

Modernizing the Clean Water Paradigm

The Clean Water Act (CWA) is one of the most successful environmental statutes in U.S. history. It has led to a significant reduction in pollution from point source dischargers, provided important investment to the nation's clean water infrastructure, and helped municipal clean water utilities become engines of innovation.

And yet, almost 45 years after its passage, the CWA is rapidly showing its age and inability to address new, complex issues. Water quality challenges such as excessive nutrients, climate change, emerging contaminants, and the development of new technologies to aid in meeting water quality goals were never contemplated by the Act's authors, and its command-and-control structure is proving incapable of adapting to modern water quality needs. In short, we are stuck using a mid-20th century statutory and regulatory framework trying to address 21st century challenges.

The time has come to modernize the clean water paradigm in a way that preserves the strongest and most successful aspects of our current structure while also creating a new suite of tools and resources to address the water quality realities of today and the coming decades. Developing a modern statutory construct for clean water will be a critical part of this effort, but it must go beyond that – it will also require clean water utilities to redefine relationships with regulators, as well as engage with stakeholders and the public in new ways to elevate the importance of clean water. NACWA is working to advancing this effort in three key ways:

- *Creating a Modern Statutory Construct* – The water quality and quantity challenges of the 21st century can only be addressed through a modern statutory approach with the following critical elements:
 - *Management of Water Quality Based on a Watershed Approach* – As technology-based controls alone become increasingly ineffective to address water quality impairments, we must focus on a holistic management approach that examines all sources of impairment in a watershed and how to achieve the best water quality at lowest cost. This includes a greater statutory focus on diffuse sources of pollution such as from agricultural non-point sources and a more comprehensive approach to addressing the underlying causes of water quality impairment that looks beyond the current pollutant by pollutant framework. A watershed construct will also provide the best flexibility to address the critical but still unknown impacts of climate change on water quality.
 - *A Unified Approach to Drinking Water and Clean Water Management* – At a time where water quantity, water quality, and water investment are increasingly blurring the lines between drinking water issues and clean water issues, the existing statutory divisions between the Safe Drinking Water Act and the Clean Water Act are rapidly becoming outdated. A modern “one water” statutory approach is needed that integrates both drinking water and clean water issues in the same way the public has always viewed it – as one common resource to be managed in an integrated fashion. Increasing reliance on water reuse to supplement water supplies underscores the need to explore the intersection of these two statutes.
 - *Empowering Utilities and Communities to Prioritize Clean Water Compliance* – While federal law provides an important framework for utilities to protect clean water and public health, local communities are best able to prioritize their investments and map out a path to meet their clean water obligations. Federal law must recognize this reality, initially through codification of Integrated Planning principles but also through more robust statutory provisions such as creation of true integrated, watershed permits and longer-term NPDES permits.

- Support and Encourage Innovation – Regardless of current law, clean water utilities will continue to innovate and advance new ideas. But doing so will be much easier under a statute that encourages and incentivizes new thinking. A modernized clean water statute must explicitly recognize that it will not be able to foresee or predict all of the water issues that may emerge in the future, and it must explicitly direct EPA to foster innovation to address these new challenges.
- NACWA is working aggressively in both the short term and the long term – with policy makers of all political stripes and interested stakeholders– to advocate for this new statutory paradigm and make it a reality.
- Creating New Relationships with Regulators – Municipal clean water utilities are the single most significant contributor to the CWA’s success. Working closely with state and federal regulators, these public utilities have collectively achieved an astonishing level of pollution reduction, both at their own facilities and at thousands of industrial facilities regulated by utilities under the federal pretreatment program. As a result of this hard work, municipal clean water agencies have earned the right – and the responsibility – to be treated as co-regulators in ensuring environmental and public health protections. This does not mean public utilities cease to have any meaningful regulatory oversight. But local utilities have earned the right to have direct input into the regulatory structure they will operate under in the future based on a foundation of continual self-evaluation and self-improvement. NACWA is working hard with our members, the states, EPA, and Congress to forge this new construct.
- Creating New Relationships with Stakeholders and the Public – Achieving a modern clean water paradigm can only occur if a wide spectrum of stakeholders and the public understand the need for a new approach and support its creation. Recognizing this reality, NACWA is building a consensus for change by engaging a diverse group of stakeholders – including environmental activist groups, farmers, industry, states, conservationists, academics, and others – to exchange ideas. It is only by sharing thoughts on a modern clean water paradigm that we can build a future vision that has the chance of becoming a reality. But most importantly, NACWA is committed to engaging the public in a broad conversation about the importance and value of water, and the need to elevate water as a national priority – because it is only through this public support that creating a new paradigm will be possible.

The last 45 years have seen remarkable progress in improving the quality of our Nation’s waters. But so much more remains to be done, and the municipal clean water community is best positioned to advance the needed progress. A new clean water paradigm is within our grasp – and NACWA is prepared to lead towards this new and better clean water future.