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Sewer Overflows

**Water Agencies Signal Need to Incorporate
Integrated Planning in Financial Assessment**

By Amena H. Saiyid

A white paper by the National Association of Clean Water Agencies says the Environmental Protection Agency needs to update guidance to assess the financial capability of municipalities to reduce combined sewer overflows.

In the white paper, NACWA said the "outdated" 16-year-old guidance does not reflect the holistic water quality benefit approach that EPA adopted in its June 2012 integrated planning policy for managing stormwater and wastewater.

NACWA represents publicly owned municipal wastewater treatment plants.

"In the same way that a holistic approach to water quality improvement is necessary to achieve ultimate environmental objective—as exemplified by EPA's Integrated Planning Framework—a fundamental change is also needed in how community financial capability is assessed," the group said in *The Evolving Landscape for Financial Capability Assessment: Clean Water Act Negotiations and the Opportunities of Integrated Planning*.

The white paper, which NACWA released June 13, for the first time spells out how the 1997 Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development "inadequately addresses" EPA's integrated planning framework, according to Chris Hornback, NACWA senior regulatory affairs director.

"We continue to believe that fundamental change is needed to the approach in the 1997 guidance. The inability of that guidance to address key elements of the Integrated Planning framework underscores the need for broader change,"

Hornback told BNA June 17 in an email.

Unlike the 1997 guidance, EPA's integrated planning approach explicitly directs regulators when evaluating a municipality's financial capability to consider "current sewer rates, stormwater fees and other revenue, planned rate or fee increases, and the costs, schedules, anticipated financial impacts to the community of other planned stormwater or wastewater expenditures and other relevant factors impacting the utility's rate base."

Moreover, the paper provides a way for EPA and the municipalities, which are under National Pollutant Discharge Elimination System permits to regulate wastewater and stormwater discharges, to use the integrated planning framework to assess financial capability to meet Clean Water Act obligations.

Going Beyond Snapshot

In the white paper, NACWA also recommends that EPA assess financial capability of municipalities to meet Clean Water Act obligations through the integrated planning framework that allows EPA to go beyond just providing a "snapshot" of current financial indicators without consideration of past or emerging trends affecting these values.

"Financial Capability Assessment (FCA), especially in the context of integrated planning, must set aside the static, 'snapshot' methodology used to prescribe schedule limits contained in the 1997 Guidance and instead better consider a community's changing economic situation by forecasting revenue and expense streams over the life of a water quality program," the paper said.

Affordability remains a key concern among municipalities trying to build or upgrade systems to manage stormwater and wastewater overflows, as well as those building or upgrading drinking water systems.

In some cases, cities and towns are held to compliance schedules under court-approved consent decrees or are required to make upgrades under Clean Water Act permits.

In response to those concerns, EPA in June 2012 issued an integrated planning framework to allow municipalities to prioritize spending on the basis of financial affordability as long as the projects improve water quality and meet Clean Water Act obligations. The framework allows municipalities to modify discharge permits, long-term plans for combined sewer overflows, and enforcement orders (43 ER 1555, 6/15/12).

The white paper does acknowledge that the 1997 guidance allows EPA to consider "special circumstances." Moreover, the paper notes that NACWA members have successfully used this flexibility, which EPA officials emphasize is not used enough, to negotiate more favorable schedules based on unique financial conditions in their communities, "but the absence of more formal methods of accounting for these conditions in EPA's financial capability assessment procedures has led to challenging negotiations and inconsistent implementation."

Brian Glass, a partner at Bryn Mawr, Pa.-based Warren Glass LLP, was involved in the negotiations between Philadelphia and EPA over the city's long term control plan that relies on green infrastructure alongside traditional storm drains and pipes to reduce combined sewer overflows. Glass told BNA June 18 that NACWA's white paper is "a welcome jumping-off point" for a much needed discussion about updating EPA's 1997 guidance document to better reflect and address evolving circumstances.

Glass said the existing guidance has created a lot of uncertainty and delay for sponsors of long term control plans that rely heavily on integrated planning and green infrastructure solutions to reduce combined sewer overflows, "and it may well be deterring some communities from pursuing these progressive plans, which have earned broad support from

regulatory agencies, regulated communities and environmentalists alike." He said EPA should give serious consideration to updating the existing guidance to better accommodate these plans, "and NACWA's white paper offers some promising ideas on how it might do so."

For More Information

NACWA's white paper, *The Evolving Landscape for Financial Capability Assessment: Clean Water Act Negotiations and the Opportunities of Integrated Planning*, is available at <http://www.nacwa.org/images/stories/public/2013-05-31fcalandsapesipdesign.pdf>.