



SANTA CLARA VALLEY WATER DISTRICT

NON-AGENDA

February 12, 2021

Board Policy EL-7 Communication and Support to the Board
The BAOs shall inform and support the Board in its work.

Page	<u>CEO BULLETIN & NEWSLETTERS</u>
	CEO Bulletin: None
3	February 2021 Water Tracker
	<u>BOARD MEMBER REQUESTS & INFORMATIONAL ITEMS</u>
6	BMR/IBMR Weekly Reports: 02/11/21
7	Memo from Aaron Baker, COO, Water Utility, to the Board of Directors, dated 2/8/21, regarding FEMA Releases Additional Reimbursement Funds for Oroville Spillways Repairs and Reconstruction.
9	Memo from Aaron Baker, COO, Water Utility, to the Board of Directors, dated 2/8/21, regarding Annual Drinking Water Regulatory Update.
	<u>INCOMING BOARD CORRESPONDENCE</u>
31	Board Correspondence Weekly Report: 02/11/21
32	Email from Shaun Lopez, to the Board of Directors, dated 2/3/21, regarding Permit to Support Non-Profit (C-21-0013).
34	Letter from Suzanne Weber, CC to the Board of Directors, dated 1/22/21, regarding Valley Water's Request to Remove Backyard Amenities (C-21-0014)
36	Email from Connie Ludewig, to Director Varela, dated 2/5/21, regarding Water Lead Testing (C-21-0015).
38	Email from Janet Higaki, to Director Santos, dated 2/9/21, regarding Community Projects for the Boy Scouts Cleaning Up the Pond Shorelines at the Penitencia Creek Park (C-21-0016)
	<u>OUTGOING BOARD CORRESPONDENCE</u>
40	Congratulatory Letters for State Newly-Elected Officials in November 2020.

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to publicrecords@valleywater.org.

CEO BULLETIN

A monthly assessment of trends in water supply and use for Santa Clara County, California

Outlook as of February 1, 2021

We began calendar year 2021 with groundwater storage within Stage 1 (Normal) of the Water Shortage Contingency Plan of Valley Water. Despite well below-normal local rainfall and statewide snow pack, end of year groundwater storage for 2021 is projected to be within Stage 1. Anderson Reservoir reached deadpool storage in December 2020 and remained at deadpool throughout January 2021 in compliance with the Federal Energy Regulatory Commission (FERC) order issued in February 2020. The majority of the water released from Anderson Reservoir went to beneficial use.

Weather

Rainfall in San José:

- Month of January, City of San José = 3.27 inches
- Rainfall year total = 4.25 inches or 54% of average to date (rainfall year is July 1 to June 30)

Snowfall in the Northern Sierra:

- February 3 snowpack was 69% of normal for this date and 46% of April 1 average

Local Reservoirs

- Total February 1 storage = 27,632 acre-feet
 - » 34% of 20-year average for that date
 - » 17% of total unrestricted capacity
 - » 44% of restricted capacity (166,140 acre-feet total storage capacity limited by seismic restrictions to 62,362 acre-feet. The restricted capacity includes the added FERC dam safety restriction on Anderson Reservoir effective October 1, 2020)
- Approximately 460 acre-feet of imported water delivered into Calero Reservoir during January 2021.
- Approximately 830 acre-feet of water released from Anderson Reservoir during January 2021. Since the FERC order to drawdown Anderson Reservoir was issued on February 20, 2020, cumulative release from Anderson is approximately 29,030 acre-feet. Anderson has reached deadpool. Majority of released water was used for groundwater recharge and delivery to water treatment plants (based on preliminary hydrologic data). Current releases are for water supply and environmental purposes
- Total estimated releases to streams (local and imported water) during January was 5,730 acre-feet (based on preliminary hydrologic data)

Treated Water

- Above average demands of 5,504 acre-feet delivered in January
- This total is 101% of the five-year average for the month of January

Groundwater

- Groundwater conditions are good. Total storage at the end of 2021 is projected to be in Stage 1 (Normal) of Valley Water’s Water Shortage Contingency Plan

	Santa Clara Subbasin		Llagas Subbasin
	Santa Clara Plain	Coyote Valley	
January managed recharge estimate (AF)	3,450	1,200	1,150
January managed recharge, % of 5-year average	100%	100%	96%
December 2020 pumping estimate (AF)	5,800	600	2,900
January to December 2020 pumping estimate (AF)	81,000	11,350	44,500
January to December 2020 pumping, % of 5-year average	124%	99%	105%
Current groundwater index levels compared to last January	Lower	Lower	Lower

AF = acre-feet

Imported Water

- Initial 2021 State Water Project (SWP) and Central Valley Project (CVP) allocations:
 - » 2021 SWP allocation of 10%, which provides 10,000 acre-feet to Valley Water
 - » 2021 South-of-Delta CVP allocations have not yet been identified
- Statewide reservoir storage information, as of February 1, 2021:
 - » Shasta Reservoir at 47% of capacity (69% of average for this date)
 - » Oroville Reservoir at 35% of capacity (53% of average for this date)
 - » San Luis Reservoir at 52% of capacity (66% of average for this date)
- Valley Water's Semitropic groundwater bank reserves are at 95% of capacity, or 333,170 acre-feet, as of December 31, 2020
- Estimated SFPUC deliveries to Santa Clara County:
 - » Month of December = 3,297 acre-feet
 - » 2020 total to date = 48,622 acre-feet
 - » Five-year annual average = 48,700 acre-feet
- Board Governance Policy No. EL-5.3.3 includes keeping the Board informed of imported water management activities on an ongoing basis. Two imported water agreements were executed under EL-5.3.3 since the last Water Tracker update

Conserved Water

- Saved 74,198 acre-feet in FY20 from long-term program (baseline year is 1992)
- Long-term program goal is to save nearly 100,000 acre-feet by 2030 and 110,000 acre-feet by 2040
- The Board continues its call for a 20% reduction and a limit of three days per week for irrigation of ornamental landscape with potable water
- Through December, achieved a 16% reduction in water use in calendar year 2020, compared to 2013

Recycled Water

- Estimated January 2021 production = 847 acre-feet
- Estimated year-to-date through January = 847 acre-feet or 108% of the five-year average
- Silicon Valley Advanced Water Purification Center produced an estimated 1.6 billion gallons (4,864 acre-feet) of purified water in 2020. Since the beginning of 2021, about 178 acre-feet of purified water has been produced. The purified water is blended with existing tertiary recycled water for South Bay Water Recycling Program customers

Alternative Sources

- As of December 10, 2019, Valley Water's wastewater contract right from Palo Alto/Mountain View remains at 10,000 acre-feet/year



CONTACT US

For more information, contact **Customer Relations** at **(408) 630-2880**, or visit our website at valleywater.org and use our **Access Valley Water** customer request and information system. With three easy steps, you can use this service to find out the latest information on district projects or to submit questions, complaints or compliments directly to a district staff person.

Follow us on:

-  /scvwd
-  /valleywater
-  /valleywater



To get eNews, drop an email to: info@valleywater.org

BOARD MEMBER REQUESTS and Informational Items

Report Name: Board Member Requests

Request	Request Date	Director	BAO/Chief	Staff	Description	20 Days Due Date	Expected Completion Date	Disposition
R-21-0001	01/12/21	Lezotte	Gibson	Rocha	Director LeZotte requested that, "Staff provide a five-year report on who received sponsorship money and how much money was paid for each sponsorship."	02/01/21		

TO: Board of Directors**FROM:** Aaron Baker**SUBJECT:** FEMA Releases Additional Reimbursement
Funds for Oroville Spillways Repairs and
Reconstruction**DATE:** 2/8/2021

On February 1, 2021, the Department of Water Resources (DWR) reported that the Federal Emergency Management Agency (FEMA) released an additional \$308 million in requested funds for the Oroville Dam spillways reconstruction and emergency response. As noted in a February 24, 2020 Non-Agenda Memo to the Board, this funding was initially rejected by FEMA but subsequently approved following appeal from DWR. The \$308 million is in addition to the \$260 million that FEMA has already committed to for repairs to the lower portion of the main spillway and other work conducted in response to the emergency.

FEMA's Public Assistance program reimburses applicants up to 75 percent of eligible costs associated with a federally declared disaster. In total, DWR expects to be reimbursed for \$630 million of the \$1.2 billion cost of the spillways incident through the public assistance program.

DWR is working with the California Governor's Office of Emergency Services (Cal OES) and FEMA to secure additional reimbursement funds. Valley Water will continue to work with DWR and the State Water Contractors to determine the financial impact to our agency.



Aaron Baker, P.E.
Chief Operating Officer
Water Utility Enterprise

Attachment 1: Feb. 1, 2021 DWR press release



FEMA Releases Additional Reimbursement Funds for Oroville Spillways Repairs and Reconstruction

Published: Feb 01, 2021

SACRAMENTO, Calif. – The Department of Water Resources (DWR) has received notification that the Federal Emergency Management Agency (FEMA) has released an additional \$308 million in requested funds for the Oroville Dam spillways reconstruction and emergency response. These funds are in addition to the \$260 million that FEMA has already committed to for repairs to the lower portion of the main spillway and other work conducted in response to the emergency.

The \$308 million in additional funding was initially rejected by FEMA but was subsequently approved last year following appeal from DWR.

“We appreciate the continued hard work of our partners at FEMA and the California Office of Emergency Services, as well as our representatives in Congress, to ensure California received these funds,” said Ted Craddock, DWR Deputy Director of the State Water Project.

DWR continues to work with Cal OES and FEMA to secure additional reimbursement funds for work on the emergency spillway.

FEMA’s Public Assistance program reimburses applicants up to 75 percent of eligible costs associated with a federally declared disaster.

In total, DWR expects to be reimbursed for \$630 million of the \$1.2 billion cost of the spillways incident through the public assistance program.

###

Contact:

Ryan Endean, Public Affairs Office, Department of Water Resources

916-798-1701 | ryan.endean@water.ca.gov



MEMORANDUM

FC 14 (08-21-19)

TO: Board of Directors

FROM: Aaron Baker

SUBJECT: Annual Drinking Water Regulatory Update

DATE: February 8, 2021

The drinking water regulatory development summary for January through December 2020 is attached for the Board's information.

A handwritten signature in blue ink that reads "Aaron Baker".

Aaron Baker, P.E.
Chief Operating Officer
Water Utility Enterprise

cc: Water Utility Enterprise

ls/ab

Attachment: 2020 Drinking Water Regulatory Update

VALLEY WATER

2020 ANNUAL REGULATORY SUMMARY

PREPARED BY:

WATER QUALITY & TREATMENT SOLUTIONS, INC.

LOS ANGELES, CALIFORNIA



www.WQTS.com

JANUARY 31, 2021

SECTION 1: INTRODUCTION

The purpose of this document is to provide a summary of regulatory activity pertaining to drinking water quality, treatment, and distribution for calendar year 2020. The update is divided into two sections: State and Federal.

The authority to regulate drinking water in the United States comes from the Safe Drinking Water Act (SDWA). Originally enacted in 1974, the SDWA was amended in 1986 and again in 1996.

At the federal level, the U.S. Environmental Protection Agency (EPA) is responsible for developing and promulgating drinking water regulations. EPA establishes enforceable regulatory standards for constituents which are present in some public water systems and are known to be of health concern. Each regulatory standard, often in the form of a maximum contaminant level (MCL), reflects a balance between the contaminant level that protects human health and that which is achievable by public water systems using the available technologies. Under certain conditions, EPA regulates contaminants through development of a “treatment technique” rather than setting an MCL. Additionally, EPA’s drinking water regulations include schedules for compliance, specify analytical methods, and prescribe best available treatment technology for reduction of regulated contaminants.

The SDWA allows states to seek primacy (responsibility for promulgating and enforcing their own drinking water standards) by meeting specific requirements. Among the requirements for primacy is the establishment of regulatory standards that are at least as stringent as EPA's standards. In California, the Division of Drinking Water (DDW) at the State Water Resources Control Board (SWRCB) is the primacy agency.

SECTION 2:

CALIFORNIA REGULATORY UPDATE

Section 2 presents the California regulatory update for 2020.

2.1 – DDW 2020 REGULATORY PRIORITIES

Since becoming part of the SWRCB in 2014, DDW has developed and given public presentations of their regulatory priorities each year. In March 2020 DDW presented to the SWRCB the priority list of regulatory topics below:

1. Hexavalent Chromium Maximum Contaminant Level (MCL)
 - a. Economic feasibility workshops
 - b. MCL
2. Lead and Copper Rule (LCR)
 - a. Short-term revisions
 - b. Revised Lead Detection Limit for Purposes of Reporting (DLR)
 - c. Assistance to Department of Social Services for Daycare Regulations
 - d. Lead and Copper Rule Revisions
3. Revised Total Coliform Rule (RTCR)
4. Direct Potable Reuse (DPR)
 - a. Research and framework
 - b. Regulations
5. Cross-Connection Control and Backflow Protection Regulations
 - a. Policy Handbook
6. Environmental Laboratory Accreditation Program (ELAP) Regulations
7. Primacy Package applications
 - a. Consumer Confidence Report
 - b. Public Notification
8. Revised Perchlorate DLR
9. Microplastics
 - a. Definition
 - b. Testing and Reporting Regulations
10. Water Quality Standards for On-site Treatment and Reuse
11. Electronic Reporting of Drinking Water Quality Data
12. Investigation of Per- and Polyfluoroalkyl Substances (PFAS)

During 2020 DDW made progress on most of the above topics. Section 2 presents updates on those issues and others.

2.2 – FINAL PUBLIC HEALTH GOALS FOR TRIHALOMETHANES

In California, establishing drinking water regulations is a two-step process. During the first step, the Office of Environmental Health Hazard Assessment (OEHHA) adopts a Public Health Goal (PHG), which is non-enforceable and based strictly on health effects information. DDW then sets the MCL as close to the PHG as technically and economically feasible.

The current drinking water MCL for trihalomethanes (THMs) is 80 micrograms per liter ($\mu\text{g}/\text{L}$). The THM MCL consists of four individual compounds: chloroform, bromoform,

SECTION 2: CALIFORNIA REGULATORY UPDATE

bromodichloromethane and dichloromethane. Up to now there has neither been a PHG for THMs as a group nor as individual constituents.

In October 2018, OEHHA released draft PHGs for the four individual THM species for public review and comment. A second draft for review was released in November 2019. In February 2020, OEHHA adopted final THM PHGs. Table 2.1 presents the final PHGs for each constituent as well as the California Detection Limit for Purposes of Reporting (DLR)¹ and the federal Maximum Contaminant Level Goal (MCLG)² for reference,

Table 2.1: Final PHGs for Individual Trihalomethanes

Constituent	PHG (µg/L)	California DLR (µg/L)	Federal MCLG (µg/L)
Chloroform	0.4	1.0	0.00007
Bromoform	0.5	1.0	0
Bromodichloromethane	0.06	1.0	0
Dibromochloromethane	0.1	1.0	0.00006

There has been no indication that DDW is considering nor has begun a process to establish MCLs for the individual THMs. Valley Water continues to track any developments, but no significant impact is anticipated.

2.3 – DRAFT PHGs FOR HAA5

The current drinking water MCL for five haloacetic acids (HAA5) is 60 µg/L. The HAA5 MCL consists of five individual species: monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid and dibromoacetic acid.

On January 31, 2020 OEHHA released draft PHGs for the five individual HAA5 species for public review and comment. Table 2.2 presents the draft HAA5 PHGs released in January 2020.

Table 2.2 – Draft Individual HAA5 PHGs

Constituent	PHG (µg/L)	California DLR (µg/L)	Federal MCLG (µg/L)
Monochloroacetic acid	53	0.00002	0.00007
Dichloroacetic acid	0.2	0.00001	0
Trichloroacetic acid	0.1	0.00001	0.00002
Monobromoacetic acid	25	0.00001	NA
Dibromoacetic acid	0.03	0.00001	NA

¹DLR is the designated minimum level at or above which any analytical finding of a contaminant in drinking water resulting from monitoring required under this chapter shall be reported to the State Board. (Title 22, Section 64400.34).

² Federal MCLGs are based only on health effects and are analogous to PHGs. However, when the MCLG is based on a carcinogenic endpoint, EPA sets the MCLG at zero. This reflects EPA's policy of setting the MCLG at zero if a constituent is considered to be carcinogenic and there is no level below which the constituent is considered to be safe. There is no indication that EPA intends to set MCLs for the four individual THMs.

SECTION 2:

CALIFORNIA REGULATORY UPDATE

A public workshop on the draft HAA5 PHGs was held April 28, 2020. Public comments were due May 1, 2020. As required by State Health and Safety Code, the draft PHGs were reviewed by an External Peer Review Committee which submitted their comments to OEHHA in September 2020. Final HAA5 PHGs have not been published.

Valley Water continues to track any developments, but no significant impact is anticipated.

2.4 - REVISED NLS AND RLS FOR PFAS

During 2020 DDW issued revised Response Level (RL) values for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). The following presents the timeline of evolving guidance values over the past several years regarding PFAS Notification Levels (NLS) and Response Levels (RLs) for two PFAS:

- **2016:** EPA issued a 70 nanogram per liter (ng/L) Health Advisory for the combination of PFOS and PFOA.
- **2018:** DDW issued interim NLS for PFOA and PFOS of 14 ng/L and 13 ng/L, respectively.
- **2019:** DDW lowered the NLS for PFOA and PFOS to 5.1 ng/L and 6.5 ng/L, respectively.
- **February 2020:** DDW issued individual RLs for PFOA and PFOS at 10 ng/L and 40 ng/L, respectively. The new RLs replaced the existing RL of 70 ng/L for the combination of PFOS and PFOA.

If a wholesale water system detects a constituent above an NL, the wholesaler must notify its governing body and the retail water system(s) directly supplied with that supply. Retail water systems must notify their governing bodies and the governing bodies of any local agencies (i.e., city or county, or a city and county) whose jurisdictions include areas supplied with their drinking water. Wholesale and retail water systems regulated by the California Public Utilities Commission, who must also notify the commission (Health and Safety Code Section 116455).

If PFOS or PFOA are detected at levels that exceed the RLs, Section 116378 of the Health and Safety Code requires that the public water system either (1) take the source out of service immediately; (2) utilize treatment or blending; or (3) provide public notification of the RL exceedance within 30 days of being notified by the laboratory of the RL exceedance. Additionally, the exceedance of the RL must be reported in the annual consumer confidence report.

Background on Per- and Polyfluoroalkyl Substances (PFAS): PFAS are a group of more than 6,000 chemicals used in products to resist heat, oils, stains, and water. They are found in a wide range of household and commercial products, from non-stick cookware to stain-resistant furniture to firefighting foam. The two most widely studied PFAS are PFOA and PFOS, which have been voluntarily phased out by industry but are still present in the environment. Less is known about the thousands of other PFAS chemicals. PFAS have been linked to increased cholesterol levels, low infant birth weights, adverse effects on the immune system and thyroid hormones, and cancer.

Background on NLS and RLS (text below copied from DDW website³): “Notification levels are

³https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/NotificationLevels.html

SECTION 2:

CALIFORNIA REGULATORY UPDATE

health-based advisory levels established by DDW for chemicals in drinking water that lack MCLs. When chemicals are found at concentrations greater than their notification levels, certain requirements and recommendations apply. The level at which DDW recommends removal of a drinking water source from service is called the response level."

"If a chemical concentration is greater than its notification level in drinking water that is provided to consumers, DDW recommends that the utility inform its customers and consumers about the presence of the chemical, and about health concerns associated with exposure to it. To provide consumer notice, the utility may want to consider using its annual Consumer Confidence Report, a separate mailing, or other method."

2.5 – DDW REQUEST FOR ADDITIONAL PFAS NLS

In March and April 2019, DDW issued PFAS monitoring orders to public water systems throughout California. The monitoring orders targeted groundwater wells near airports, landfills and sources that had detected PFAS during the federal Unregulated Contaminant Monitoring Rule 3 (UCMR3). Approximately 600 wells in California were tested for PFAS monitoring.

On February 6, 2020 DDW submitted a memo to OEHHA with the following request:

"DDW has now received monitoring data for two rounds of sampling. A review of this data reveals that nine different PFAS materials have been detected at multiple locations within California drinking water sources. For two of those contaminants, PFOS and PFOA, OEHHA has made recommendations to DDW regarding establishment of notification levels. Based on the number of detections, DDW is hereby requesting that OEHHA complete a review of available health information and make recommendation as to possible notification levels..." for the following 7 PFAS compounds:

- perfluorohexane sulfonic acid (PFHxS)
- perfluorobutane sulfonic acid (PFBS)
- perfluorohexanoic acid (PFHxA)
- perfluoroheptanoic acid (PFHpA)
- perfluorononanoic acid (PFNA)
- perfluorodecanoic acid (PFDA)
- 4,8-dioxia-3H-perflourononanoic acid (ADONA)

DDW requested that OEHHA give consideration as to whether some PFAS should be grouped together based on characteristics or features of the materials.

2.6 – SB1044 – FIRE FIGHTING FOAM AND PFAS

SB 1044 was signed into law on September 29, 2020. SB 1044 prohibits the manufacture, sale, distribution, and use of class B firefighting foam containing PFAS chemicals by January 1, 2022,

with some exceptions, and requires notification of the presence of PFAS in the protective equipment of firefighters.

2.7 – AB756 AND PFAS MONITORING

In August and September 2020, DDW issued a second-round of orders to public water systems throughout California requiring quarterly monitoring for PFAS using EPA Method 537.1. The first quarterly sample was to be collected during the fourth quarter of 2020. Valley Water’s Campbell Ave Well C was included in the DDW order. Monitoring at Campbell Well Field continues to indicate that PFAS are present at low levels and below the state notification levels.

Valley Water has been actively tracking PFAS regulatory developments and responding in a proactive manner by complying with issued monitoring orders, conducting voluntary groundwater, raw water and treated water sampling, developing a fact sheet to communicate transparently with the public, and actively coordinating with retailers, DDW and the Regional Board to identify potential sources of PFAS in Santa Clara County. Recent voluntary raw and treated water sampling at Valley Water treatment plants continues to indicate that PFAS with state advisory levels are not detected in raw and treated water.

If a public water system has four quarterly results that are non-detectable, the system can submit a request to DDW for a “modification or reduction” of the quarterly monitoring requirement.

Background on AB 756. AB756 was signed into law in July 2019 and added section 113678 to the Health and Safety Code. Under AB 756, if a public water system is required to monitor for PFAS by DDW and has a confirmed detection above the method detection limit, the utility “...shall report that detection in the water system’s annual consumer confidence report.” The system has the option of collecting one or two confirmation samples within 30 days of the original result. If both confirmation sample results are ND, the public water system can ignore the original result.

If the detected concentration exceeds an RL (based on the average of four quarterly results) the public water system must either take the source out of use, provide treatment (including blending)...or provide direct public notification within 30 days of exceeding the RL. The list of direct public notification requirements is presented below:

1. Mail or directly deliver notice to each customer receiving a bill, including those that provide drinking water to others, and to other service connections to which water is delivered by the water system.
2. Email notice to each customer of the water system with an email address known by the water system.
3. Post the notice on the website of the water system.
4. Use one or more of the following methods to reach persons not likely to be reached by the method in item #1 above:
 - a. Publish notice in a local newspaper for at least seven days.

SECTION 2:

CALIFORNIA REGULATORY UPDATE

- b. Post notice in conspicuous public places served by the water system for at least seven days.
- c. Post notice on an appropriate social media site for at least seven days.
- d. Deliver notice to community organizations.

2.8 – DDW GUIDANCE FOR PFAS SAMPLE COLLECTION

In early 2019 DDW released a guidance document on PFAS sample collection (“Drinking Water Sample Collection for Per and Polyfluorinated Alkyl Substances (PFAS) Sampling Guidance”). Updated versions of the document were posted by DDW in April 2019, May 2020, and September 2020 (the most recent version). Given the potential presence of PFAS in sampling material and personal protective equipment the DDW Guidance presents a series of recommendations regarding “...planning, sampling, and shipping...” to ensure the integrity of samples and reduce the risk of cross contamination. Valley Water has implemented rigorous sampling methods for PFAS sample collection and handling since 2019.

2.9 – PHG FOR 1,4-DIOXANE AND UPDATED NDMA PHG

On March 27, 2020 OEHHA announced that at the request of the SWRCB DDW, they were starting the process to develop a PHG for 1,4-dioxane and an update of the existing PHG for n-nitrosodimethylamine (NDMA). The current PHG for NDMA is 0.003 µg/L.

In the March 27, 2020 announcement, OEHHA requested information to be submitted by interested parties by April 27, 2020 that could “...assist in conducting the risk assessments and in calculating the PHGs.” The two bullets below summarize the current guidance and regulations for 1,4-dioxane and NDMA.

- 1,4-dioxane currently has an NL of 1 µg/L and an RL of 35 µg/L. There is no MCL for 1,4-dioxane at the State or Federal level.
- NDMA currently has an NL of 10 ng/L (0.010 µg/L) and an RL of 300 ng/L (0.3 µg/L). There is no MCL for NDMA at the State or Federal level.

No additional information or updates have been released by OEHHA. Valley Water continues to track any related regulatory developments and will assess the impact once more information is available.

2.10 – MCL FOR HEXAVALENT CHROMIUM/ECONOMIC FEASIBILITY

In 2014 DDW⁴ adopted an MCL for hexavalent chromium (chromium-6) of 10 µg/L. In May 2017, the Superior Court of Sacramento County invalidated the chromium-6 I MCL indicating that DDW had “failed to properly consider the economic feasibility of complying with the MCL.” Under California’s Safe Drinking Water Act, MCLs are to be set as close to the PHG as “technologically and

⁴ At this time, the DDW was part of the Department of Public Health

SECTION 2:

CALIFORNIA REGULATORY UPDATE

economically feasible, placing primary emphasis on the protection of public health.” For several years following the Superior Court’s decision to invalidate the chromium-6 MCL, the issue of how to determine “economic feasibility” has been a priority for DDW for developing a revised chromium-6 MCL (as well as future MCLs for other constituents).

DDW Releases White Paper on Economic Feasibility: In February 2020 DDW released a White Paper entitled “Economic Feasibility Analysis in Consideration of a Hexavalent Chromium MCL.” DDW had originally intended to hold three workshops in April 2020 and take public comments on the White Paper. Due to the coronavirus pandemic, the three in-person workshops were cancelled and replaced with a single video conference held on April 27, 2020. Public comments were due by May 15, 2020.

While the White Paper does not provide a significant amount of detail, a few broad themes are apparent:

1. DDW staff see significant limitations in approaching economic feasibility through a traditional cost/benefit analysis.
2. It is clear from the White Paper that while DDW recognizes the potential for significant cost impacts on small systems they are extremely reluctant to have those cost impacts drive the setting of an MCL designed to protect public health for all of California.

No further information has been released by DDW regarding the issue of economic feasibility.

Setting New MCL for chromium-6: In October 2020, DDW posted updated chromium-6 occurrence data (data collected between January 2014 and May 2020). DDW is considering MCLs for chromium-6 ranging from 1 µg/L to 30 µg/L.

In November 2020, DDW released a series of documents with cost information regarding chromium-6 for various size systems using different treatment technologies. On December 8 and 9, 2020, DDW held workshops to present the cost information.

Sampling results from 2001 to 2012 indicate that the average level of chromium-6 detected in groundwater in Santa Clara County is 1.7 ppb. The range of chromium-6 observed in groundwater varies from non-detect (below the reporting limit) up to 23 ppb. Results from over 200 water supply wells in Santa Clara County indicate that chromium-6 levels in 98 percent of the wells tested are below the proposed MCL.

2.11 – REVISED TOTAL COLIFORM RULE

In April 2016, the federal Revised Total Coliform Rule (RTCR) went into effect. Since that time public water systems have been complying with both the RTCR and the existing California TCR.

In October 2020, DDW issued a Notice of Proposed Rulemaking to adopt the RTCR. A public hearing was held on December 17, 2020 with public comments due by December 18, 2020. Valley Water submitted comments to the DDW requesting clarifications on a few of the proposed rule provisions. DDW intends to present the RTCR to the State Water Board for formal adoption in early

SECTION 2:

CALIFORNIA REGULATORY UPDATE

2021 with an anticipated effective date in spring 2021. Once the regulation is enacted, Valley Water will need to submit a new Bacteriological Sampling and Siting Plan and adjust its monthly reporting to comply with the new regulatory provisions.

2.12 – DDW REVISES DLR FOR PERCHLORATE

In 2004 OEHHA published a PHG for perchlorate of 6 µg/L. California adopted an MCL of 6 µg/L that was in effect in 2007. The perchlorate DLR was 4 µg/L.

In 2015 OEHHA published revised PHG of 1 µg/L for perchlorate.

For several years, DDW has indicated a plan to revise the current MCL to a level that is closer to the 1 µg/L PHG. However, because the DLR is set at 4 µg/L, DDW does not have sufficient occurrence data for perchlorate below 4 µg/L to determine if there is a need to consider a lower MCL.

In July 2020, DDW published a Notice of Proposed Rulemaking presenting a two-phase approach to the lower the perchlorate DLR. The first phase will be to lower the DLR to 2 µg/L. The second phase is to lower the DLR to 1 µg/L, effective January 1, 2024. The proposal was open for a 15-day public comment period (comments were due by August 7, 2020).

On October 6, 2020, the SWRCB voted to adopt the two-step proposal to lower the perchlorate DLR. The 2 µg/L DLR went into effect immediately following the SWRCB's vote.

Valley Water's Water Quality Laboratory is already meeting the new lower DLR. Valley Water does not anticipate a significant impact on perchlorate detections due to the lowering of the DLR.

2.13 – CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

The current cross connection control and backflow prevention regulations were adopted in 1987 (California Code of Regulations, Title 17, Division 1 Chapter 5, Subchapter 1, Group 4, Article 1, Sections 7583 – 7604).

In October 2017, AB 1671 was signed into law. AB 1671 added sections 116407 and 116555.5 and amended section 116810 of the Health and Safety Code. AB 1671 required the following:

- By January 1, 2020, the SWRCB was to adopt updated standards for backflow protection and cross connection control,
- SWRCB to hold two public hearings on proposed standards before adoption,
- The updated standards can be adopted through a “policy handbook” and do not need to follow Administrative Procedures Act requirements,
- The updated cross connection control and backflow prevention regulations are to be implemented by public water systems, and
- Local health officers “may” maintain a certification program for backflow prevention device testers.

In February 2020, DDW staff held a public workshop on their anticipated changes to cross

SECTION 2:

CALIFORNIA REGULATORY UPDATE

connection control and backflow prevention regulations. During the public workshop, Department of Health Services staff indicated that they were looking at adding three new elements to the cross-connection control and backflow prevention regulations. Those three elements are (1) backflow incident response, reporting and notification, (2) public outreach and public education and (3) coordination with local building and plumbing officials.

At the time of the February 2020 workshop, the intent was to hold two (2) public hearings in June 2020 and then submit a proposal for the SWRCB to adopt the revisions in August/September 2020. Following the February 2020 workshop there were no public hearings nor a proposal for SWRCB adoption. Valley Water continues to track upcoming regulatory developments.

2.14 – LEAD TESTING AT CHILD DAYCARE FACILITIES

AB 2370 was signed into law in September 2018 and was effective as of January 1, 2019. This new law impacts daycare centers and does not directly impact public water systems. The law has two basic components regarding lead exposure:

1. Day care centers are required to provide parents or guardians with written information on the following:
 - a. Risks and effects of lead exposure,
 - b. Blood lead testing recommendations and requirements, and
 - c. Options for obtaining blood lead testing.
2. Daycare centers located in a building constructed on or before January 1, 2010 must test for lead in drinking water between January 1, 2020 and January 1, 2023, and every five years thereafter.

The California Department of Social Services (CDSS) in consultation with the California Department of Public Health developed the written information required in item #1 above. That material was posted on the CDSS web site (<https://ccc.caltech.edu/files/2019/03/AB-2370-Lead-Bill-Flyer-CCLPO2.pdf>).

The SWRCB is required to post the results on its website. If the results indicate “elevated” levels of lead, the daycare center is to immediately stop using that source of drinking water.

CDSS was to adopt regulations implementing AB 2370 requirements by January 1, 2021). CDSS is required to consult with the SWRCB regarding sample collection and any changes regarding the lead Action Level. DDW recommended that CDSS use a lead Action Level of 5 µg/L for this program.

In January 2020, CDSS sent a memo to all licensed child daycare facilities in California providing background and an outline of the requirements for lead testing. The memo indicated that CDSS would publish “written directives setting forth the procedures by which CCCs [childcare centers] are required to test their facility’s water for lead, including detailed water sampling instructions.”

SECTION 2:

CALIFORNIA REGULATORY UPDATE

On May 4, 2020, the SWRCB announced that it had allocated \$5 million in grant funding for the program to test for lead in drinking water at childcare facilities and to support remediation efforts.

On May 28, 2020, CDSS sent a memo to all licensed childcare facilities in California indicating that the testing for lead in drinking water was being delayed due to COVID-19.

As a wholesaler, Valley Water is not directly impacted by these requirements.

2.15 – MICROPLASTICS IN DRINKING WATER

Senate Bill 1422 was signed into law in 2018 (added Section 116376 to California’s Health and Safety Code). This new law required/requires the following DDW activities regarding microplastics:

1. On or before July 1, 2020: adopt a definition of microplastics in drinking water.
2. On or before July 1, 2021:
 - a. Adopt a standard methodology for testing of microplastics in drinking water.
 - b. Adopt requirements for four years of testing and reporting of microplastics in drinking water, including public disclosure of those results.
 - c. Consider issuing quantitative guidelines (e.g., notification level) to aid consumer interpretations of the testing results, if appropriate.
 - d. Accredit qualified laboratories in California to analyze for microplastics in drinking water.

In March 2020, DDW posted for public review and comment a proposed definition of microplastics in drinking water. On April 8, 2020, DDW held a public workshop to present the proposed definition. Following the public comment period, the proposed definition was modified and on June 16, 2020 the SWRCB voted to adopt the following definition of microplastics:

“Microplastics in Drinking Water are defined as solid polymeric materials to which chemical additives or other substances may have been added, which are particles which have at least three dimensions that are greater than 1nm and less than 5,000 micrometers (µm). Polymers that are derived in nature that have not been chemically modified (other than by hydrolysis) are excluded.”

Valley Water is evaluating the potential impacts of having to sample and analyze for microplastics in its sources and treated water. To conduct analysis in-house, the laboratory would likely require purchasing equipment and developing an analytical method. More information will be available in 2021 once DDW adopts a standard testing methodology for microplastics. Valley Water continues to monitor new developments closely.

2.16 – DIRECT POTABLE REUSE (DPR)

Assembly Bill 574 chaptered in 2017, defines the four different types of potable reuse projects as “groundwater augmentation,” “reservoir augmentation,” “raw water augmentation,” and “treated

SECTION 2:

CALIFORNIA REGULATORY UPDATE

water augmentation.” The bill required that SWRCB develop uniform water recycling criteria for potable reuse through raw water augmentation by December 31, 2023.

To maximize the safety of DPR projects and reduce the risk of consumers being exposed to chemicals of emerging concern (CECs) in drinking water supplies, the SWRCB contracted with the National Water Research Institute (NWRI) to convene an expert panel that would review literature and case studies and provide recommendations for an enhanced industrial source control program. In March 2020, the NWRI published “Enhanced Source Control Recommendations for Direct Potable Reuse in California.” Recommendations included the following:

- Use waste discharge requirements (WDR) and National Pollutant Discharge Elimination System (NPDES) permit to require pretreatment programs for all potable reuse programs.
- Develop enhanced local limits.
- Use risk assessment techniques to screen business applications and permits for inclusion in the DPR source control program.
- Provide enhanced collection system monitoring including the possibility of using inline sensors for early warning.
- Establish public education and public outreach program for control and disposal of hazardous constituents for industrial, commercial, and domestic dischargers.
- Technical, Managerial and Financial capacity requirements for public water systems should apply to DPR projects.

SECTION 3:

FEDERAL REGULATORY UPDATE

Section 3 presents an update of federal regulatory activities during 2020.

3.1 - PFAS REGULATORY DETERMINATION

The SDWA Amendments of 1996 established a process for EPA to continually review available information for the development of potential drinking water regulations. Within 18 months of enactment of the 1996 SDWA Amendments, and then every five years thereafter, EPA is required to propose and finalize a Candidate Contaminant List (CCL). Constituents are included on the CCL that "...are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation...." EPA then goes through a review process (referred to as a Regulatory Determination) and makes an assessment as to whether a drinking water regulation should be promulgated for any of the constituents on the CCL.

The fourth CCL (CCL4)⁵ was published in November 2016 and contained PFOA and PFOS. In March 2020, EPA published for a 60-day public comment period a proposed Regulatory Determination to establish drinking water regulations for PFOA and PFOS. EPA indicated there was sufficient occurrence data and health effects information to develop regulations for these two constituents. EPA indicated that the regulatory approach could include either individual MCLs or a treatment technique. Public comments were due by June 10, 2020.

As of the end of December 2020, EPA's Regulatory Determination was at the Office of Management and Budget (OMB), and the final Regulatory Determination has not yet been published in the *Federal Register*.

Under the SDWA, once the final Regulatory Determination is published in the *Federal Register*, EPA will have 24 months to propose a Maximum Contaminant Level Goal (MCLG) and a National Primary Drinking Water Regulation (NPDWR) for public review and comment. Following that deadline, EPA will then have 18 months to publish the final MCLG and NPDWR.

3.2 - EPA DETERMINATION NOT TO SET MCL FOR PERCHLORATE

On July 21, 2020 EPA published a final notice in the *Federal Register* that they will not establish an MCL for perchlorate in drinking water⁶. On September 3, 2020, NRDC filed suit in the federal court of the Southern District of New York to overturn that decision and force EPA to set a drinking water standard for perchlorate.

Background. The timeline of events leading up to EPA's July 2020 decision not to regulate perchlorate in drinking water is presented below:

⁵ On October 4, 2018 EPA published a request for nominations for microbials and chemicals to include in CCL5. In a legal settlement with the Waterkeeper Alliance and others, EPA is expected to publish the final CCL5 by July 18, 2022.

⁶ California's MCL for perchlorate is set at 6 µg/L.

SECTION 3:

FEDERAL REGULATORY UPDATE

- **1998:** Perchlorate was included in the first CCL developed under the SDWA Amendments of 1996. Perchlorate was also included in the second and third CCLs (2005 and 2009, respectively).
- **May 2007:** EPA requested public comments on options for regulating perchlorate but did not make a Regulatory Determination.
- **October 2008:** EPA published a proposed Regulatory Determination to not regulate perchlorate in drinking water.
- **August 2009:** EPA published a supplemental request for public comments on the decision to not regulate perchlorate and received 39,000 public comments.
- **February 2011:** EPA published a Regulatory Determination to regulate perchlorate in drinking water. EPA was required to publish a proposed MCLG and NPDWR by February 2013 and a final MCLG and NPDWR by August 2014.
- **October 2016:** Due to EPA not meeting the statutory deadline (24 months after publishing the Regulatory Determination) to publish a proposed MCLG and NPDWR for perchlorate, the US District Court for the Southern District of New York entered a consent decree (between EPA and NRDC) requiring EPA to “sign for publication in the *Federal Register*” a proposed Maximum Contaminant Level Goal (MCLG) and NPDWR by the end of October 2018. The consent decree required EPA to publish a final MCLG and MCL by December 19, 2019.
- **June 2019:** EPA proposed the perchlorate MCLG and MCL at 56 µg/L. The 60-day public comment period closed on August 26, 2019. In that same *Federal Register* notice, EPA requested public comment on the following three alternatives:
 - MCLG and MCL at 18 µg/L.
 - MCLG and MCL at 90 µg/L
 - Withdraw EPA’s February 2011 determination to regulate perchlorate in drinking water “...based on new information that indicates that perchlorate does not occur in public water systems with a frequency and at levels of public health concern and there may not be a meaningful opportunity for health risk reduction through drinking water regulation.”
- **October 2019:** EPA and NRDC agree to extend the deadline for publishing the final MCLG and MCL to June 2020.

3.3 - REVISED LEAD AND COPPER RULE

On November 13, 2019, the EPA published, for 60-day public comment, the proposed the Revised Lead and Copper Rule (LCR). Public comments were due by February 12, 2020. In late December 2020, the EPA posted a pre-publication copy of the final Revised LCR (note, the final Revised LCR had not been published in the *Federal Register* as of the end of 2020).

The following presents highlights of the Revised LCR:

1. Adds a lead “trigger” value of 10 µg/L (does not change the lead or copper Action Levels).

SECTION 3:

FEDERAL REGULATORY UPDATE

2. The lead “trigger” value plays a role in determining home tap sampling requirements, corrosion control treatment and replacement of lead service lines (LSLs).
3. Continues use of 90th percentiles to assess results (both for Action Levels and for the lead “trigger” value).
4. Changes the current three “Tiers” of home tap sample locations to five “Tiers” (Tier 1 and Tier 2 are now locations with lead service lines).
5. Requires changes to the sample pool if a system has lead service lines.
6. Within 3 years of the final LCR revisions being published, public water systems are to develop an inventory of LSLs and service lines of unknown material within their distribution system.
7. Eliminates calcium hardness adjustment as a corrosion control treatment.
8. Introduces the concept of (and “triggers” for) “re-optimization” of corrosion control treatment.
9. Includes a new “find and fix” requirement if an individual home tap result exceeds the lead Action Level.
10. Includes requirement for public water systems to test for lead in drinking water at schools and daycare facilities.
11. Water systems are required to provide annual educational material (on lead health effects) to schools and day care facilities served by the system.

Some of the new requirements in the Revised LCR are already in place in California (i.e., testing for lead at schools and day care facilities, replacement of lead service lines). As a wholesaler, it is anticipated that Valley Water will be minimally impacted by these requirements. Nevertheless, Valley Water is actively tracking implementation of the federal rule in California.

3.4 - FINAL RULE ON LEAD FREE PLUMBING

On September 1, 2020 EPA published a final rule “Use of Lead-Free Pipes, Fittings, Fixtures, Solder, and Flux for Drinking Water.” The rule codified requirements contained in the Reduction of Lead in Drinking Water Act of 2011 (RLDWA) and the Community Fire Safety Act of 2013 (CFSA). The final rule went into effect October 1, 2020.

The RLDWA amended section 1417 of the SDWA to revise the definition of “lead-free” as follows:

- (1) lowered the allowable maximum lead content from 8.0 percent to a weighted average of 0.25 percent of the wetted surfaces of pipes, fittings, and fixtures; and
- (2) specified a required method for calculating lead content.

The RLDWA created exemptions (from the lead-free requirements) for plumbing products that are used exclusively for non-potable services as well as for other specified products.

The CFSA amended section 1417 of the SDWA to exempt fire hydrants from these requirements.

The final rule also included modifications to the lead product certification requirements. This aspect of the rule goes into effect in September 2023.

SECTION 3:

FEDERAL REGULATORY UPDATE

3.5 - TSCA LAWSUIT TO STOP DRINKING WATER FLUORIDATION

On November 23, 2016, a petition was filed under the federal Toxic Substances Control Act (TSCA) requesting that EPA prohibit the addition of fluoridation chemicals to US water supplies. The stated objective of the petition was to “protect the public and susceptible subpopulations from the neurotoxic risks of fluoride by banning the addition of fluoridation chemicals to water.” The petition was submitted by the following organizations: Fluoride Action Network, Food & Water Watch, Organic Consumers Association, the American Academy of Environmental Medicine, the International Academy of Oral Medicine and Toxicology, and several individuals.

In a decision published February 27, 2017 EPA denied the petition. EPA concluded that the “petition has not set forth a scientifically defensible basis to conclude that any persons have suffered neurotoxic harm as a result of exposure to fluoride in the U.S. through the purposeful addition of fluoridation chemicals to drinking water or otherwise from fluoride exposure in the U.S.”

In April 2017, the petitioners filed a lawsuit in federal District Court in California. After EPA was sued, there were several years of motions and rulings by the Court.

The trial began in June 2020 and lasted approximately two weeks. At the end of the trial the judge asked the EPA and the plaintiffs to see if they could negotiate a decision on how to proceed. The judge indicated that he may issue a decision if the parties are unable to reach an agreement. In addition, the judge asked that the plaintiffs refile their citizen petition citing more recent studies on fluoride health effects.

All the parties were scheduled to meet again in November 2020. No additional information is available. Valley Water is tracking this item closely to assess if and how it would impact fluoridation.

3.6 - AWIA AND RISK AND RESILIENCE ASSESSMENTS/EMERGENCY RESPONSE PLANS

In October 2018, the federal America’s Water Infrastructure Act (AWIA, Senate Bill 3021) was signed into law. The AWIA is a large infrastructure bill that includes sections important to drinking water utilities. The AWIA included requirements for the preparation of Risk and Resilience Assessments (RRA) and Emergency Response Plans (ERPs). Public water systems are not required to submit the RRA and ERP to EPA, but rather they are required to certify that the documents were completed. For public water systems serving a population over 100,000, the deadline for certifying the RRA was March 31, 2020 and the ERP deadline was September 30, 2020. For public water systems serving a population from 50,000 up to 99,999 the deadline for the RRA was December 31, 2020 (for systems serving a population from 50,000 to 99,999 the deadline to certify the ERP was completed is June 30, 2021).

Valley Water’s RRA was certified on 3/20/2020 and the ERP was certified on 9/11/2020.

SECTION 3:

FEDERAL REGULATORY UPDATE

3.7 - AWIA AND CONSUMER CONFIDENCE REPORT REGULATIONS

The AWIA also included a section titled “Improved Consumer Confidence Reports.” According to this section, within two years of the AWIA being signed into law (i.e., by October 2020), EPA was to adopt regulations for Consumer Confidence Reports (CCR) that do the following:

- Improve the “readability, clarity, and understandability” of CCRs,
- Improve the “accuracy of information presented, and risk communication” in CCRs, and
- Require public water systems serving over 10,000 people to deliver CCRs two times each year.

EPA has not released any information regarding the development of CCR regulations.

3.8 - EPA GRANT TO CALIFORNIA TO TEST FOR LEAD AT DAYCARE CENTERS

In August 2020 EPA announced that it had awarded a grant of over \$6 million to the California Department of Social Services to support planning and testing for lead in drinking water at licensed daycare centers and to support remediation efforts. This is in addition to the SWRCB’s \$5 million grant to the program announced in May 2020 (see section 2.14).

3.9 - EPA SIX-YEAR REVIEW AND POSSIBLE REVISIONS TO M/DBP REGULATIONS

Under the 1996 SDWA Amendments, EPA is required to conduct a review of drinking water regulations every six years, and if appropriate, revise specific regulations. Previous six-year reviews were concluded in 2003 and in 2010.

In January 2017 EPA published the results from the third six-year review of contaminants. The outcome of that review was that EPA considered eight National Primary Drinking Water Regulations as candidates for regulatory revision (chlorite, *Cryptosporidium*, haloacetic acids, heterotrophic bacteria, *Giardia lamblia*, *Legionella*, total trihalomethanes, and viruses). These constituents are currently regulated under the Long-term 2 Enhanced Surface Water Treatment Rule and the Stage 2 Disinfection Byproduct Rule and are referred to as Microbial/Disinfection Byproduct (M/DBP) regulations. The January 2017 *Federal Register* publication did not propose specific revisions to any current regulation, but rather began the process.

On October 14th and 15th, 2020, EPA held a public meeting to obtain input on possible revisions to the eight M/DBP regulations. The agenda included presentations from a number of different agencies including EPA, the Centers for Disease Control, State regulatory agencies, public water systems, universities, and environmental and public interest groups.

Presentations ranged from general comments and support for continuing forward to review and revise the M/DBP regulations to specific presentations of data on occurrence and health effects.

At the conclusions of the two-day meeting, EPA staff did not present a timeline for next steps.

SECTION 3:

FEDERAL REGULATORY UPDATE

3.10 – DEVELOPMENT OF UCMR5

The 1996 Amendments to the SDWA require that EPA publish a list of unregulated contaminants in drinking water to be monitored by public water systems every five years. These lists are referred to as the Unregulated Contaminant Monitoring Rule (UCMR). The UCMRs collect occurrence data for constituents on the CCLs that is used to make a determination whether or not a contaminant should be regulated. EPA has published and implemented four UCMRs. EPA is currently developing UCMR5.

As a wholesaler, Valley Water is not required to conduct UCMR monitoring.

Development of UCMR5: On July 16, 2019 EPA held a public meeting on development of the UCMR5. At that time, EPA anticipated proposing the UCMR5 in the summer of 2020 and publishing the final UCMR5 in late 2021. Monitoring would then occur during 2023 through 2025.

Under current EPA regulations, all systems serving more than 10,000 people must participate in the UCMR monitoring program, while only a representative number of systems serving a population of 10,000 or fewer persons must monitor. AWIA amended this requirement and subject to the availability of appropriations and sufficient laboratory capacity, UCMR monitoring programs will now include all systems serving between 3,300 and 10,000 persons as well as include a representative number of systems serving a population less than 3,300.

UCMR5 monitoring may include EPA Methods that can report results for a total of 29 PFAS. Besides, PFAS, EPA reviewed a large list of candidate constituents to include in the UCMR5 monitoring. Microbial candidates under consideration for UCMR5 monitoring included *Legionella pneumophila* and *Mycobacterium avium*.

The Office of management and Budget (OMB) has been reviewing the proposed UCMR5 and it appears that OMB completed its review in December 2020 and the rule is back with EPA. Unless OMB recommended significant modifications, the EPA will likely be submitting the proposed UCMR5 for publication in the *Federal Register* in the near term.

3.11 – MISCELLANEOUS FEDERAL ACTIVITY REGARDING PFAS

While not directly impacting drinking water, the following presents additional federal activities regarding PFAS in the environment:

- In December 2019 EPA issued interim guidelines for groundwater cleanup of sites contaminated with PFAS (e.g., Superfund cleanups). EPA proposed a level of 40 ng/L for the sum of PFOA and PFOS as a screening level for further investigation.
- Under the National Defense Authorization Act (NDAA), on January 1, 2020, 171 PFAS compounds were listed under the Toxic Release Inventory (TRI) requiring facilities in different industrial sectors to report annually how much of each chemical is released to the environment or is managed through recycling and treatment.
- The NDAA required that EPA publish interim guidance on the destruction and disposal of PFAS and materials containing PFAS. In July 2020 EPA submitted interim guidance for the

SECTION 3:

FEDERAL REGULATORY UPDATE

destruction and disposal of PFAS to OMB for review. On December 18, 2020 EPA published the interim guidance for public comment (the deadline to submit public comments is February 22, 2021). The guidance identifies six waste streams: (1) aqueous film-forming foam, (2) soil, (3) textiles other than consumer goods, (4) spent filters, membranes, resins, granular activated carbon, and other wastes from water treatment, (5) landfill leachate, and (6) waste streams with PFAS from facilities manufacturing or using PFAS. The guidance addresses (1) landfill disposal (2) underground injection (liquids), and (3) incineration.

- In July 2020, under TSCA EPA issued a final rule (“Significant New Use Rule”) stating that products that could contain PFAS (textiles, carpet, furniture, electronics, household appliances) cannot be imported into the US without EPA review and approval. In December 2020 EPA released draft guidance for public comment on which imported articles would be covered under the new rule (deadline to submit public comments was January 15, 2021).
- In November 2020, EPA issued interim guidelines to address PFAS in NPDES permits issued by EPA. Note: the SWRCB and the Regional Boards issue NPDES permits in California. EPA currently issues NPDES permits in Massachusetts, New Hampshire, New Mexico, DC and most US territories and Indian lands. The guidelines covered monitoring, best management practices, and a means to share information from permitting practices (i.e., an information Clearinghouse).