

**Written Testimony Submitted By:**

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**Submitted for the Record of the Hearing:**

***Building a 21st Century Infrastructure for America: Improving Water Quality through  
Integrated Planning***  
**May 18, 2017, 10:00 AM  
2167 Rayburn House Office Building**

**Subcommittee on Water Resources and Environment  
Transportation & Infrastructure Committee  
U.S. House of Representatives**

**Chairman Garret Graves, Louisiana  
Ranking Member Grace F. Napolitano, California**

## **Introduction**

The National Association of Clean Water Agencies' (NACWA) primary mission is to advocate on behalf of the nation's public clean water and stormwater agencies and the communities and ratepayers they serve. NACWA has nearly 300 public agency members who collectively treat and reclaim the majority of the nation's wastewater. The employees of these agencies are public servants, true front-line environmentalists, and stewards of ratepayer dollars who ensure that the nation's waters are clean, safe, and meet the strict requirements of the Clean Water Act (CWA).

We applaud the Subcommittee for holding this important hearing on the issue of clean water affordability and the U.S. Environmental Protection Agency's (EPA) Integrated Planning Framework for municipal wastewater and stormwater requirements. NACWA has played a leading role in urging communities to take advantage of EPA's integrated planning initiative.

There are a number of important bills that have been introduced in the 115<sup>th</sup> Congress in both the House and the Senate addressing integrated planning. As further discussed in the testimony below, NACWA is supportive of all the legislative efforts to advance integrated planning principles, and is deeply appreciative to all the legislators in Congress who have helped to champion this important effort.

Simply put, integrated planning allows a community to prioritize its obligations under the CWA so communities can spend their limited resources on the most pressing water quality challenges first. Integrated planning promises to provide significant and much-needed flexibility for many communities facing major federal clean water obligations and water quality challenges. In fact, since EPA's Framework was developed in 2012, more than 30 communities have initiated integrated planning efforts and a handful of communities have completed the process, benefitting from thoughtful plans tailored to their community. NACWA believes that codification of integrated planning under the CWA, as well as additional strategic policies detailed below to help address municipal affordability, will advance innovation and a focus on maximizing environmental and public health return on investment.

The Subcommittee's focus on these important issues today reflects recognition that it is time to do things differently under the CWA. In the 45 years since the law's enactment, tremendous gains have been made in controlling point source pollution, including the publicly owned treatment works (POTWs) that are managed by NACWA's members. The resulting water quality improvements have enabled millions of Americans across the country to safely access and enjoy the water resources in their communities, improved wildlife habitat, spurred new economic opportunities, revitalized waterfronts and raised property values.

Continued progress on the significant water quality challenges that remain, however, will be harder if we continue with status quo approaches under the CWA. We have addressed much of the low-hanging fruit under the CWA, but affordability challenges are now setting in. Furthermore, the CWA was not designed to address what is now the largest driver of remaining water quality impairments in the U.S., non-point source pollution. Meanwhile, the Act has created a layering of wastewater treatment and stormwater management obligations on municipalities with little room for prioritization or innovation. As a result, municipalities are grappling with major economic hardship and individual ratepayers are challenged by high sewer and

stormwater bills, yet these communities may reap relatively marginal water quality gains despite the growing investment needed to achieve them. This is, in short, a law of diminishing returns that integrated planning can help address.

For these reasons NACWA thanks the Subcommittee for its attention to these critical issues today. As the national advocates for municipal clean water agencies we look forward to continued engagement as you work to advance these issues in the 115<sup>th</sup> Congress.

## **Affordability Concerns and the Clean Water Act**

There is little doubt that the nation's water quality has improved as a result of the CWA, yet the command-and-control nature of the statute has led to a buildup of costly regulations on the nation's communities and ratepayers. The list of costly CWA requirements is well-known—from wet weather-based requirements dealing with combined and separate sanitary sewer system overflows and stormwater run-off, to specific pollutant-based requirements such as nutrient removal, and permit limits to implement expensive total maximum daily loads (TMDLs). As regulations continue to get more and more stringent, many communities across the country have also agreed to costly enforcement-based requirements and permit terms, such as sewer overflow consent decrees that can cost individual communities billions of dollars—often to meet a single CWA requirement.

Separate and apart from regulatory requirements, municipal clean water agencies face a looming crisis with their aging network of pipes and systems. EPA's 2012 [\*Clean Watersheds Needs Survey\*](#) estimates that it will cost POTWs \$271 billion in capital investment over the next twenty years to address the water quality objectives of the CWA. Water quality professionals widely view this as a conservative estimate.

While this needed clean water investment is driven by federal law, federal funding has declined over the past several decades. Federal funding for water and wastewater reached close to \$20 billion annually in the late 1970s, but has declined since then to less than \$5 billion annually in recent years (both inflation adjusted, 2014 dollars). The decline in federal funding has shifted the financial burden to local ratepayers. Local governments depend on ratepayer dollars and low-interest financing – most significantly through tax-exempt municipal bonds and the State Revolving Loan Funds – to finance critical investments.

Although local investment in the nation's water infrastructure has continued to increase, a large investment gap has grown. Utilities working to close that gap and service the debt they have taken on to make needed investments have continued to raise their rates. In fact, local ratepayers have seen the amount they pay for wastewater services rise faster than the rate of inflation for the past 15 years in a row. NACWA's 2016 *Cost of Clean Water Index*, a survey of NACWA public utility members, found that the average cost of wastewater services rose 2.6% in 2016, double the Consumer Price Index rate of inflation. In 2016, the national average amount that a single-family residence pays for wastewater collection and treatment was \$479 per year (\$39.92/month). Regionally and in certain communities, ratepayers can pay two to three times this amount. NACWA's 2016 *Index* indicates that clean water utilities are expecting average charges to continue to increase from 3.9 to 4.7% per year for the next five years.

A [Michigan State University study](#) published in January 2017 found that an estimated 11.9% of households in the continental U.S. already have water costs that are considered unaffordable by EPA, based on average 2014 water and sewer rates and incomes. Within the next 5 years, based on projected rate increases the researchers found that number could triple—meaning water and sewer costs would be considered unaffordable for a full 35% of households. These challenges are especially acute for smaller, often rural, communities that do not have the ratepayer base to support large investments in their water and wastewater infrastructure. Meanwhile, some municipalities are reaching debt financing limits and risk a lowered credit rating, which would lead to higher financing costs across the board for the municipality, including and beyond water infrastructure.

Consent decree requirements and associated new capital construction and debt service were among the top reasons cited as the cause of these increases. Other drivers for large rate increases include infrastructure rehabilitation and replacement, higher operation and maintenance costs, combined sewer overflow (CSO) long-term control plan compliance, and sewer system improvements to reduce sanitary sewer overflows (SSOs).

The current projection of future rate increases and expanding municipal debt loads are approaching unsustainable levels. Simply stated, absent a new approach to regulatory compliance, the future of maintaining — let alone adding to — the record of water quality gains is at risk.

## **EPA's Integrated Planning Framework**

In June 2012, NACWA was pleased to see EPA release its [Integrated Municipal Stormwater and Wastewater Planning Approach Framework](#) and initiate an effort to help local communities develop more affordable CWA compliance programs. EPA's Integrated Planning Framework offers a pragmatic yet effective path for communities to more affordably address water quality obligations.

Simply put, integrated planning allows a community to prioritize its obligations so communities can spend their limited resources on the most pressing water quality challenges first. From stormwater and wastewater to myriad other federal obligations such as drinking water and air quality, as regulations continue to evolve communities are required to devote more money and resources to comply with what are largely unfunded mandates. The funds and resources required to comply with various obligations ultimately all stem from the same base of local taxpayers and ratepayers. EPA's Integrated Planning Framework demonstrates a recognition of this burden by the Agency. But it is not only an issue of spending — the Framework puts in place a path toward greater opportunities for innovation and strategic prioritization that can usher in a smarter way of doing business: achieving net environmental benefit outcomes that protect water quality and public health at the most efficient ratepayer cost.

Key opportunities and benefits that may be realized through integrated planning include:

- **Creating Efficiencies** – Integrated planning allows a municipality to take a holistic look at their various environmental concerns and obligations, especially in the clean water arena. Then, working with EPA and the state, the community will prioritize its needed investments in a way that addresses the most pressing problems first. The plan may facilitate a more adaptive management approach

across the planning period, where new findings and early outcomes can be evaluated and the plan adjusted accordingly, if necessary, for a more efficient and beneficial outcome. The plan may also identify and help prioritize new opportunities to address multiple obligations and community goals concurrently; for example, the use of green infrastructure for stormwater management, which can also improve air quality and provide wildlife habitat. The overall goal is to address resource protection more comprehensively and build efficiency into the process. This may require coordination between different permits as well as multiple regulatory bodies at the national, state and local levels.

- **Project Sequencing and Scheduling** – Under integrated planning, municipalities are still required to meet all of their obligations under the law. However, the framework provides the flexibility to develop a schedule for addressing those obligations to better manage compliance costs, spreading the burden over a greater period of time to make the investment more affordable. This could take the form of a compliance schedule or other mechanism that allows work to extend beyond a single permit term. This also allows the community to be more strategic in ensuring compliance, avoiding enforcement actions, and pursuing funding.

### **Congresses' Role in Advancing Integrated Planning & NACWA Advocacy**

NACWA believes that Congress has an important role in ensuring that integrated planning is more than just an acknowledgment by EPA of the need for – and possibility of – a new approach. Congress can help encourage broad implementation through the key step of codifying integrated planning. Codification will provide municipalities with far greater certainty to develop an integrated plan, which is not without cost and if done right, involves an intensive community process that may be difficult to justify without the certainty provided by law.

Codification will also affirm the use of compliance scheduling in the permit context. To function within the National Pollution Discharge Elimination System (NPDES) which has 5-year permit terms, communities with approved integrated plans need the option of seeking compliance schedules that allow work to address CWA requirements to extend beyond one 5-year permit term. Congress could also help further incentivize the adoption of integrated planning by extending NPDES permit terms beyond the current 5-year term for communities with an approved integrated plan. By allowing extended permit terms, communities who undertake the resource-intensive process of developing an integrated plan would have greater assurance that their clean water investments will be secure for longer than a 5-year permit term. Compliance schedules extending beyond a single permit term and/or longer permit terms make sense given the actual time a project takes to be implemented and yield desired results. The core of integrated planning rests in the development of an appropriate, viable, and prioritized list of investments that can be, if necessary, incorporated into a compliance schedule with clear benchmarks and milestones for tracking progress toward each of the requirements contained in the plan.

Already in the 115<sup>th</sup> Congress, several bills have been introduced that would help advance the objectives outlined above. These include H.R. 465, sponsored by Reps. Gibbs and Chabot, long-time champions for advancing these issues in the House; H.R. 2355, sponsored by Reps. Latta, David Joyce, Napolitano, Bustos,

Smucker, and Fudge; and H.R. 1971, sponsored by Rep. Smucker. NACWA believes all of these bills include important concepts to advance integrated planning principles, and applauds these Members of Congress for leading on these critical efforts to advance integrated planning. The Association is supportive of all ideas to incorporate integrated planning into the CWA, with the goal of achieving bipartisan language advancing integrated planning that can pass Congress and be signed into law.

NACWA has consistently played a leadership role in advocating for an integrated planning approach, including longstanding and related efforts over the past decades to advance a holistic watershed approach. NACWA has also played a leading role in helping get the word out about integrated planning, including hosting a series of informational workshops along with EPA's Office of Water and Office of Enforcement and Compliance Assurance, the Association of Clean Water Administrators, and the Water Environment Federation.

NACWA has also been active in urging both Congress and EPA to provide additional support for communities who want to pursue integrated planning, to help jump-start awareness of and confidence in this approach in pilot communities. Developing an integrated plan can be a timely and resource-intensive process, and federal support can help cash-strapped communities seriously consider this new model for meeting CWA obligations. In addition, federally-funded pilot communities may report back to Congress on the cost-savings and environmental benefits they experienced under an integrated plan.

## **EPA's Affordability Guidance**

NACWA has also been a leading voice urging EPA to develop a more flexible and realistic approach to community affordability and financial capability determinations under the CWA. The Association has worked to shed light on the growing financial and compliance challenges posed by CWA regulations and remains committed to working with EPA and Congress to address affordability, a growing and acute challenge in many communities.

Currently, EPA continues to rely heavily on Median Household Income (MHI) as an indicator of community financial health. A method of evaluating the affordability of potential wastewater investments in a community based on the annual percentage of MHI that it would require of a household was established in EPA's 1997 *Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development*. NACWA believes that relying on a single MHI indicator does not account for the significant and diverse fiscal constraints within a community on individual households. These constraints are brought on by demographic variables such as age of the population, unemployment rate, poverty and economic conditions in the community. Relying solely on MHI can mask the acute challenges many individuals and households within a community face. Given the critical nature of wastewater services, households may go to extreme measures to stay current on sewer bills, while municipalities confronted with high unpaid balances may be constrained in their options as they seek to avoid cutting off critical wastewater services to a home.

EPA released a Financial Capability Assessment Framework in 2014 that encouraged a broader look at community affordability beyond just MHI. While NACWA applauds EPA's work in this regard, the

Framework does not replace the 1997 Guidance, it merely supplements it. In the Fiscal Year 2016 Appropriations bill, Congress authorized a study by the National Academy of Public Administration (NAPA) examining the issue of community affordability. NAPA engaged NACWA during their study process and we look forward to seeing the results of their work, which may help guide revision of EPA's affordability guidance. NACWA strongly urges Congress to require EPA to revise and broaden its guidance for determining financial capability to more accurately reflect a community's financial challenges. We are pleased that this issue is being addressed in legislative proposals in the 115<sup>th</sup> Congress.

## **Transparency and Accountability**

As NACWA works to advance integrated planning approaches at EPA, we are hopeful and optimistic that the Agency will engage productively and meaningfully with communities around the country to explore approaches to affordability. We are also cognizant that integrated planning represents a shift in Agency approach and one that may require significant outreach and collaboration with the States and municipalities throughout the early years of implementation.

NACWA strongly supports establishing an Office of Municipal Ombudsman within the EPA Office of the Administrator, a proposal that is included in various legislative proposals in the 115<sup>th</sup> Congress. The Ombudsman would work with EPA Headquarters and Regional Offices to ensure communities are provided information about flexibility available to them under the CWA including the opportunity to develop an integrated plan. We believe an Office of Ombudsman could be an important voice to elevate municipal concerns to the Agency as well.

## **The Role of Green Infrastructure**

EPA's Integrated Planning Framework also encourages the use of innovative, cost-saving tools such as green infrastructure as part of a community's integrated plan. In recent years, clean water agencies around the country have increasingly evaluated green infrastructure alongside gray infrastructure to determine the most appropriate, beneficial, and cost-effective path toward achieving water quality and advancing community goals. Green infrastructure approaches include measures that use plant or soil system landscapes, permeable hardscapes, or stormwater capture and reuse to reduce stormwater flows into sewers and reduce combined sewer overflows into waterways. NACWA is supportive of efforts to increase opportunities for green infrastructure technologies and believes green infrastructure use can be advanced through integrated planning, compliance scheduling, and extended permit terms, which can provide the opportunity for adaptive management and demonstrating progress with innovative infrastructure approaches.

## **Conclusion**

EPA's Integrated Planning Framework offers a unique opportunity to put the federal, state, and local partnership back on track to help meet our communities' and the Nation's various water quality needs while also addressing real affordability concerns. Combined with other strategic proposals outlined above, NACWA believes there is a real opportunity to help reset the nation's approach to advancing clean water in a way that reflects current science and the present-day drivers of water quality impairments—far changed from when the

CWA was first developed—and to address the very real affordability crisis confronting many ratepayers and municipalities.

Clean water agencies have worked tirelessly since 1972 to advance clean water under the CWA. As we look ahead, clean water agencies are eager to develop as Utilities of the Future, fully embracing their role not only in wastewater treatment but as innovative water resource reclamation providers, and as financially and environmentally sustainable assets to their communities. The strategic CWA improvements discussed herein will advance these goals and continued progress on water quality over the next 45 years and beyond.

NACWA thanks the Subcommittee for its time on this important hearing, and the Representatives involved in championing related legislation. We look forward to continued work with the Subcommittee and full Congress to advance these issues.