WWEMA Legislative/Regulatory Committee Meeting
November 6, 2019
1:30 PM – 3:00 PM
The Wigwam – Litchfield Park, AZ

WWEMA
111th Annual Meeting
Legislative & Regulatory Committee Agenda

• Welcome and Introductions
• Legislative and Regulatory Committee Work Plan Review and Update
• Update on Administration/Legislative Initiatives
• Update on Regulatory Initiatives
• Innovation Initiatives
• Review Draft Position Paper on Eliminating Failing Septic Tanks in the U.S.
• Vice-Chair Nominations
• Adjourn
Legislative/Regulatory Work Plan
2018 - 2019

• Primary Focus
  – Buy America
  – Infrastructure Plan
  – “Priorities for the Nation’s Water Infrastructure Initiative”

• Secondary Focus
  – Monitor Legislative / Regulatory Activity
  – Strengthen Relationships at State Level, U.S. Chamber, ETTAC
Administrative Actions

America’s Water Infrastructure Act (AWIA) of 2018 Signed by President Trump (October 23, 2018)

• Expanded WRDA legislation
• DWSRF authorized at $125 million annually
• Authorizes EPA WaterSense Program
• Increases funding for WIFIA to $50 million annually and makes permanent
• Review of technologies; HAB technologies; intractable water systems; resiliency; innovative technologies
• Extends AIS for DWSRF for 5 years
• Funding for grant programs proposed in 2020 Budget
Administrative Actions

**Water Infrastructure Improvement Act (WIIA)**  
Signed by President Trump (January 14, 2019)

- Law had widespread bipartisan support
- Expands CWA to let municipalities develop a plan to integrate wastewater and stormwater management
- EPA to promote use of green infrastructure and projects that reclaim, recycle, or reuse water associated with NPDES permits
- Creates Municipal Ombudsman Office in EPA – CWA assistance and Regional Office adherence to HQ policies
Administrative Actions

**Water Infrastructure Funding Transfer Act**
Signed by President Trump (October 4, 2019)

- Allows transfer of funds from CWSRF to DWSRF to address lead contamination in drinking water
- Transfer capped at 5%
- Transfers must be complete by October 4, 2020
- States must consult with EPA prior to transfer
- Authority is in addition to transfer authority that currently exists in SDWA
Administrative Actions

President Trump Signs E.O. on *Strengthening Buy-American Preferences for Infrastructure Projects* (January 31, 2019)

- Scope is broad – potentially impacting 30 Federal agencies
- Coverage includes iron, steel, concrete and manufactured products made from aluminum, plastics and polymer-based products like PVC pipe, glass, optical fiber, and lumber
- Within 90 days, Agencies have to start encouraging assistance recipients to comply
- Agencies have 120 days to prepare a report that outlines their plans for implementation
Administrative Actions

President Trump Signs E.O. on *Evaluating and Improving the Utility of Federal Advisory Committees* (June 14, 2019)

- Eliminate 1/3 of Federal Agency Advisory Committees
- Complete review by September 1, 2019; eliminate by September 30, 2019
- Limits total number of advisory board across the government to 350
- Example EPA Committees – SAB, EFAB, NDWAC, CHPAC
Administrative Actions


- Strengthens existing requirements present in *Buy American Act*
- Directs *Federal Acquisition Regulatory (FAR)* Council to consider publishing modifications to FAR for public review in 180 days
- Modifications to amend what materials are considered “foreign origin”
- Adjusts % of product to be domestic from 45% to 75%
- Iron and steel products must be 95% (rather than 50%) domestic
President Trump Signs E.O. on *Promoting the Rule of Law Through Improved Agency Guidance Documents* and *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication* (October 9, 2019)

- Intended to reduce use of guidance to “regulate”
- Requires public feedback on implementing guidance
- Promulgation of procedures for issuing guidance documents
- Protect public from “secret or unlawful bureaucratic interpretation” or unfair penalties
Administrative Actions

• President Trump Signs Two-Year Budget Deal (August 9, 2019)
  — Sets Federal spending and debt caps for FYs 20 and 21
  — Caps defense spending at $738 billion (FY20) and $740 billion (FY21)
  — Caps non-defense spending at $632 (FY20) and $634.5 (FY21)

• President Trump Signs CR on September 27, 2019 until November 21, 2019 for FY20
Outlook for Appropriations

- House and Senate working on 12 appropriations bills
  - Senate Appropriations approved FY20 spending bill (S.2580) on September 26, 2019 to fund Dept of Interior and EPA
    - $3 billion more for EPA than President’s budget; $500 million less than House version (June 25, 2019)
  - Senate passed four-bill package (H.R. 3055) on October 31, 2019
    - Includes Agriculture-FDA, Commerce-Justice-Science, Interior-Environment, and Transportation-HUD
- No agreement yet on top-line allocations for 12 spending measures
- Another CR is likely
Legislative Initiatives

H.R. 1497 – Water Quality Protection and Job Creation Act of 2019 (March 5, 2019)

- Rep. Peter DeFazio (D-OR-4)
- Provides CWA funding of $300 million for each FY 20-24
- Pilot program for alternative water source projects
- Sewer overflow and stormwater reuse municipal grants
- Authorizes $4 billion for each FY 20-24
- Set-aside 1% of CWA funds for workforce development
- WWEMA support letter
- Marked-up on October 29, 2019
PFAS Legislation (Over 40 Bills introduced this year)

•  **Protect Drinking Water from PFAS** (H.R. 2377)
  – Requires EPA to set MCL

•  **National Defense Authorization Act for FY20** (S. 1790)
  – Requires EPA to set MCLs within two years

•  **PFAS Release Disclosure Act**  (S. 1507)
  – Requires EPA to set MCL for PFOA and list 200 chemicals on Toxics Release Inventory
Infrastructure Legislation (Over 50 bills related to DW & CW)

- **Water Infrastructure, Sustainability and Efficiency (WISE) Act** (H.R. 2458; May 1, 2019)
  - Promote use of green infrastructure
  - 20% of CWA funding toward green initiatives
- **Leading Infrastructure for Tomorrow’s (LIFT) America Act** (H.R. 2741; May 15, 2019)
  - Funding for clean energy and energy efficiency
  - Grant program for PFAS
- **Water Resources Development Act** – Hearing held July 10, 2019
  - Funds inland waterways, flood control projects, municipal waterworks through CWA
  - Renewed every two years
Legislative Initiatives

Lead (Over 20 bills introduced this year)

• National Opportunity for Lead Exposure Accountability and Deterrence (NO LEAD) Act (S. 2086; July 11, 2019)
  – Reduces lead action level to 10 ppb by 2020 and 5 ppb by 2026
  – Creates lead service line inventory
• Get the Lead Out Act (H.R. 4321)
  – Creates $100 billion grant program through HUD to help states reduce lead pipes
EPA Announced PFAS Management Plan (February 14, 2019). A 64-page plan for managing PFAS. Key Actions:

- Expand toxicity information for PFAS
- Develop new tools to characterize PFAS in environment
- Evaluate clean-up approaches
- Develop guidance to facilitate cleanup
- Use enforcement tools to address PFAS exposure
- Address PFAS in drinking water
- Use legal tools like TSCA to prevent future contamination
- Develop new tools and materials to communicate about PFAS
Regulatory Initiatives

PFOA/PFAS

- States and local communities setting own standards; each one is different
  - PA, MI, MN, NY, WI, CA, CT, NH, NJ
- EPA Published [Health Advisories](#)
- ATSDR Publishes [MRLs](#)
- ECOS tracking [state implementation](#)
Regulatory Initiatives

EPA Actions on PFAS

• EPA sent ANPR to OMB (September 25, 2019) to allow public to input on adding PFAS to TRI
• Proposal sent to OMB (September 25, 2019) to ensure certain long-chain and persistent PFAS can’t be imported to U.S.
• EPA announced delay of assessment of draft toxicity values for 5 PFAS chemicals until Q1 2020 (October 8, 2019)
• EPA Awards $6 million to 8 organizations to fund PFAS research
Regulatory Initiatives

EPA Released Draft Water Reuse Action Plan
(September 10, 2019; FR, September 16, 2019)

• 90-day comment period
• Builds on 2017 Potable Reuse Compendium and Guidelines for Water Reuse
• Will leverage expertise of both industry and government to ensure effective use of the Nation’s water resources
Regulatory Initiatives

**Perchlorate**

- EPA sent proposed Perchlorate Drinking Water Rule to OMB on April 16, 2019
- EPA signed proposed rulemaking on May 23, 2019 for MCL and MCLG of 0.056 mg/L
  - Option 1 – MCL and MCLG of 0.018 mg/L
  - Option 2 – MCL and MCLG of 0.090 mg/l
  - Withdraw 2011 determination to regulate perchlorate
- Proposed Perchlorate Rule Published in FR – June 26, 2019
- On October 1, 2019 the courts extended deadline for EPA to promulgate rule until June 19, 2020
Lead and Copper Rule Revisions

- EPA announced a delay in proposed modifications to *Lead and Copper Rule Revisions* on April 8, 2019 until Summer to better address lead service lines
- EPA announced on April 29, 2019 $87 million grant under *WIIN ACT* for lead in schools and disadvantaged communities
- EPA announced *Lead and Copper Rule Revisions* on October 10, 2019
  - Identify most impacted areas
  - New trigger level of 10 ppb
  - Replacing lead service lines
  - Increasing drinking water sampling
  - Improving risk communication
  - Better protecting children in schools and daycares
Regulatory Initiatives

- AIS Product Waiver SS Nuts, Bolts, for Pipe Couplings, Restraints, Joints, Flanges and Saddles for SRF Projects
  - Final extension until February 24, 2020
  - Extension given for suppliers to ramp up productions
- AIS Waivers
  - Floodgates have opened; waivers being issued
- EPA determined that SRF not subject to President Trump’s EOs
Regulatory Initiatives

Peak Wet Weather Flows Management Rule

- EPA Stakeholder Meeting (10/15/18)
  - WWEMA Had Seat at the Table (John Dyson)
- EPA Hosted 3 Listening Sessions
- No current update
- WWEMA Developed Position Paper
Regulatory Initiatives

WOTUS

- EPA announced on September 12, 2019 that it was repealing the 2015 WOTUS Rule and re-codifying the pre-2015 regulatory text
- Decision published in October 22, 2019 FR
- “It’s like it never happened”
New round of funding announced
(October 22, 2019)

• $6 Billion in funding
• Construction-ready projects in 3 areas
  – Water reuse and recycling
  – Reducing exposure to lead and addressing emerging contaminants
  – Updating aging infrastructure
• 38 projects in 18 states invited to apply
Coalition Infrastructure Priorities

- Encouraging Partnerships and Removing Investment Barriers
- Increasing Federal Funding and Private Investment
- Improving the Effectiveness & Efficiency of Utility Management
WWEMA Coalition Infrastructure Priorities

• Effectiveness and Efficiencies of Utility Management through Value Based Procurement
• Modernize and Streamline SRF Process
• Accelerate Adoption of Innovative Technologies
  – Federal Support for Water Research
Trade and Tariffs

• President Trump sent Congress a *Statement of Administrative Action* on May 30, 2019 on the USMCA
  – Mexico and Canada have both ratified the agreement
  – Still awaiting action by U.S. Congress

• On May 30, 2019 President Trump announced a 5% tariff on Mexican imports beginning June 10, 2019 with 5% increase each month up to 25% until Mexico takes sufficient action to decrease illegal immigration

• U.S. and Japan reached partial trade deal on September 25, 2019
  – Reduce or eliminate Japanese tariffs on U.S. agricultural products as well as U.S. tariffs on some industrial goods
  – Separate agreement establishes high-standard digital trade rules

• China still a major issue
My Crystal Ball........

- Impeachment process has taken over Congressional focus
- Congress will be hard pressed to finalize all 12 appropriation’s bills...additional CRs or Omnibus likely
- With election year coming up – neither side wants to give the other any “wins”
- May put a damper on infrastructure spending as utilities wait to see who wins and if infrastructure funding materializes
- States going to continue to lead on standard setting
Action Plan

• Tariff and Trade Issues
  – Section 232 Steel / Aluminum Tariffs
  – Section 301 Implementation
  – China Tariffs
• Infrastructure Funding
  – Value Based Procurement
  – Buy America
• Peak Wet Weather Flows Rulemaking
• Buy America
  – Waivers under AIS – SS Nuts and Bolts
  – E.O. Buy American impacts
• Accelerating Technology Acceptance
WWEMA 47TH Washington Forum

- April 29 – May 1, 2020
- The Alexandrian, Alexandria, VA