request that the Association focus on particular advocacy initiatives on their behalf. If your organization is interested in participating in this coalition, or you know of another stormwater-focused regional group who might be, please contact [Brenna Mannion](#).

EPA to Host Training for Extreme Events and Environmental Justice Tool

NACWA has assisted EPA's Climate Ready Water Utilities (CRWU) initiative to develop a series of seven training workshops for the water utility sector around the country. The two-day [Coastal Resilience Trainings](#) for water sector technical assistance providers and [Extreme Events & Climate Adaptation Planning Workshops](#) will focus on how new EPA tools can increase the resilience of drinking water, wastewater and stormwater utilities. Seating for the sessions is limited. Draft agendas will be posted soon. The workshops and training will take place in Florida, Texas, Alabama, New York, New Mexico, Oregon, and Iowa.

EJSCREEN Webinars

EPA will be hosting three webinars on EJSCREEN, the Agency's new environmental justice screening tool. The tool offers powerful data and mapping capabilities that display environmental and demographic information at a high geographic resolution across the entire country. EJSCREEN is intended to be an informational tool for use by EPA, states, the regulated community, particularly GIS staff, and the public to screen for a variety of environmental, demographic, and economic factors that could be helpful to understand when making environmental compliance decisions. Each webinar will offer the same information. The webinars will be held on May 12, May 28, and June 3. [Registration](#) is required.

NYT Features Flushable Wipes; Stewardship Initiative to Begin

The New York Times published an [article](#) on March 13 – *Wet Wipes Box Says Flush. New York's Sewer System Says Don't*– focusing on the problems caused by wipes for wastewater utilities. The article was followed by an editor's [blog](#) on March 16 reiterating the "don't flush wipes" message. The article described the problems faced by NACWA Member, the New York City Department of Environmental Protection, and quoted Cynthia Finley, the Association's Director, Regulatory Affairs. The wipes issue in New York City has attracted the attention of the City Council, which has responded by [proposing a local law](#) to prohibit a nonwoven material from being advertised or labeled as "flushable." A city in Minnesota filed a first-of-its kind [lawsuit](#) against six wipes manufacturers just last week.

This renewed media attention on wipes comes as NACWA continues its work with the wipes industry and other water sector associations to address the issue. A committee tasked with developing new flushability guidelines for wipes has met twice. The committee is comprised of representatives from NACWA, the Water Environment Federation (WEF), the American Public Works Association (APWA), the Canadian Water & Wastewater Association (CWWA), and INDA (the trade association of the nonwoven fabrics industry). These five associations also began a *Product Stewardship Initiative* in March, when they met to establish a roadmap for how the wipes industry can take greater responsibility for the downstream impacts of its products by improving product labeling and consumer education.

