
Infrastructure bill with billions for drinking water signed into law

November 22, 2021 at 5:00 AM

President Biden affixed his signature to a massive infrastructure spending bill last week, unlocking billions of dollars' worth of funding for EPA water infrastructure programs and other priorities. The White House also issued an executive order to guide how EPA and other agencies implement the new law.

Enactment of H.R. 3684 (https://www.epw.senate.gov/public/_cache/files/e/a/ea1eb2e4-56bd-45f1-a260-9d6ee951bc96/F8A7C77D69BE09151F210EB4DFE872CD.edw21a09.pdf), the Infrastructure Investment and Jobs Act, concludes a long saga that began earlier this year when the Senate approved (<https://www.amwa.net/article/senate-approval-water-infrastructure-bill-sets-stage-further-action>) a water policy bill that was eventually folded into the larger legislation. The Senate passed (<https://www.amwa.net/article/senate-approves-major-infrastructure-bill-house-plans-september-vote>) the larger bill in August, and the House followed suit (<https://www.amwa.net/article/after-long-delay-house-approves-infrastructure-bill-billions-drinking-water>) earlier this month. The measure includes (<https://www.amwa.net/press-releases/amwa-applauds-signing-infrastructure-investment-and-jobs-act>) \$550 billion in new infrastructure spending over five years, including \$48.4 billion for drinking water and wastewater programs at EPA, with some funds specifically set aside for lead service line replacements and PFAS remediation.

In addition to signing the bill into law, President Biden also issued an executive order (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/11/15/executive-order-on-implementation-of-the-infrastructure-investment-and-jobs-act/>) outlining how agencies should focus spending their portions of the new funds. The order directs agencies to, as appropriate, prioritizing investing dollars efficiently, increasing American competitiveness through utilizing domestic supplies, spending funds consistent with the Justice40 Initiative (<https://www.amwa.net/article/white-house-guidance-federal-agency-implementation-justice40-initiative-unveiled>), and “building infrastructure that is resilient and that helps combat the crisis of climate change.” The executive order also establishes a White House task force to coordinate implementation of the new law.

House approves social spending bill with

additional water spending

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Last week the House of Representatives narrowly passed a \$1.75 trillion social spending bill that includes (<https://www.amwa.net/article/additional-lead-service-line-funds-water-ratepayer-aid-included-democrats-social-spending>) more than \$10 billion for several water-related priorities. These funds would come in addition to the nearly \$50 billion in drinking water and wastewater spending that was enacted last week through a bipartisan infrastructure bill (<https://www.amwa.net/article/after-long-delay-house-approves-infrastructure-bill-billions-drinking-water>).

The latest legislation, the Build Back Better Act (H.R. 5376 (<https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5376RH-RCP117-17.pdf>)), is a Democratic-backed budget reconciliation bill focused on a variety of social spending priorities. Tucked among them is \$9 billion in grants to address lead in drinking water through several EPA programs established (<https://www.amwa.net/article/wiin-act-authorizes-lsl-grants-allows-wifia-application-fee-financing>) with AMWA's support in 2016, focused on lead service line replacements and replacing outdated drinking water fountains in schools. Another \$970 million would be made available through USDA for lead service line replacement projects in rural areas. The new lead remediation dollars would be appropriated immediately and would remain available through the 2026 fiscal year.

The bill would also provide \$225 million for new EPA grants to states and tribes to reduce the water rates and arrearages of low-income households and \$100 million for the Bureau of Reclamation to provide funding assistance for large-scale water reuse projects.

H.R. 5376 will now move onto the Senate, where additional changes could be made to the bill. Democratic Senate leaders aim to have the chamber vote on the measure before the end of December.

IRS confirms tax-exempt status of Covid utility bill aid

November 22, 2021 at 5:00 AM

Last week the IRS released new guidance related to the Coronavirus State and Local Fiscal Recovery Funds established (<https://www.amwa.net/article/covid-19-package-carries-billions-dollars-aid-communities-low-income-water-ratepayers>) by Congress under the American Rescue Plan Act earlier this year. The document

(<https://www.irs.gov/newsroom/frequently-asked-questions-for-states-and-local-governments-on-taxability-and-reporting-of-payments-from-coronavirus-state-and-local-fiscal-recovery-funds>) confirms that funds used by states or communities to offset household utility bills are not to be considered taxable income, responding to a question raised by AMWA and other utility and municipal organizations in a September letter (<https://www.amwa.net/article/amwa-seeks-clarity-tax-status-utility-ratepayer-aid>).

Without this clarification, there had been concern that utilities and communities that used these relief funds to offset household utility bills would have to report the aid through 1099 form filings early next year ahead of tax season. But the new guidance makes clear that utility bill assistance is not included in the gross income of recipients, and therefore 1099 forms or any other information related to the aid does not need to be reported to the IRS.

Rule proposal would codify Supreme Court decisions in definitions of Waters of the United States

November 22, 2021 at 5:00 AM

On November 18, 2021, EPA and the Department of the Army announced the signing of a proposed rule to revise the definition of “waters of the United States” (WOTUS). The proposed rule would put back in place the pre-2015 definition of WOTUS as well as codify past Supreme Court decisions into the definitions.

Specifically, in the proposal (https://www.epa.gov/system/files/documents/2021-11/revise-definition-of-wotus_nprm_pre-publication_version.pdf), the agencies define waters of the United States under § 328.3 Definitions to include traditional navigable waters, interstate waters, and the territorial seas, and their adjacent wetlands; most impoundments of “waters of the United States”; tributaries to traditional navigable waters, interstate waters, the territorial seas, and impoundments that meet either the relatively permanent standard or the significant nexus standard; wetlands adjacent to impoundments and tributaries, that meet either the relatively permanent standard or the significant nexus standard; and “other waters” and “significant nexus standard” are also defined in the proposed rule.

The agencies will hold public hearings about the proposal on January 12, 13, and 18, 2022. Links to register for the hearings are available in the prepublication (https://www.epa.gov/system/files/documents/2021-11/revise-definition-of-wotus_nprm_pre-publication_version.pdf) version of the Federal Register notice, which will be finalized this week. The comment period will be open for 60 days from the publication date.

Think tank makes far-reaching federal policy recommendations for water sector cybersecurity

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Last Thursday, the Foundation for Defense of Democracies (FDD), a think tank affiliated with the congressional Cyberspace Solarium Commission, released a research memo recommending a wide range of federal cybersecurity policy changes to improve water and wastewater cybersecurity. The memo, *Poor Cybersecurity Makes Water a Weak Link in Critical Infrastructure* (<https://www.fdd.org/analysis/2021/11/18/poor-cybersecurity-makes-water-a-weak-link-in-critical-infrastructure/>), is expected to be translated into legislation for Congress to consider next year.

The memo urged EPA to expand and enhance its cybersecurity program for the water sector and to dedicate funding to utilities to improve security. FDD recommended EPA's budget for these activities be increased to \$45 million, which would still be just one-quarter of the funding provided to the Department of Energy for the electricity sector.

The foundation called for EPA to provide \$10 million per year to WaterISAC and sector associations to "provide advisory support regarding the development and implementation of policies, plans, and procedures for cybersecurity readiness and resilience; issue advisories pertaining to cybersecurity threats to the water sector; provide training and conduct exercises to improve cybersecurity readiness and resilience; and help the EPA document the overall state of the water sector's cybersecurity readiness."

FDD also endorsed the creation of a NERC-like entity for the water sector, such as that proposed by AWWA, whereby EPA and the water sector would develop performance-based standards and enforcement mechanisms. The FDD also suggested changes to America's Water Infrastructure Act, better known as AWIA, such as requiring wastewater systems to comply and having utilities provide copies of their risk and resilience assessment and emergency response plans to EPA.

AMWA observes Thanksgiving Holiday

November 22, 2021 at 5:00 AM

In observance of the holiday, AMWA will be closed on Thursday and Friday. AMWA will not publish the Monday Morning Briefing on November 29.

AMWA wishes members and partners a happy and safe Thanksgiving!

AMWA job board lists new water-focused positions

November 22, 2021 at 5:00 AM

Director of Dallas Water Utilities
City of Dallas
Dallas, Texas

Director, Water Production
Pittsburgh Water & Sewer Authority
Pittsburgh, Pennsylvania

Assistant Water Quality Superintendent with the Utilities Department
City of Oklahoma City
Oklahoma City, Oklahoma

Instrumentation Engineer
Contra Costa Water District
Concord, California

Director, Customer Service
Toho Water
Kissimmee, Florida

Utilities Engineering Manager
City of Boulder
Boulder, Colorado

Aurora Water Engineering Supervisor
City of Aurora
Aurora, Colorado

Manager - Facilities Maintenance
WaterOne
Lenexa, Kansas

Water Treatment Operations Technician
WaterOne

Lenexa, Kansas

Utilities Manager

City of Portage

Portage, Wisconsin

Director, Finance

Fairfax Water

Fairfax, Virginia

Water Treatment Plant Mechanic

WaterOne

Kansas City, Kansas

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