

Legislation, Regulatory Affairs, and Communications Committee

Federal and State Regulatory Tracking Matrices

Item # 6b September 12, 2023

Federal and State Regulatory Matrices

High-Level Rulemaking Summaries &

Impacts

- Both state and federal regulatory agencies
- Engagement with staff, member agencies, and associations

September 11, 2023 – Federal Regulatory Matrix¶				
Agencya	Issue	Summaryo	Potential Impacts ²²	Regulatory Status
ĒΡĄ¤	National Cybersecurity Strategy	On-March-3, 2023, EPA directed Safe-Drinking- Water-Act-state primacy agencies to assess- cybersecurity resilience of public water systems as part of the sanitary survey process or through- other state programs. When a primacy agency- identifies a significant cybersecurity deficiency- during a sanitary survey, the agency is instructed- to use its authority to require the public water- system to address the deficiency. This directive- was not subject to the rulemaking process. ²²	The water industry is concerned that the Sanitary- Survey Program is not the right tool for addressing- cybersecurity vulnerabilities or deficiencies. Many- state primacy agencies-lack-both the resources and- technical expertise to evaluate and address cybersecurity issues and the ability to secure- sensitive information collected through sanitary- surveys. Lack of a rulemaking process and- stakeholder engagement may lead to a duplication of- effort. AWWA and NRWA joined several states in- challenging the rule. Staff are working with AWWA- on alternative compliance pathways. ²⁰	Rule effective, but the Court halted implementation per- AWWA's and NRWA's request.¶ ¶
¶ T EPA¤	9 PFAS and CERCLA	[¶] On September 6, 2022, EPA proposed to list perfluorooctane aufonic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). ⊐	Metropolitan submitted comments on November 7, 2022 that the rulemaking will greatly increase the potential liability under CERCLA for water treatment residuals. Staff also worked with ACWA, AMWA, AWWA, and WUWC on comments seeking an exemption under CERCLA- for the water industry. ²	¶ EPA-intends-to- finalize-the-rule-by- February-2024.≈
¶ EPA¤	9 PFAS and CERCLA α	Ton April 13, 2023, EPA requested public "input- and data" regarding whether to designate the precursors to PFOA and PFOS, as well as seven- additional PFAS as hazardous substances under- CERCLA. ^o The seven additional PFAS are PFBS, PEHAS, PFNA, Gen X, PFBA, PEHAA- and PFDA? The notice also request input on- regulating groups or categories of PFAS as- hazardous substances. ^o o	Thetropolitan submitted comments on August 3, 2023- that EPA should consider updated occurrence data and develop robust and reliable analytical methods before making any regulatory determination for the- affected PFAS. In addition, staff requested that EPA- explore other regulatory pathways for PFAS rather- than CERCLA, as well as follow the "POILIter Pays" principle and make additional funding available for- treatment and cleanup costs.¶	¶ Awaiting EPA's- decision whether to- propose regulating- these PFAS as- hazardous- substances-under- CERCLA.¶ ≅
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ACWA—Association of Clean Water Administrators: → FWS—United States Fish and Wildlife Service¶ AMWA—Association of Metropolitan water Agencies: → NNFS—United State National Marine Fisheries Service¶ AWWA—American Water Works Association → → NRWA—Minanal Rural Water Association¶				

The Metropolitan Water District of Southern California

EPA -- United States Environmental Protection Agency -> WUWC -- Western Urban Water Coalition"

Recent Highlights

Comment Letters Federal

- PFAS and CERCLA
- PFAS MCL

State

Advanced Clean Fleets

Regulation

• Direct Potable Reuse

Regulations

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August 3, 2023

U.S. Environmental Protection Agency EPA Docket Center, OLEM Docket, Mail Code 28221T 1200 Pennsylvania Avenue NW Washington, DC 20460

Dear Sir/Madam:

Docket ID No. EPA-HQ-OLEM-2022-0922-Addressing PFAS in the Environment

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to provide input and data regarding the United States Environmental Protection Agency's (EPA's) potential action to designate the following as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA):

 Perfluorobutanesulfonic acid (PFBS), perfluorohexanesulfonic acid (PFHxS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO–DA; sometimes called GenX), perfluorobutanoic acid (PFBA), perfluorohexanoic acid (PFHxA), and perfluorodecanoic acid (PFDA), and their salts and structural isomers, or some subset thereof;

 Precursors to perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), and the seven per- and polyfluoroalkyl substances (PFAS) above; and/or 3) Categories of PFAS.¹

Metropolitan recognizes that PFOA and PFOS are being considered as CERCLA hazardous substances under a separate rulemaking. ³ While Metropolitan supports EPA's efforts under its *PFAS Strategic Roadmaps: EPA's Commitment to Action 2021–2024 to remove PFAS* from commerce and strengthen the agency's ability to clean up sites contaminated with PFAS, ³ designating certain PFAS as hazardous substances under CERCLA may not achieve this goal. Metropolitan is concerned that designating any PFAS as CERCLA hazardous substances is premature, creates uncertainty and confusion, and places a heavy burden of potential financial liability onto the regulated community and the public without any meaningful benefit to public health and the environment.

Metropolitan urges EPA to further evaluate and limit the potentially significant impact of such a designation on public water and wastewater agencies and the customers they serve. By

¹88 Fed. Reg. 22399 (April 13, 2023) (Advance Notice of Proposed Rulemaking)
²87 Fed. Reg. 54415 (Sept. 6, 2022).
³ PFAS Strategic Roadmap: EPA's Commitments to Action 2021–2024.

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Next Steps Updated quarterly and posted publicly on Metropolitan's Legislative Services webpage

• Key rules presented at their respective Board Committees

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Federal and State Regulatory Tracking Matrices **Questions**

Legislative, Regulatory Affairs, and Communications Committee

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