

Federal Legislative Briefing

Ratepayers at Risk from Pending PFAS Legislation



The Orange County Water District (OCWD) manages the Orange County Groundwater Basin that supplies 77% of the water supply to 2.5 million people in north and central Orange County. PFAS have been detected in the Basin, entering primarily via the Santa Ana River whose flows infiltrate into and recharge the Basin. Although chemical manufacturers are the original source of PFAS chemicals, ratepayers are now at risk from pending PFAS legislation. OCWD closely monitors PFAS legislation and encourages water agencies and stakeholders to take action by contacting your legislators to advocate for the following priorities:

1 All PFAS related legislation must exempt water and wastewater agencies from any liability for PFAS clean-up costs. Oppose designation of PFAS family of chemicals and other constituents of emerging concern as hazardous substances under the nation's hazardous waste site cleanup law CERCLA (Superfund) unless public water agencies are exempted from liability for cleanups of such contamination. The PFAS Action Act of 2021 (H.R. 2467) would expose water agencies with across-the-board liability for PFAS-related cleanup that simply receive and treat water supplies and have no responsibility for the presence of PFAS. OCWD requests an explicit exemption, under any federal PFAS legislation, from Superfund clean-up liability; like the exemption the nation's airports enjoy. A water utility that complies with applicable and appropriate federal management and treatment standards must not be responsible for current and future costs associated with a PFAS clean-up.

Per- and polyfluoroalkyl substances (PFAS) are a group of thousands of chemicals that are used to make carpets, clothing, fabrics for furniture, food packaging, cookware, and other materials to make them non-stick and/or resistant to water, oil, and stains. They are also used in a number of industrial processes and firefighting activities.

2 All legislative efforts to amend the Safe Drinking Water Act must include the current use of cost-benefit analysis in the development of drinking water standards, including: 1) Assistance, Quality, and Affordability Act of 2021 (H.R. 3291) and 2) PFAS Action Act of 2021 (H.R. 2467). Under existing law, USEPA ensures that public health benefits of new drinking water standards are reasonably balanced with the compliance costs that water system ratepayers will ultimately incur. Eliminating the current cost-benefit analysis in the development of drinking water standards will burden ratepayers of all income levels with astronomical costs to comply with drinking water standards that far exceed public health benefits.

3 Provide funding for PFAS remediation to water and wastewater agencies. Provide direct grant funding to water and wastewater agencies as provided in the Senate-passed Infrastructure Investment and Jobs Act (H.R. 3684). Grants would support the treatment of emerging contaminants and provide assistance to develop and implement local source control programs to reduce PFAS discharges into treatment works. As passed by the Senate, H.R. 3684 would provide a total of \$10 billion for these activities over FYs 2022–2026.