

Rural Water Policy Advisory [11/26/2018]

Having trouble viewing this email? [Click here](#) to view on WaterPro Online or [here for PDF](#) version.

NRWA Urges EPA to Clarify the Constitutionality of the Safe Drinking Water Act (SDWA): In comments to the EPA last week regarding EPA's 2011 determination to set a maximum contamination level for perchlorate, NRWA urged the Agency to identify an intelligible principle for implementing the "sole judgment" SDWA authority and to make a finding that SDWA does not violate the nondelegation doctrine under the U.S. Constitution. The U.S. Supreme Court has determined that "when conferring decision-making authority upon agencies, Congress must lay down an intelligible principle to which the person or body authorized to act is directed to conform (J. W. Hampton, Jr., & Co. v. United States, 276 U. S. 394, 409)." Given the premise that the SDWA provides the Administrator with "sole judgment" to determine new contaminants to regulate and that we are not aware of any intelligible principle administering the delegated authority, we are concerned that the SDWA may not withstand a nondelegation doctrine challenge under Article One, Section 1 of the United States Constitution ([NRWA Comments](#)).

NRDC Agrees To EPA Extension Of Perchlorate Water Standard Deadline: Last week, the Natural Resources Defense Council (NRDC) agreed to EPA's request to extend until April a court-ordered deadline for proposing a drinking water rule for perchlorate. The agreement is a result of litigation in the U.S. District Court for the Southern District of New York. The delay is a result of EPA's peer review of the biologically-based dose-response model being used to derive the Maximum Contaminant Level Goal (MCLG) for perchlorate.

NRWA Files Comments Urging EPA to Resist Setting MCL for PFAS ([NRWA 11/21/18 comments](#)).

Rural Water at Risk from Climate Change: According to the recently released "[National Climate Assessment](#)," a reliable supply of clean water for cities, farms, industries, and ecosystems in the United States and effective management of droughts and floods are "increasingly in jeopardy," according to the comprehensive U.S. government report released the day after Thanksgiving. The report's [water chapter](#) explains three elements of the interaction between climate change and man-made systems: water quality and availability will shift; dams, levees, drainage systems, and other components of the nation's water infrastructure are aging and poorly designed for the projected climate changes; and water managers will need to prepare for a broader set of climate stresses. Former President Obama and Hillary Clinton aide Zerlina Maxwell said, "climate change is a national security issue with which we have now a timetable that scientists have told us if we don't get our acts together, in about 20 years, we can't reverse the course that we're on... Climate change is not something that is impacting children who, in Flint, still can't drink clean water ([MSNBC](#))."

Cairo, Georgia Water Leak Detailed in Local Paper: "Practically every customer was without water... incident occurred during the early morning... operator's early morning SCADA check showed low tank levels... local citizen calls in the rupture, city gives conflicting flood insurance information... line has been in service almost two years and passed pressure tests... resident contact councilman who needs to research the matter... service pumps activated to slowly... restaurants forced to close... water quality testing was done EPD-certified lab... guy with Georgia Rural Water Association delivered the samples to the lab for us... school cancelled... 16-inch PVC pipe was laid in 2016... etc. ([Cairomessenger.com](#))."

Congress Turns to Rural Water Issues Before 2018 Adjournment: Congress returns this week focused on passing all the funding bills before the December 7 deadline (the extended end of the fiscal year). In addition to a final funding agreement, House and Senate farm bill negotiators are trying to find a compromise and get a bill passed during the remaining days of the lame-duck session. Without a deal on a conference report in the lame-duck session, another extension to keep agriculture programs operating into the new year would be likely.

[National Rural Water Association](#)

Contact: Mike Keegan, Policy Analyst <keegan@ruralwater.org>

The National Rural Water Association is the country's largest public drinking water and sanitation supply organization with over 30,000 members. Safe drinking water and sanitation are generally recognized as the most essential public health, public welfare, and civic necessities.

Reprint Policy: this report, including any portion, may be distributed publicly without permission or citation.

Archives: past editions of this newsletter are available on the internet ([link](#)).