## Environmental Protection Agency

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clean Air Act</strong></td>
<td>Compliance with federal air pollution standards, including, but not limited to, monitoring air quality; retrofitting stationary and mobile sources of pollution and obtaining required permits; ozone and particulate matter (PM) standards for PM 10 and PM 2.5. While tighter standards for PM 10 and ozone have been temporary tabled, the reconsideration process for air standards resets every five years. Ozone reconsideration started in February 2014, the latest draft document proposed tightening the current standard of 75 parts per billion (ppb) to a range of 60-70 ppb.</td>
</tr>
<tr>
<td><strong>Particulate Matter Standards</strong></td>
<td>Mentioned briefly above, lowering PM standards is problematic, especially for rural areas, where practices governing regular everyday events such as cars driving down dirt roads and agricultural practices that sustain local economies could be regulated, as could natural events such as wildfires, droughts or wind storms. Because of the high, naturally occurring, dust levels found in arid climates, many western counties have a difficult time meeting the current PM standard. This, in turn, affects their economic base, which will further restrain economic recovery. Based on previous experience, non-attainment areas have difficulty maintaining and attracting businesses to their regions, since these businesses would have to operate under the tighter standards. Most businesses chose to relocate or not even build in a non-attainment area.</td>
</tr>
<tr>
<td><strong>Pesticides Regulation</strong></td>
<td>The general permit for pesticides became effective the end of October, 2011. NACo has heard mixed reviews from our counties. Some counties, have changed spraying patterns, which may not be as effective as previous practices. The general permit has a heavier paperwork burden for spraying activities. This in turn has changed the way counties administer the program. Since county governments serve as primary service providers for their residents, this permit has significant effects on county programs, particularly mosquito abatement and noxious weed control efforts, creating unfunded mandates for both urban and rural counties through the tight reporting requirements.</td>
</tr>
<tr>
<td><strong>Clean Water Act</strong></td>
<td>Compliance with federal regulations and mandates related to: county owned water and wastewater treatment regulations; combined and sanitary sewer overflow consent decrees; &quot;Waters of the U.S.&quot; definitional changes (refer below for more specific problems with the navigable &quot;waters of the U.S.&quot; regulation program); regulation of point and non-point discharges (including those from forest roads), including standards for improving and maintaining water quality; and the upcoming stormwater regulations which will impose tighter requirements on local governments.</td>
</tr>
<tr>
<td><strong>Drinking Water</strong></td>
<td>Establishes maximum contaminant levels for contaminants in public water systems and specifies treatment techniques to be used. Upcoming regulations that will have a direct impact on local governments that own/operate drinking water facilities include the lead and copper rules.</td>
</tr>
<tr>
<td><strong>Resource Conservation and Recovery Act</strong></td>
<td>Cleanup at landfills, superfund sites and underground storage tanks - Local governments who own landfills are subject to federal standards regarding location, operating criteria, groundwater monitoring, corrective actions, closure and post-closure care. For Superfund sites, the issues stem from institutional controls such as zoning around sites, setting and enforcing easements and covenants and overseeing building and/or excavation near sites.</td>
</tr>
<tr>
<td><strong>Coal Ash</strong></td>
<td>Coal ash, aka “Fly Ash,” is a byproduct of coal combustion for electricity generation. Coal ash is used in the production of concrete and is a mixture of choice for many local transportation projects because of its performance and cost-saving benefits. However, the EPA has proposed to reclassify coal ash as a hazardous material. This would prevent it from being used in road projects. The American Road and Transportation Builders Association estimates costs would increase $104 billion over the next 20 years if coal ash was no longer available as a road, runway, and bridge building material.</td>
</tr>
</tbody>
</table>
Brownfields redevelopment has created some of the biggest success stories for local governments. However, the EPA is assessing whether to drop its dioxin levels to a point that would halt all brownfields development in the nation. While dioxin can be created as a byproduct through manufacturing, it is also naturally occurring. The levels the EPA proposed to lower dioxin are equal to many naturally occurring levels. NACo would urge the EPA to revisit the science used behind the health standards. Otherwise, this could be a huge loss for local governments.

### Compensation Wetland Mitigation

Rule issued in conjunction with EPA. Local governments request added flexibility in meeting wetland mitigation requirements. Specific example includes variance between state and federal requirements. In this case, the state has an expanded set of options to meet the requirement that is not necessarily followed at the federal level. Therefore a local government may satisfy state requirements but not be able to meet federal requirements.

### Ditch Drainage Requirements

The excessive amount of requirements necessary to provide information for USACE to review before a project is approved is both costly and time consuming for counties. For example, a county that wished to pursue and complete a drainage project was informed that the following was needed by USACE before work could be started: detailed plans showing existing condition, photos of areas where work will be done, details concerning existing water surface elevation, ordinary high water line, calculations of amount of material to be excavated, and a wetland delineation. Just to do this, the county would need to hire engineers to survey and perform calculations. All of this would significantly add to the cost of the project without necessarily ensuring clean water.

### Post construction requirements – 404 Permit related

The post construction monitoring process adds costs for channel rebuilds and other mitigation measures. For example, one county, after completion of a bridge replacement project, was required by NOAA Fisheries and FHWA to reinitiate formal consultation due to shifting boulders in the stream bed. State fish and wildlife officials supported the county in its objection and in its request to allow the channel to continue to stabilize. An updated BA and additional reporting would cost the county $50,000 in this instance. Should the reconstruction of the stream bed be required by the agencies, almost $1M in additional costs could be incurred.

### Waters of the U.S.

Any changes to “Waters of the U.S.” definition within the CWA will have an impact on county owned and maintained ditches such as roadside, flood control, stormwater, etc. Additionally, since there is only one “waters of the U.S.” definition in the CWA, changes would impact more than the Section 404 permit program. A proposed “waters of the U.S.” rule was published on April 21 jointly by EPA and Corps. The public comment period ended end Nov 14. Concurrently, EPA is developing its connectivity report (need to use official name) that will be used as the scientific basis of the proposed rule.

### TRANSPORTATION

#### Grant Requirements

Requirements do not provide flexibility during implementation phase. For example, a county applies for funding to install electronic dynamic driver feedback speed limit signs. The county would like to purchase the signs using grant funding and then use county resources (e.g. staff) to install them. Requirements however, dictate that all stages of the process must be let out to private contractors which further implies other requirements, e.g. Davis-Bacon, EEO, etc.

#### MAP-21

MAP-21 provides for some major reforms in regard to project delivery/environmental streamlining. It also proposes to modify the categorical exclusion process for NEPA review of certain projects. NACo continues to be engaged in rulemakings pertaining to these areas.
### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

**National Marine Fisheries Service**

The Biological Assessment (BA) process through NMFS is extremely time consuming and raises costly barriers. For example, one county was working on a joint interchange project with the state to address urban growth. In an attempt to navigate the federal environmental permitting process, the project took two years alone to navigate the BA consultation with NMFS. A standard BA consultation generally takes 9-12 months but the NMFS process added more than a year in time and approximately $1M in additional engineering costs with no added value to the project.

### MISCELLANEOUS/MULTIPLE AGENCIES

**Inmate Healthcare**

The Supreme Court required counties to provide health care for jail inmates in Estelle v. Gamble, 429 U.S. 97 (1976), while the federal government refuses to contribute to the provision of Medicaid, Medicare, CHIP or veterans’ health benefits or services for otherwise eligible inmates.

**Funding assistance-applications**

When applying for funding assistance from separate sources/agencies for one project, multiple applications are required. The duplicity and lack of interchangeability of the forms and the agencies is very time consuming for local governments.

**Use of .gov Domain for County Websites**

US GSA regulates the use of this extension. Arguably, this would make county sites easier to recall constituents. Rules for use, however, restrict counties from enacting local ordinances/laws to assist in offsetting technology costs associated with website operation and maintenance via approved and regulated advertising.

**Website Accessibility**

The Department of Justice is currently considering a rule that would establish requirements to make websites for state and local governments accessible to individuals with disabilities. An advanced notice of the proposed rule was issued in 2010; however the Department has yet to issue the proposed rule. While counties support ensuring individuals with disabilities are able to access public information, the resources and additional funding needed for county websites to meet whatever standard is required by the rule will vary on a county by county basis and must be taken into consideration when determining the implementation period of the rule.