



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER QUALITY **EPA/Perchlorates**

On May 23, Environmental Protection Agency (EPA) Administrator Andrew Wheeler signed a proposed rule to regulate perchlorate in drinking water and set an enforceable maximum contaminant level (MCL) at 56 µg/L. Included in the proposal is a phased requirement for monitoring and reporting on perchlorate levels in surface and groundwater systems, state agency supervision of public water systems under the Safe Drinking Water Act, and a list of treatment technologies for water systems exceeding the MCL. EPA anticipates that after an initial year of quarterly monitoring, most water systems will establish that perchlorate concentrations are consistently and reliably below the proposed MCL. Compliant systems would be eligible for a waiver to monitor annually for three years (surface water systems) or triennially for nine years (groundwater systems). Thereafter, compliant systems would be eligible for further reduced monitoring.

The proposed rule will be published in the *Federal Register*, following which there will be 60-days to comment. In particular, EPA is soliciting comment on whether the perchlorate MCL should be set at alternative levels of 18 µg/L or 90 µg/L. EPA is also soliciting comment on “whether instead of issuing a national primary drinking water regulation, the EPA should withdraw the Agency’s February 11, 2011, determination to regulate perchlorate in drinking water based on new information that indicates that perchlorate does not occur in public water systems with a frequency and at levels of public health concern and there may not be a meaningful opportunity for health risk reduction through a drinking water regulation.” The estimated annual costs of the proposed rule for drinking water systems and states for monitoring, treatment, and administration is over \$9M.

Clean Water Act - Section 401/EPA

On June 7, the EPA released Clean Water Act (CWA) Section 401 Certification Guidance for Federal Agencies, States, and Authorized Tribes, clarifying existing Section 401 regulations and providing recommendations on coordination between federal agencies, states, and authorized tribes. The guidance

addresses requirements and procedures on a variety of topics including: (1) statutory and regulatory timelines for review and action on a Section 401 certification requests; (2) the appropriate scope of CWA Section 401 certification conditions; and (3) the scope of a state or authorized tribe’s CWA Section 401 review. See <https://www.epa.gov/cwa-401>

On April 10, President Trump issued an Executive Order 13868 directed at clarifying CWA Section 401 certification and federal permitting processes to facilitate greater investment in energy infrastructure in the United States. The Executive Order directed EPA to issue new guidance for federal permitting agencies and state and tribal authorities within 60 days of the Executive Order (no later than June 10) and propose new rules within 120 days (no later than August 8). The President directed EPA to consult with state and tribal co-regulators on how to best clarify and modernize the 401 process.

EPA Administrator Andrew Wheeler said: “Many states implement Section 401 of the Clean Water Act faithfully, however, on occasion, inconsistent implementation and outdated guidance and regulations have caused delays in infrastructure projects with significant national benefits. EPA will immediately engage with our state and tribal partners to identify ways we can modernize the 401 certification process and accelerate infrastructure projects that will improve the lives of Americans.”

Britt Carter, Director of Intergovernmental Relations, said EPA initiated formal consultations with state, local, and tribal partners, as well as outreach with its federal partners and invited written pre-rulemaking recommendations. EPA held webinars on April 17, May 7-8, May 15, and a federalism kick off meeting on April 23. EPA is reviewing input it received through these engagements and comments submitted to a public docket prior to issuing a proposed rule. The agency will continue to engage with states, tribes, and federal agencies throughout the rulemaking process.

Appropriations/Disaster Relief

On June 6, President Trump signed the Additional Supplemental Appropriations for Disaster Relief Act

(H.R. 2157), after the House agreed 354-58 on June 3 to amendments passed 85-8 by the Senate on May 23. The law provides \$19B in FY2019 appropriations for various agencies and departments for expenses relating to recent wildfires, hurricanes, tornadoes, flooding, and other natural disasters. The National Oceanic and Atmospheric Administration (NOAA) received \$25M to improve forecasting, detection, and prediction.

The U.S. Army Corps of Engineers received \$3.3B to repair waterways infrastructure and invest in new flood and storm damage reduction projects, including \$1B to aid repairs of local levees breached along the Missouri River and elsewhere. The U.S. Department of Agriculture (USDA) received \$4.5B for emergency forest restoration work and U.S. Forest Service wildfire suppression activities, farmland repair, and crop loss assistance in flood-impacted states, \$435M for the National Resources Conservation Service (NRCS) for watershed recovery work and flood prevention operations. EPA received \$600,000 for preparedness, and \$349.4M for capitalization grants under the State Revolving Funds (SRFs), with \$53.3M for Clean Water SRFs and \$296.1M for Drinking water SRFs. The Department of the Interior and several additional federal agencies received emergency funds.

A White House statement read: "President Trump is committed to securing funding for and improving the implementation of policies that mitigate the risk natural disasters pose to communities and make the Nation's recovery from disasters vastly more effective. The Administration looks forward to working with both chambers of Congress as rapidly as possible to address the equally vital FY2019 Emergency Supplemental Budget Request for southern border humanitarian needs."

WATER RESOURCES

Colorado River/Drought Contingency Plan

On May 20, seven Colorado River Basin state representatives gathered at Hoover Dam below Lake Mead and signed the completed drought contingency plans (DCPs) for the Upper and Lower Colorado River Basins. Bureau of Reclamation Commissioner Brenda Burman said: "This is an historic accomplishment for the Colorado River Basin. Adopting consensus-based drought contingency plans represents the best path toward safeguarding the single most important water resource in the western United States. These agreements represent tremendous collaboration, coordination and compromise from each basin state, American Indian tribes, and even the nation of Mexico." Mexico agreed in 2017 to implement a Binational Water Scarcity Contingency Plan as part of Minute 323 to the 1944 U.S.-Mexico Water Treaty, but only if the U.S. adopted the DCPs.

Arizona Governor Doug Ducey said: "Today's signing is victory for all Arizonans – and it should be looked to as a model for how to achieve the really big things. This historic effort brought people together from all sides – rural, urban, agriculture, industry, tribal communities, non-profits, cities, Democrats and Republicans. It involved input from multiple states, two countries and passage in both the state legislature and Congress. And we did it by putting party labels aside and putting people first. There's a lot of credit to go around, and my thanks to everyone who worked to make this day possible. With DCP as the example, Arizona will continue to be a leader in doing the things that matter."

PEOPLE

Effective July 1, **Sara Larsen** has accepted a position as Deputy Director of the Upper Colorado River Commission, an interstate administrative agency that was established by action of five state legislatures and Congress with the enactment of the 1948 Upper Colorado River Basin Compact. "We will greatly miss Sara and her valuable personal and professional contributions to the WSWC," said WSWC Executive Director Tony Willardson. "The Council's loss is the Commission's gain, and we are glad to see her continue to advance her career in western water! We hope to continue our association in her new capacity."

Sara joined the staff on January 1, 2012 to help implement and manage our then new Water Data Exchange (WaDE). Her service as a Senior Program Manager has been a catalyst in helping WSWC States improve their water informatics to better support state and federal decisionmaking, related to water availability and planning efforts. Under her direction, the WSWC stood up our WaDE portal, through which 16 States now share data. WaDE will continue as part of her legacy, with significant recognition and support from public and private partners. Sara gained her Professional Engineering license last year.

Sara also ably represented the WSWC on the Advisory Committee on Water Information (ACWI) Subcommittee on Spatial Water Data, the Internet of Water Advisory Board, the USGS National Water Census Ad Hoc Group, USGS Water Use Strategic Planning Team, and National Water Extension Program Stakeholder Committee, as well as other groups.

Dr. Adel Abdallah, the WSWC's Senior Hydroinformatics Specialist has been promoted to the WaDE Program Manager position. He recently completed his PhD in civil engineering at Utah State University. He has directed efforts with an outside firm to complete the WaDE 2.0 architecture and is overseeing efforts of three interns in assisting member states to update their water data and improve accessibility and visualization for better decisionmaking.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.