

2018 POLICY BRIEF

SUPPORT EFFORTS TO MAKE CLEAN WATER ACT REQUIREMENTS AFFORDABLE AND ACHIEVABLE THROUGH INTEGRATED PLANNING

QUICK FACTS

- Counties own and maintain a vast amount of water infrastructure—drinking water utilities, wastewater treatment plants and stormwater infrastructure—all of which are subject to federal Clean Water Rules.
- Over 780 communities have been impacted by wastewater related federal consent decrees.
- Over the past ten years, over \$40 billion in mandated Clean Water Act wastewater and stormwater upgrades were required for communities large and small nationwide.
- Since many water systems are paid by user fees, increased CWA costs are borne by residents and the communities in which they serve.

ACTION NEEDED:

Urge your U.S. House of Representative member to support and cosponsor draft legislation titled the *Water Infrastructure Improvement Act* sponsored by Rep. Bob Gibbs (R-Ohio), which addresses affordability issues within Clean Water Act (CWA) regulations and emphasizes the use of integrating planning within the EPA to meet CWA mandates.

BACKGROUND:

In an effort to resolve Clean Water Act (CWA) affordability issues, Rep. Gibbs plans to introduce the *Water Infrastructure Improvement Act* to address concerns raised by local governments regarding CWA regulations costs.

The *Water Infrastructure Improvement Act* directs the EPA to establish an integrated planning and permitting process for municipal wastewater and stormwater management to ease compliance with CWA requirements. In addition, the legislation requires the EPA to consider the extent local governments and residents can afford tighter CWA requirements. The bill also establishes an EPA Office of Municipal Ombudsman to work with communities on integrated planning and CWA compliance issues. Lastly, the bill instructs the agency to work with at least 15 pilot communities to develop integrated plans within the first five years after enactment. NACo is encouraging House members to support and cosponsor the *Water Infrastructure Improvement Act*.

Enacted in 1972, CWA is a U.S. federal law that regulates pollutant discharge into the nation's navigable waters. It is tasked to restore and maintain the chemical, physical and biological integrity of the nation's waters by preventing pollution discharge in the waters. Through CWA, EPA sets federal water quality standards, which states and localities must implement.

Counties play pivotal role in the CWA as both a co-regulator and a regulated entity in protecting the environment and providing water services for our residents and businesses. As a regulator, counties are tasked to protect water quality in their jurisdictions. As a regulated entity, counties own and maintain a vast amount of public infrastructure including drinking water utilities, wastewater treatment plants and stormwater infrastructure, which is subject to federal CWA rules and regulations.

However, the costs to meet these federal requirements have risen dramatically, primarily due to legal challenges against communities. Since the 1990's, the EPA and U.S. Department of Justice (DOJ) have increasingly relied on litigation-driven consent decrees and administrative actions to drive tighter CWA requirements at the local level for wastewater systems. Currently, there are at least 781 sewer districts from across the country that are under a consent decree, in litigation or under threat of litigation for CWA compliance issues. The litigation and/or the cost of implementing consent decrees are extremely expensive, and local governments, citizens and ratepayers often shoulder the additional costs.

In the past ten years alone, over \$40 billion in mandated CWA wastewater and stormwater upgrades were required for communities large and small nationwide through the EPA and DOJ's use of litigation-driven consent decrees. Since many wastewater and stormwater systems are funded through user fees, this leads to significant rate increase for county residents. In some parts of the the country, low-income populations are paying upwards of ten percent of their gross income per year to meet increased CWA responsibilities. This is unsustainable for residents and local governments.

Recognizing these challenges, in 2012, the EPA released its "Integrated Municipal Stormwater and Wastewater Planning Approach Framework" (Framework) to drive reforms both within the EPA regions and local communities to address the high cost of water infrastructure. Essentially, the Framework offers local governments an opportunity to meet a multitude of federal clean water requirements by bundling and prioritizing CWA requirements across various water programs. This results in lower costs and higher environmental protection returns. Unfortunately, EPA's regional offices have been slow to adopt and use the Framework, which highlights the need to codify EPA's voluntary integrated planning policy.

In October 2017, the U.S. Senate passed their integrated planning bill – the *Water Infrastructure Flexibility Act* (S. 692) by unanimous consent. While NACo supports S. 692, the *Water Infrastructure Improvement Act* contains additional triggers to ensure that IP projects can move forward in a timely manner.

- Integrated planning allows counties to prioritize and bundle CWA requirements, which results in both more efficient environmental protection and cost savings for residents and local governments.
- NACo supports the *Water Infrastructure Improvement Act*. Urge your member to support and cosponsor Rep. Gibbs bill, the *Water Infrastructure Improvement Act*, that would accelerate the adoption of integrated planning within the EPA.

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KEY TALKING POINTS

- As owners, users and regulators of water resources and infrastructure, counties are directly impacted by federal CWA rules and regulations. Counties own and maintain a vast amount of public infrastructure including drinking water utilities, wastewater treatment plants and stormwater infrastructure.
- Since the 1990's, EPA has been using court-driven lawsuits to force local governments to comply with CWA requirements. Over the past ten years, over \$40 billion in mandated CWA wastewater and stormwater upgrades were required for communities large and small nationwide.



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