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REGULATORY COMPLIANCE

The Update

January 2010

AE2S Think Big. Go Beyond.

State Revolving Fund Appropriations

House of Representatives Bill HR2847, known as the Commerce, Justice, Science, and Related Agencies Act of 2010, was passed on December 16, with $1 billion each for the Drinking Water State Revolving Fund (DWSRF) and the Clean Water State Revolving Fund (CWSRF). The legislation does not require State matching cost-share requirements as in the typical annual appropriations legislation for the SRF programs.

The US Environmental Protection Agency (USEPA) would be permitted to reallocate funds if the projects slated to receive funding are not under contract or construction within eight months. The priority for funds will be given to projects on the State priority list that will be ready to proceed with construction within twelve months of enactment. At least 20 percent of the funds would be set aside for "green" infrastructure, water or energy efficiency improvements, or other innovative activities. Each State would have to use 50 percent or more of the amount of its capitalization grants to provide additional subsidization to eligible recipients in the form of principal forgiveness, negative interest loans or grants, or any combination thereof.

According to the legislation, Davis-Bacon wage requirements and the "Buy American" provision would also apply to the funding. A number

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National Lakes Assessment

The USEPA, along with its State and Tribal partners, conducted a baseline study of the condition of the nation's lakes and has published a corresponding document entitled "The National Lakes Assessment (NLA)." The NLA provides estimates of the condition of natural and man-made freshwater lakes, ponds, and reservoirs that are larger than 10 acres and more than 1 meter deep. A total of 1,028 lakes were sampled during the summer of 2007 for nutrients, dissolved oxygen, biological indicators such as phytoplankton and zooplankton, algal toxins, and habitat cover.

The initial results found that 56 percent of the nation's lakes support healthy biological communities, 21 percent of lakes are in fair condition, and 22 percent are in poor biological condition. These percentages are based on an index of percentage of phytoplankton and zooplankton observed compared to what is expected, based on the conditions of lesser-disturbed lakes. Habitat was rated poor in 36 percent of the lakes. As would be expected, there appears to be a correlation between high levels of nutrients and poor biological health and poor habitat. Nutrients such as nitrogen and phosphorus were at a high level in about 20 percent of the lakes. Algal toxins, which can be harmful to humans, pets, and wildlife, were found to be present in about one third of the lakes and at levels of concern in 1 percent of the lakes. Mercury concentrations in game fish exceeded health-based limits in 49 percent of the lakes and potentially high levels of polychlorinated biphenyls (PCBs) were found in 17 percent of the lakes.

Compared to lakes sampled 35 years ago, wastewater treatment and other pollution control activities appear to be working despite increased population pressures across the United States. The study found nearly 75 percent of the lakes sampled in the 1970s have shown either improvements or no change in phosphorus levels and biological condition.

An area called the Prairie Pothole Region (PPR) is part of a major waterfowl fly-way in a region that includes portions of Canada, Montana, North Dakota, South Dakota, Minnesota, and Iowa. Analysts from the states as well as the US Geological Survey and the USEPA have determined that lakes in the PPR region have high nutrient and chlorophyll-a levels when compared to the rest of the nation's lakes. The combination of high nutrient levels, high algae growth, presence of rough fish, and the windswept basins limit rooted plant growth. More information on this part of the study will be released in a supplemental report at a later date. For more information on this study and to read the full report, visit http://www.epa.gov/lakessurvey/ or contact AE2S. ■

Preliminary 2010 Effluent Guidelines Plan

The USEPA has published, and is requesting comment on, a preliminary plan for reviewing effluent guidelines required by the Clean Water Act. The USEPA publishes a final Effluent Guidelines Plan every even year, and the current schedule is to publish the final plan in the Federal Register in October of 2010. Effluent guidelines are national regulations that control the discharge of pollutants

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If you have any questions concerning the content of this newsletter, please contact Melissa Cassanelli, at 701-746-8087 or Melissa.Cassanelli@ae2s.com. Web site links contained in this issue are posted as clickable links at www.ae2s.com/Updatelinks.

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of organizations have sent letters to both the House and the Senate urging that the "Buy American" provision be removed, claiming it will significantly delay projects and put few Americans back to work. The bill is expected to proceed to a conference committee of Senators and Representatives to work out any differences in late January 2010.

For more information on the content of this bill and its status, visit http://www.govtrack.us/congress/bill.xpd?bill=h111-2847 or contact AE2S. ■

(Preliminary 2010 Effluent Guidelines Plan from first page)

to surface waters by publicly owned treatment works (POTWs). The discharge regulations reduce the discharge of pollutants that can have serious environmental impacts, including killing and impairing aquatic life, negatively affecting ecosystems, and causing human health problems through contaminated water, fish, or shellfish. According to the USEPA, effluent guidelines have been issued for 56 industries, preventing the discharge of more than 700 billion pounds of pollutants each year.

The Effluent Guidelines Plan does not contain regulatory requirements. Instead, it presents a process USEPA is using to identify industries for further investigation and analysis. The USEPA then uses the additional information to determine whether to revise or establish new effluent guidelines. The preliminary plan for 2010 has identified the Steam Electric Power Generating category for an effluent guidelines rulemaking process. It also provides a status update on Coalbed Methane Extraction, Unused Pharmaceutical Management in the Health Care Industry, and Ore Mining and Dressing. Finally, the document discusses plans for conducting the 2010 annual review of existing effluent guidelines.

For more information and to read the preliminary plan, visit http://www.epa.gov/guide/304m/ or contact AE2S. ■

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