



TO: Orange County Sanitation District

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DATE: August 22, 2025

SUBJECT: Washington Update

Congress recessed for the summer and returned to work after Labor Day. Since enactment of the One Big Beautiful Bill on July 4th, congressional activities centered on Fiscal Year 2026 spending bills. Because of bipartisan efforts to force a House vote on a resolution calling on the Administration to release the “Epstein Files”, the Speaker recessed earlier than anticipated to block a vote on the resolution. As a result of the early recess, several bills that were scheduled for floor votes were shelved until the House returned to work in September. This included the Promoting Efficient Review for Modern Infrastructure Today Act (PERMIT Act, H.R. 3898). H.R. 3898 would, among other matters, provide for ten-year National Pollutant Discharge Elimination System (NPDES) permits for water agencies. The Administration continued its reorganization efforts and reviewing PFAS standards for water and wastewater facilities’ compliance.

The following summarizes the status of these and other policy issues of interest to OC San.

House and Senate Appropriators Mark-Up Fiscal Year 2026 Appropriations

The House Committee on Appropriations approved the U.S. Environmental Protection Agency’s (USEPA) Fiscal Year 2026 spending priorities. The committee reported out the bill along a party-line vote. The Senate Committee on Appropriations also acted upon its USEPA spending bill. However, unlike the House bill, the Senate appropriators approved their spending bill on a bipartisan vote of 26-2.

Importance of Appropriations Process

Despite the movement on the USEPA spending bill, the ongoing disputes centering on impoundment of funds and potentially additional rescissions of Fiscal Year 2025 spending decisions complicates the outlook of final passage of Fiscal Year 2026. If Congress can develop compromise funding bills, it is unlikely to occur before November or December. Absent an agreement, a full year Continuing Resolution would be required throwing in

doubt funding of projects since such measures do not provide funding for congressionally directed project spending.

PFAS Mandates

The pending legal challenge to USEPA's designation of Per- and Polyfluoroalkyl substances (PFAS) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that triggers potential liability for the water sector remains on hold as the agency reviews its options on how to proceed with the legal challenge. The agency is expected to provide the court with its position on whether it will defend against the litigation filed by the Chamber of Commerce and other groups in the coming months. Because the litigation is based upon the process used to designate PFAS as a hazardous substance, the decision to defend or not will rest upon whether the agency believes it followed the Administrative Procedures Act in designating the chemicals.

On August 14, the agency closed the public comment period for its Draft Risk Assessment Model that would set a 1 part-per-billion (PPB) exposure level for PFAS in biosolids. The public comment period generated more than two thousand comments on the pending Draft Risk Assessment. The comments, including those from CASA, cited the lack of validated science that the agency relied upon to develop the model. The agency also held listening sessions with key groups, including biosolids managers, drinking water and clean water stakeholders. In the listening sessions, the agency was informed that the model relied upon inaccurate data and assumptions to arrive at the stringent 1 PPB standard that would foreclose the use of land application of biosolids. The agency did not indicate how it perceived such positions except to note that it believes the staff-developed model remains the focus. At the same time, agency staff indicated that any decision on the model's finalization will be determined by senior political appointees.

The House spending bill for the agency included language that, if enacted into law, would bar finalization of the model. However, the agency could continue collecting data and other information. This presumably would allow the agency to follow through on the Administrator's priority to re-examine the development of the model. In the Senate, there were no substantive amendments to the agency's spending bill, except to reaffirm support for the 4 parts per trillion drinking water standard and the designation of PFAS as a hazardous substance under Superfund. The spending bill also provides the agency with \$9 million to support ongoing research into plant and animal PFAS uptake as well as potential groundwater impacts.

Importance of PFAS Mandates

The ongoing litigation related to the PFAS rules, and the delayed finalization of the Draft Risk Assessment Model is important because it creates ongoing uncertainty on 1) what the final drinking water standard will be, and 2) what are acceptable management practices for biosolids. As a result in the absence of federal policies and standards, water and wastewater agencies will be subject to state mandates. This is important particularly in the case of biosolids. The 1PPB level of the draft Risk Assessment Model has been relied upon by several states which, if implemented, would effectively eliminate the continued land application of many biosolids. Because of this potential, stakeholders are urging the agency

to issue national guidance on an approach that some states have adopted, one based on more realistic science regarding PFAS levels in biosolids and the exposure pathways from biosolids that the agency has not adequately addressed.

It also emphasizes source control to reduce PFAS loadings into treatment works. Should the agency issue such guidance in the absence of final rules governing biosolids, it would help ensure that biosolids management practices protective of public health and the environment are maintained

NPDES Permitting and Clean Water Act Reforms Legislation

The House Committee on Transportation and Infrastructure's PERMIT Act (H.R. 3898) remains in the House calendar. The bill includes ten-year NPDES permit terms, exemptions from Waters of the US definitions for wastewater and groundwater, and codifies the Supreme Court's decision on narrative nutrient standards (*City & County of San Francisco v. EPA*). It also contains other provisions to streamline the Clean Water Act permitting. The House is expected to debate and vote on the bill in September at the earliest. In the Senate, the Environment and Public Works Committee is working on bipartisan permit reform legislation. Updates to NPDES permit terms are reportedly under discussion.

Importance of Legislation

Passage of H.R. 3898 would set the stage for the Senate to consider Clean Water Act permitting reforms. If the Senate committee considers permit reforms, which currently enjoy bipartisan interest, the prospect for enactment would increase significantly. If enacted, NPDES permittees would benefit from reduced administrative burdens and savings related to compliance costs. In addition to the permit term provision, the codification of the nutrient decision would ensure that any Clean Water Act nutrient mandates imposed upon point sources would be based upon statutory directives. This provision, if enacted, would eliminate a situation that occurred with the WOTUS rulemaking where a lack of clarity on WOTUS definitions complicated compliance obligations. OC San has sent letters of support for NPDES permit extension to the congressional delegation.