

News In Brief

July/August 2006

A brief summary of the national politics affecting water and wastewater treatment.

EPA DRINKING WATER FUNDING

The United States Environmental Protection Agency (EPA) announced that that more than \$837 million will be available under the Drinking Water State Revolving Fund program. An additional \$98 million in grants will be set aside for the Public Water Supervision System. The remaining \$5 million of funding will support counter-terrorism grants on the state and territory level.

LEAD RULE

EPA plans to strengthen the Lead and Copper Rule of 1991. Changes would include revising monitoring requirements, requiring state approval of treatment changes, revising public notification requirements, and requiring utilities to reevaluate lead service lines that were previously identified as low risk after treatment changes that could affect corrosion control. The proposed rule may be found at <http://www.epa.gov/fedrgstr/EPA-WATER/2006/July/Day-18/w6250.pdf>. EPA will be accepting public comments on the rule through September 18.

MANURE

A coalition of farm groups and congressional republicans has been lobbying to remove manure from the hazardous substance list under both CERCLA and EPA toxic reporting requirements under the Emergency Planning and Community Right to Know Act. Opposition to the effort claims phosphorus and other hazardous substances in the manure seep out of the manure at large animal feeding operation, contaminating water sources and fouling the air.

ABANDONED MINE CLEANUP

Amendments have been made to the "Good Samaritan" Legislation that would allow third parties that wish to help clean up abandoned mine sites to be exempt from CWA and CERCLA requirements. The amendments would allow exemption from the regulations cited above unless "as a result of gross negligence or intentional

misconduct" a degradation of water quality at the site occurred. The amendments stem from criticism that incomplete cleanup efforts may lead to a worsening in the condition of the abandoned sites.

STORMWATER AT CONSTRUCTION SITES

A U.S. District Court ruled that the EPA's failure to establish pollution standards for stormwater from construction sites violated the Clean Water Act (CWA).

WETLANDS

A senate subcommittee held a hearing to determine the regulatory implications of two recent Supreme Court cases on wetlands litigation. The Supreme Court ruled that the government incorrectly asserted CWA jurisdiction over the wetlands in several cases because the wetlands may have not be considered "waters of the U.S.". The Supreme Court remanded the cases to the lower courts to determine whether wetlands can be considered "waters of the U.S." under a new standard the Supreme Court established.

This new standard is the source of some confusion. Although the Court agreed that the old definition of "hydrologically connected" to navigable waters was incorrect, they had trouble establishing what the new standard should be. The majority opinion was that wetlands had to have a "relatively" permanent and continuous flow between them and the waters they flow into. A separate opinion suggested that the wetlands must have a "significant nexus" between them and the waters they flow into. It is believed that the lack of clarity in the decision will lead to more litigation in wetland cases.

FOR MORE INFORMATION

Please contact Jamie Eichenberger at 303-831-4700 with any questions or comments. All information for this article was taken from *This Week in Washington*, published by WEF and can be found at <http://www.wef.org/GovernmentAffairs/TWIW/>.