

February 7, 2020

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

RE: Alternative Compliance and Stormwater Innovation Coalition Principles

Communities and industry are facing significant challenges in complying with water quality requirements related to stormwater management. Stormwater infrastructure is aging, and in many cities, maintenance has been deferred. EPA estimates that funding needs for stormwater management and projects to correct sewers that overflow will total \$106 billion over the next 20 years.¹ As investments in modernizing water infrastructure are made, there are opportunities to capitalize on the multiple benefits of combining green and gray infrastructure that often costs less while accomplishing more.

The U.S. Chamber of Commerce Business Task Force on Water Policy has established a multi-stakeholder coalition of companies, water sector associations, open space and parks organizations, municipalities and public utilities holding NPDES permits, and environmental NGOs dedicated to the following principles:

- *Recognize stormwater as a water sector category at the same level as drinking water and wastewater.* This approach should be reflected in all funding and policy decisions. The American Society of Civil Engineer’s (ASCE) decision to include stormwater as a new category in its 2021 Public Infrastructure Report Card underscores this priority. The value proposition includes:
 - Ensuring public and private investment in stormwater infrastructure and management.
 - Recognizing the significant water quality and quantity impacts.
 - Promoting positive environmental and economic outcomes from advancements in stormwater management.
- *Promote the use of green infrastructure.* Green infrastructure uses vegetation, soils, and other elements and practices to restore some of the natural processes required to manage water and provide multiple benefits to create healthier urban environments.² It should be made an explicit alternative to meet stormwater requirements and receive federal funding (e.g., CWSRFs, WIFIA, and LWCF). The group suggests evaluating barriers and opportunities to encourage the use of these federal programs for this purpose.
 - Established and early-stage equipment and technology companies are rapidly innovating new approaches to manage stormwater flow that can often be deployed more rapidly and are less expensive than traditional approaches, especially when combined with green infrastructure. Federal, state, and local laws should promote the

¹ <https://fas.org/sgp/crs/misc/R43131.pdf> ² <https://www.epa.gov/green-infrastructure/what-green-infrastructure>

² <https://www.epa.gov/green-infrastructure/what-green-infrastructure>

- use of such smart or digital solutions. The federal government should also explicitly support the export of such products and services into international markets.
- Rainwater harvesting systems, structural soil systems, and permeable pavements, among other technologies, should be incentivized, especially in urban and densely populated areas.
 - Parks and open space should be included as essential infrastructure options to implement green infrastructure.
 - Provision of an additional source of secondary or tertiary treated water through rainwater harvesting and other green infrastructure solutions is increasingly important as water resources become more constrained. Green infrastructure systems, including parks and open spaces, that hold and slow stormwater surges also allow for extra water storage during big storm events, increase resilience, reduce flooding, and lower risks for companies and communities.
- *Incentivize alternative compliance approaches.* Partnerships between businesses that need stormwater solutions to meet their industrial permit requirements and cities that often lack funding to maintain and modernize infrastructure provide an opportunity for innovative approaches to alternative compliance and still meet water quality standards. Market-based mechanisms and community public-private partnerships should serve as examples. More programs like these should be encouraged and clarified through regulatory guidance and legislative language and collaboration with state and local governments.
 - *Allow and promote innovative funding.* Businesses that do not have adequate space or capacity to capture and treat stormwater before discharge could pay into a mitigation bank fund that would leverage public resources. These pooled resources would create regional green infrastructure and/or water reuse projects to benefit multiple stakeholders and improve overall water quality and/or water supply in a location that could have significant environmental impact.

Another funding approach is to expand partnerships to address multiple benefits of green stormwater projects and reduce the capital costs to individual partners by attracting more sources of funds. Multiple partners reduce costs to all involved, including utility districts that can keep rates lower for ratepayers. Various governance structures to promote neighborhood-scale solutions, including community-based public-private partnerships³, management districts, and Opportunity Zones, should be included and leveraged.

- *Increase funding for stormwater infrastructure and diversify funding options.* Historically, less than 5% of CWSRF assistance goes toward urban stormwater

³ <https://www.epa.gov/G3/financing-green-infrastructure-community-based-public-private-partnerships-cbp3-right-you>

infrastructure.⁴ With a recently estimated funding gap in the stormwater sector of \$7.5 billion annually⁵, and considering the rising significance of urban runoff impacts, additional funding avenues are needed at all levels of government to adequately address current and future investments in the stormwater sector. Fewer than one-third of regulated MS4s in the U.S. have a dedicated funding source for needed and ongoing stormwater infrastructure investments.⁶ Even for the majority of those agencies with dedicated funding sources, that funding is insufficient to address all needs.⁷ This lack of annual revenue limits the potential for needed maintenance programs in stormwater. Funding targeting long-term operations and maintenance in stormwater would help address the greatest need in the sector.

- *Foster the use of certified professionals for green infrastructure operations, maintenance, and monitoring.* Consideration should be given to green infrastructure projects applying for federal funding, including a plan for operations and maintenance and the use of certified professionals (e.g., Envision, SITES, and Water Environment Federation NGICP). Monitoring provides a feedback loop to verify results.
- *Support the use of tested and verified stormwater products and practices.* State, regional, and national programs have been established to provide a forum to test and verify the performance of stormwater technologies and products. Today, two states (New Jersey and Washington) have testing and verification programs that are used across the country. A national program, such as the Stormwater Testing and Evaluation for Products and Practices program⁸, to expand these efforts would benefit state and local programs, permitted entities, and land developers that can make informed judgments on the use of tested/verified technologies. This program is targeting both proprietary, manufactured devices and public domain solutions, including green infrastructure.
- *Recognize good neighbors:* Dischargers, whether cities or businesses that meet water quality permit limits within a specified time, implement agreed-to alternative compliance approaches, and engage the public, should receive certain protections from citizen lawsuits.
- *Integrate early and often.* By supporting policies that encourage cities to integrate their work across the public and private sectors, more comprehensive, effective, and less costly green infrastructure systems can be implemented.
- *Invest in research on stormwater infrastructure program effectiveness.* Considering the potential impacts on health and human life, as well as continued environmental degradation,

⁴ http://stormandstream.com/wp-content/uploads/2016/10/BNA_Green_Infrastructure_Financing_October_2016.pdf

⁵ <https://wefstormwaterinstitute.org/wp-content/uploads/2019/08/MS4-Survey-Report-2019.pdf>

⁶ https://digitalcommons.wku.edu/cgi/viewcontent.cgi?article=1000&context=seas_faculty_pubs

⁷ https://digitalcommons.wku.edu/cgi/viewcontent.cgi?article=1000&context=seas_faculty_pubs

⁸ <https://wefstormwaterinstitute.org/programs/stepp/>

further research is needed to address the many challenges in reducing runoff-driven pollution. Establish national funding standards for stormwater research that are commensurate with accepted standards relative to the total public and private investment in stormwater management.

- *Focus on efforts to enhance community and business resilience.* Credit rating agencies are starting to consider lack of resiliency planning when determining the creditworthiness of communities. This trend reflects the concern associated with predictions suggesting that the total annual cost to 136 of the world's largest coastal port cities owing to coastal flooding could reach \$1 trillion by 2050.⁹ Losses to public infrastructure and economic activity in the private sector will likely continue to grow if resiliency planning is not adopted. Support to enable multidimensional stormwater infrastructure and for planning through resilience-focused funding programs and technical guidance should be considered.
- *Support programs that capture shifting precipitation patterns.* The frequency and intensity of precipitation patterns and extreme weather events are shifting in many regions across the U.S. More funding should be provided to NOAA for programs, including Atlas 14 and the National Water Model, to offer companies and communities more accurate and consistent precipitation and impact data.

Thank you for your attention to these principles. We stand ready to assist Congress in its important work of modernizing and building more resilient and sustainable stormwater approaches for communities and companies nationwide.

Sincerely,

American Council of Engineering Companies
American Society of Civil Engineers
City Parks Alliance
Ecological Restoration Business Association
National Municipal Stormwater Alliance
U.S. Chamber of Commerce
Water Environment Federation

⁹ <https://www.climatecentral.org/news/floods-may-cost-coastal-cities-60-billion-annually-by-2050-16356>