



For over 60 years, the California Association of Sanitation Agencies (CASA) has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. We are an association of local agencies, engaged in advancing the recycling of wastewater into usable water, generation of renewable energy, and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians.

CASA's mission is to provide leadership, advocacy and information to our members, legislators, and the public, and to promote partnerships on clean water and beneficial reuse issues to protect public health and the environment.



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Extend Clean Water Act NPDES Permit Terms

CASA supports the extension of National Pollutant Discharge Elimination System (NPDES) permit terms from five to ten years. This small change would significantly benefit local public agencies by allowing for enhanced planning and efficient permitting of facilities, and give agencies the time needed to comply with existing regulatory requirements before imposition of new mandates.



BACKGROUND AND PROBLEM STATEMENT

The water quality needs of today require new ways of doing business to bring innovation to the way we make water quality improvements. Requirements in NPDES permits are becoming more restrictive, and the treatment technologies necessary to meet those limits become more expensive and time intensive to implement. Given this reality, local public agencies have often not yet completed the upgrades necessary to comply with their prior permit when they are hit with new terms and requirements. At the same time, it is widely understood that the nation's most challenging water quality problems do not derive from traditional point source dischargers.

SOLUTION

Providing for a longer NPDES permit term would allow for enhanced planning and efficient permitting of facilities. With this change, states could direct more resources to nonpoint and watershed-based solutions. At the same time, standard permit reopeners provisions already provided by regulation would allow for new conditions to be inserted if necessary prior to permit expiration.

ACTION

CASA encourages introduction of an amendment to the Clean Water Act extending NPDES permit terms from five to ten years.



Enact Focused Clean Water Act Litigation Reform

CASA supports federal action to address abuses of the Clean Water Act's (CWA) citizen suit provisions. CWA citizen suits often result in local agencies paying millions of dollars in settlements and legal fees, but do not always yield a corresponding environmental benefit.

BACKGROUND AND PROBLEM STATEMENT

Clean Water Act citizen suits serve an important purpose in protection of the environment.

Unfortunately, the existing statutory framework lends itself to abuses. Over the last decade, a cottage industry has developed where a small number of plaintiffs' lawyers use the law's citizen suit provisions to secure settlements requiring significant expenditure of public dollars without corresponding environmental or public health benefits. These tactics are costing local agencies millions of dollars in settlements and legal fees.

Several factors make CWA citizen suits attractive for misuse by plaintiffs' lawyers. For example, the Clean Water Act is a strict liability statute with very few available defenses. Regardless of how well a regulated entity is being managed, violations can result in liability. Even in the best of circumstances the potential for violations can be reduced, but not completely prevented, and therefore all regulated entities inherently have exposure to these citizen suits. In addition, the availability of substantial attorneys' fees is a significant motivation for third party plaintiffs. Because of the strict liability nature of the CWA, and the availability of significant attorneys fees, there is very little downside to pursuing litigation for a citizen plaintiff.

SOLUTION

Reinforce the original intent of the CWA citizen suit provision to supplement but not supplant state enforcement and discourage expensive unwarranted litigation by:

- Ensuring attorneys fee awards are appropriate to local markets and commensurate with the proportion of successful claims in each case;
- Providing for normally accepted standard defenses similar to those provided in other federal environmental statutes;
- Clarifying the definition of "diligent prosecution" of alleged violations, allowing state and federal authorities to exercise their primacy in enforcement.

These tailored amendments maintain the vitality of the CWA citizen suit provision as it was originally intended while preventing abuses that are costing businesses and local public agencies millions of dollars in settlements and legal fees without improving the environment.

ACTION

We request that you work with your colleagues to introduce legislation for modest CWA reforms to protect against the abuse of the citizen suit provisions.



Support Enhanced Infrastructure Investment Protect Tax-Exempt Municipal Bonds

CASA supports a robust infrastructure funding partnership between the federal government and local communities to protect waterways and deliver safe drinking water. The continued availability of direct federal assistance through the use of grants and loans must be a guiding principle in the infrastructure policy discussion. Rebuilding our nation's water infrastructure requires a clear and ongoing commitment of federal assistance, coupled with the preservation of local financing tools and including the continued, unrestricted availability of municipal tax-exempt financing.



BACKGROUND AND PROBLEM STATEMENT

California and much of the nation face unpredictable weather conditions, deteriorating infrastructure, increased compliance costs and general population growth demands. CASA agencies have relied on a federal partnership of direct assistance since the enactment of the Clean Water Act in 1972. Unfortunately, the last two decades of under investment by the federal government, even as federal mandates have increased demands on limited local budgets, has taken a toll. The American Society of Civil Engineers (ASCE) has consistently assigned wastewater infrastructure a near failing grade due to the disrepair of existing public works, and documented that more than \$300 billion of investment is necessary over the next twenty years simply to maintain a safe and reliable water supply. In California alone, \$30 billion in new infrastructure needs must be addressed.

SOLUTION

CASA requests Congress triple funding for the clean water and drinking water state revolving loan fund (SRF) programs to help states and local governments upgrade critical drinking water and wastewater infrastructure. The SRF program is one of the most important and effective clean water infrastructure financing tools available today, and has the added advantage of providing loans, not grants, meaning the outgoing money will come back to the states to be loaned again for future projects.

Some projects and some communities, however, need more significant infusions of federal support in the form of grants. Thus, CASA supports a package of financing and funding tools, including:

- \$3 billion each for drinking water and clean water in annual State Revolving Loan Fund capitalization grants
- Funding for water recycling and other innovative water supply programs
- Preservation of the unrestricted use of municipal tax-exempt financing
- Full funding of the Water Infrastructure Finance and Innovation Act (WIFIA)

ACTION

CASA urges that you work to pass a federal infrastructure policy that increases direct federal support to local communities through the SRF program and other mechanisms. CASA further requests that you oppose any efforts to curb the availability of tax-exempt municipal financing.