<table>
<thead>
<tr>
<th>ENVIRONMENTAL PROTECTION AGENCY</th>
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<td><strong>Clean Air Act</strong></td>
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<td><strong>Particulate Matter Standards</strong></td>
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<td><strong>Pesticides Regulation</strong></td>
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<td><strong>Stormwater Regulations</strong></td>
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### Blending and Bypass

In a March 2013 court case, *Iowa League of Cities v. EPA*, the U.S. Court of Appeals for the 8th Circuit struck down EPA’s prohibitions against the practice of blending wastewater at Publically Owned Treatment Works (POTW) during wet weather events and against the use of mixing zones in permits for compliance with bacteriologic standards. Despite requests by NACo and other local government groups that this practice should not be prohibited nationwide, EPA stated that the use of blending and bypass is only applicable to areas within the 8th Circuit Court’s jurisdiction and not applicable to other areas of the country. This court decision should be applied to all regions rather than just to the 8th Circuit Court region.

### Drinking Water

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 and the cyanotoxin advisory requirements.

### Resource Conservation and Recovery Act

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.

### Brownfields Redevelopment/Dioxin

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.

### ARMY CORPS OF ENGINEERS – SPECIFIC PROBLEMS DEALING WITH THE 404 PERMIT PROGRAM (EPA & USACE)

#### 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. What those changes are is not well understood nor has it been fully studied. This may have a significant impact on local governments.

### 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**

The U.S. General Services Administration regulates the use of this extension. Arguably, this would make county sites easier to recall for 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; and a supplemental advanced notice of the proposed rule seeking more information on issues the agency should consider when drafting the rule was issued April 2016. The timing for the final rule is undetermined. 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.

**Overtime Pay**

In May 2016, the U.S. Department of Labor (DOL) released their final rule on overtime pay. The rule to amend regulations under the Fair Labor Standards Act (FLSA) that determine which employees are eligible for overtime pay, and nearly doubles the maximum salary for overtime eligibility from $23,660 to $47,476. The rule will take effect on December 1, 2016 and applies to executive, administrative and professional employees—collectively referred to under FLSA as “white collar” workers.

**Assessment of Fair Housing**

The U.S. Department of Housing (HUD) released a final rule on updating Affirmatively Furthering Fair Housing practices and a proposed rule on the Assessment of Fair Housing Tool. HUD grantees are supposed to use the Assessment of Fair Housing (AFH) tool to analyze their fair housing goals to more effectively carryout their obligation to affirmatively further fair housing. AFH replaces the current Analysis of Impediments (AI) process which required HUD grantees that receive CDBG, HOME and Emergency Shelter Grants funding to identify local barriers to fair housing choice. The AFH is a much more comprehensive planning process, requiring jurisdictions to look at patterns of segregation and integration; racially and ethnically concentrated areas of poverty, and disparities in access to opportunity, as well as the contributing factors of those issues. The Tool is expansive and will take staff time and likely financial resources to implement. NACo submitted comments expressing concerns about the AFH Tool due to the lack of data provided by HUD for the new planning process and because HUD is not providing any funding to grantees to implement the new planning process and because HUD is not providing any funding to grantees to
implement the new planning process. NACo continues to engage the Administration and Congress about county concerns with the AFH rulemaking.