



TO: Rebecca Long
FROM: Eric Sapirstein
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SUBJECT: Washington Update

The past month of congressional actions centered on finalizing the fiscal year 2022 budget as well as passing the America Competes Act, which seeks to enable a stable and reliable supply of high technology chips that are essential to the production of water treatment technologies and other manufacturing needs. Additionally, the House and Senate committees with jurisdiction over water infrastructure held hearings to explore the need for a new Water Resources Development Act that set the stage for congressional action in the next months and the U.S. Environmental Protection Agency (USEPA) continued to implement its per- and polyfluoroalkyl substances (PFAS) Roadmap priorities. Most notable is the effort to develop a drinking water standard that would, for the first time, establish a national treatment standard. Any standard will undergo a public comment period suggesting that any final standard is at least a year in the making according to the agency's PFAS Roadmap.

- ***Infrastructure Law Priority for Implementation***

The Administration released a guidebook detailing the level of spending for each of the infrastructure law's programs. The guidebook was provided to OC SAN staff. The action follows recent agency actions announcing several funding opportunities. For OC SAN, the key funding opportunities are found within USEPA for water quality treatment needs to support disadvantaged communities and at the Federal Emergency Management Agency that are related to disaster mitigation impacts from earthquakes and climate change. California is slated to receive \$600 million in support of its SRF program, as well as to address contaminants of emerging concern and lead service line replacements.

Of special note, the State is expected to receive assistance to distribute grants to clean water agencies to support development of source control programs. The USEPA has indicated that it intends to transmit guidance to the states on how to access the funding within the next few weeks. Upon receipt, the states will be required to submit implementation plans to USEPA and upon approval of the plans, the funding will be sent to states.

As part of the obligation of funding, implementation of the Buy America/Build America (BA) mandates continues to evolve. We convened a meeting with the Office of Management and Budget (attended by Association of Metropolitan Water Agencies, American Water Works Association, Association of California Water Agencies, California Association of Sanitation Agencies, Water Environment Federation, WaterReuse and National Water Resources Association) to discuss the unique challenges BA presents for the water/wastewater sector's compliance with federal water quality and public health standards. The Office of Management and Budget (OMB) indicated that the Administration understands this concern and is trying to develop guidance to address the matter. In addition to the municipal input, the Family Farm Alliance and California Farm Bureau and others have transmitted similar concerns the Department of the Interior and OMB. At this writing, the BA mandate will become effective May 15, 2022, but current indications suggest that federal agencies will not require projects already planned and designed to comply with the new standards.

- ***PFAS Legislation to Address Cleanups and Liability***
Municipal agencies' efforts to address the potential of a Senate PFAS bill being developed that would designate PFAS under Superfund, and thereby impose Superfund liability on water and wastewater agencies that treat PFAS contaminated waters, continue. In addition, strong industry opposition to such a federal standard has also been evident. Based upon discussions with Senate Committee on Environment and Public Works staff, the votes do not appear to be present to adopt such a liability mandate. Nonetheless, because the House did pass legislation (H.R. 2467) to designate PFAS as hazardous, the potential remains that an end of session effort to pass liability language remains.
- ***Fiscal Year 2022 Spending Bill Agreement Appears All But Inevitable***
A day after the House approved an extension of the stopgap spending bill until March 11, the Senate and House Committee on Appropriations leadership resolved their disputes on "top line" spending levels for overall spending in the current fiscal year 2022. This means that an omnibus spending bill that would fund all federal agencies and programs is now all but certain. This also means that the first year of the infrastructure law's funding will not be delayed due to the absence of a final spending bill that is required to ensure that federal officials have the funding to undertake the work to obligate funding assistance.

We anticipate that any final spending bill will include several millions of dollars to allow USEPA to continue development of drinking water and biosolids PFAS standards.

The Administration is signaling that due to the extended negotiations over fiscal year 2022 spending, it will delay the transmittal of its fiscal year 2023 budget request until mid to late March. This timetable likely means that any final fiscal year 2023 agreement will not be reached until after the November elections.