



LEGISLATIVE REPORT UPDATE November 2024

ACWA and Headwaters Federal Updates

ACWA Headwaters workgroup- Federal Affairs Update
Ian Lyle (11/5/24)

We are reaching out to provide updates on two items; 1) a draft coalition letter on the Water Infrastructure Finance and Innovation Act Amendments of 2003 and, 2) to provide a copy of comments ACWA filed yesterday on EPA's draft risk evaluation for DINP, a plasticizer used in PVC pipe.

Coalition Letter on Water Infrastructure Finance and Innovation Act Amendments (WIFIA)

Congressman Garamendi (D-CA-8) and Congresswoman Kim Schrier (D-WA-8) reached out to ACWA, the Family Farm Alliance, SLDMWA, and a collation of organizations seeking our assistance in getting H.R. 5664, the Water Infrastructure Finance and Innovation Act Amendments of 2023, added to a post-election markup by the House Transportation and Infrastructure Committee. The markup is tentatively set for November 20th. As you may recall, the WIFIA program provides low interest, long term loans for a variety of water infrastructure projects. To date, the WIFIA program has provided approximately \$20 billion in loans to 133 recipients , including 46 projects in California. The WIFIA program is a valuable resource for water managers, but it could be even more effective. H.R. 5664 would improve WIFIA in the following ways:

- Broadening WIFIA funding and financing eligibility to include state-led water storage projects and federally owned infrastructure managed by non-federal entities. This would include Bureau of Reclamation (Reclamation) Transferred works. Transferred works are projects owned by Reclamation, but with contractual responsibility of the operation and maintenance (O&M) transferred to local water districts. Approximately two thirds of Reclamation infrastructure projects are transferred works.
- Allowing for longer loan maturity dates of up to 55 years based on the expected life of the project, which will provide greater flexibility for large-scale, long-term projects.
- Lowering the minimum project size for small communities from \$5 million to \$1 million, making the program more accessible to rural areas.
- Expanding EPA's authority to provide technical and financial capacity support to small and rural communities.
- Clarifying the definition of "small community" as those with a population of 25,000 or less, aligning with USDA's rural development program threshold. This important change will allow more communities to benefit from the program's provisions for small communities, such as the lower minimum project size and higher federal cost share.

The Water Infrastructure Finance and Innovation Act Amendments of 2023 is bipartisan legislation that was introduced by Congresswoman Kim Schrier (D-CA-50) and cosponsored by: Congressman John Garamendi (D-CA-8), Congressman Doug LaMalfa (R-CA-1), Congressman Jim Costa (D-CA-21), Congressman John Duarte (R-CA-13), Congressman Josh Harder (D-CA-9), Congressman Dan Newhouse (R-WA-4), Congresswoman Sharice Davids (D-KS-3), Congresswoman Suzan DelBene (D-WA-1), and Congresswoman Lori Chavez-DeRemer (R-OR-5).

ACWA's federal relations staff recommends signing the coalition letter. The deadline to sign the letter is Friday, November 8, 2024. Please let me know by 5:00 Eastern/2:00 Pacific on November 8th if you object to ACWA signing the attached letter.

The letter is also open to signatures from water districts, if you would like your district added to the letter, please let me know by 5:00 Eastern/2:00 Pacific on November 8th.

ACWA Comments on EPA Draft Risk Evaluation for DINP (used in PVC)

Yesterday ACWA filed comments on a U.S. Environmental Protection Agency (EPA) draft risk evaluation for di-isononyl phthalate (DINP). DINP is used as a plasticizer to make PVC piping flexible. ACWA's comments recommend that EPA's draft risk evaluation should: consider water infrastructure needs, provide certain exemptions for DINP utilization in the context of water supply when no unreasonable risks exist, and requests EPA to issue safe water supply piping guidance.

Comment Letter is attached.

ACTION Requested:

- Support the amendments to HR 5664 - Water Infrastructure Finance and Innovation Act Amendments (WIFIA)
- Have the District join and sign the Coalition Letter

Attachments:

Coalition Letter

ACWA Comments to EPA

Organization Names

November 11, 2024

The Honorable Kim Schrier
1123 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Schrier:

On behalf of the undersigned organizations, we write to express our strong support for H.R. 5664, the Water Infrastructure Finance and Innovation Act Amendments of 2023. We applaud your leadership in introducing this critical bipartisan legislation to improve and expand the Water Infrastructure Finance and Innovation Act (WIFIA) program.

Our organizations collectively represent thousands of Western farmers, ranchers, water providers, businesses and communities who provide the food our nation relies upon through use of millions of acres of productive land, as well as many of the local and regional public water agencies that supply water to millions of Western urban, suburban and rural residents, and project delivery professionals designing and building the infrastructure.

As water districts, irrigation districts, counties, cities, water and infrastructure professionals deeply invested in the management and protection of water resources, we recognize the urgent need for investment in water infrastructure to address the challenges posed by aging systems, climate change, and increasing water scarcity. We particularly appreciate the following provisions of the bill:

1. Broadening WIFIA funding and financing eligibility to include state-led water storage projects and federally owned infrastructure managed by non-federal entities.
2. Allowing for longer loan maturity dates of up to 55 years based on the expected life of the project, which will provide greater flexibility for large-scale, long-term projects.
3. Lowering the minimum project size for small communities from \$5 million to \$1 million, making the program more accessible to rural areas.
4. Expanding EPA's authority to provide technical and financial capacity support to small and rural communities.
5. Clarifying the definition of "small community" as those with a population of 25,000 or less, aligning with USDA's rural development program threshold. This important change will allow more communities to benefit from the program's provisions for small communities, such as the lower minimum project size and higher federal cost share.
6. Authorizing the use of collaborative project delivery methods, which will enhance efficiency and reduce costs.

These amendments will significantly enhance our ability to finance and implement critical water infrastructure projects in our region, ensuring a more reliable and sustainable water supply for our communities, agriculture, and ecosystems. We urge Congress to swiftly pass this legislation to provide much-needed support for water infrastructure improvements in our region and across the nation. Thank you for your leadership on this crucial issue.

Sincerely,

Insert signatory names and organizations

DRAFT

November 4, 2024

Todd Coleman
U.S. Environmental Protection Agency
Office of Pollution Prevention and Toxics
Existing Chemical Risk Management Division (7404M)
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Submitted electronically via: <https://www.regulations.gov>

RE: U.S. Environmental Protection Agency Draft Risk Evaluation Under the Toxic Substances Control Act—Docket ID No. EPA-HQ-OPPT-2018-0436

Mr. Coleman:

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) draft risk evaluation under the Toxic Substances Control Act (TSCA) for di-isononyl phthalate (DINP) (1,2-Benzene- dicarboxylic acid, 1,2- diisononyl ester) (CASRN 28553-12-0). ACWA shares EPA's goal to protect public health while ensuring a safe and reliable water supply. EPA should carefully consider additional information within the context of water supply before making a final determination as to whether DINP poses unreasonable risk and provide clear guidance on safe water supply piping alternatives if a final risk evaluation determines DINP poses unreasonable risk.

ACWA is the largest statewide coalition of public water agencies in the country. Our more than 470 public agency members collectively are responsible for 90 percent of the water delivered to communities, farms, and businesses in California. For more than a century ACWA and our members have been working to provide high quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

EPA is an important federal partner for ACWA's members and other water providers to address water challenges. ACWA agency members help EPA implement effective and sustainable initiatives for water supply, quality, infrastructure, and more by executing regulatory compliance, discussing technical assistance and best-practices, and utilizing funding opportunities.

ACWA's comments focus on EPA's draft risk evaluation and provide recommendations if EPA determines that DINP poses unreasonable risk of injury to human or environmental health.

I. EPA Should Carefully Consider Additional Information Within the Context of Water Supply in Any Decision to Determine Whether DINP Poses Unreasonable Risk

ACWA appreciates EPA's commitment to public health and environmental protection by evaluating whether DINP presents unreasonable risk of injury. DINP is used primarily as a plasticizer to manufacture flexible polyvinyl chloride (PVC) and conditions of use (COUs) include consumer, commercial, and

industrial applications.¹ Since many ACWA member agencies, as well as water suppliers throughout the nation, incorporate PVC pipes as a component of the infrastructure used to provide water supply, DINP is integrated into water infrastructure.²

In Section 3 regarding *Releases and Concentrations of DINP in the Environment*, EPA stated that DINP is expected to be released into the environment through water and other means. EPA detailed its evaluation in its *Draft Environmental Release and Occupational Exposure Assessment for DINP*. Specifically, EPA’s evaluation included implications from PVC compounding (adding plasticizers to create a compound) and converting (molding a compound into a final product). ACWA is concerned, however, that EPA “estimated environmental releases and concentrations of DINP” and made a preliminary decision as significant as this with “limited chemical specific data for PVC plastics compounding and converting.” Additionally, EPA’s assessment appears to have excluded critical information: whether DINP is released into the environment through PVC when used for water supply and, if so, at what concentrations. ACWA therefore urges EPA to carefully consider obtaining data on this matter to further assist in any final risk evaluation for DINP.

II. EPA Should Provide Certain Exemptions for DINP Utilization Within the Context of Water Supply When No Unreasonable Risk Exists

EPA preliminary concluded in Section 4 regarding the *Human Health Risk Assessment* that all pathways of DINP exposure including surface water, drinking water, and fish ingestion were not of concern for the general population. Additionally, in Section 5 regarding *Environmental Risk Assessment*, EPA preliminary determined DINP exposure poses no risk to aquatic organisms, terrestrial species, surface water, or sediment. Nevertheless, in Section 6 regarding *Unreasonable Risk Determination*, EPA summarized it preliminarily determined DINP presents an unreasonable risk of injury to human health.³ EPA’s decision is based on DINP COUs impacting industrial and occupational uses that do not necessarily pertain to water suppliers or consumers.

ACWA understands DINP COUs may occur in PVC processes prior to utilization in water infrastructure. However, ACWA encourages EPA to provide certain exemptions of DINP utilization within the context of water supply when unreasonable risk of injury does not exist rather than decide whether DINP poses an unreasonable risk of injury in the context of a whole. In any determination of final risk evaluation for DINP, ACWA requests EPA to permit water providers to use flexible PVC when unreasonable risk does not occur.

With regards to California regulations, the California Environmental Protection Agency (CalEPA) lists DINP under Proposition 65—the State’s list of chemicals known to cause harm based on certain usage and prohibits California businesses from knowingly discharging significant amounts of listed chemicals into sources of drinking water. Yet CalEPA highlights that avoiding PVC is not a way to reduce exposure to DINP.⁴ This implies that the use of DINP in PVC is not significant enough to pose risk of injury.

III. EPA Should Issue Guidance on Safe Water Supply Piping Alternatives if EPA Determines DINP Poses an Unreasonable Risk

If EPA makes a final determination that DINP presents an unreasonable risk to health or the environment, then EPA will take regulatory risk management action to eliminate unreasonable risk posed by DINP. Under

¹ U.S. Environmental Protection Agency: Draft Risk Evaluation for Diisononyl Phthalate (DINP). EPA-740-D-24-015. August 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0436-0092>.

² California Office of Environmental Health Hazard Assessment: Vinyl chloride. <https://oehha.ca.gov/chemicals/vinyl-chloride>.

³ U.S. Environmental Protection Agency: Draft Risk Evaluation for Diisononyl Phthalate (DINP). EPA-740-D-24-015. August 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0436-0092>.

⁴ California Office of Environmental Health Hazard Assessment: *Proposition 65—Diisononyl Phthalate (DINP)*. <https://www.p65warnings.ca.gov/fact-sheets/diisononyl-phthalate-dinp>.

TSCA, EPA could implement labeling, recordkeeping or notice requirements or ban DINP uses or the substance completely.

As mentioned above, DINP is integrated into water infrastructure because it is used as a plasticizer to manufacture flexible PVC that many water suppliers nationwide, including ACWA member agencies, use to provide water supply. To date, more than 40,000 water utilities in the nation use PVC pipe and more than one million miles are in service.⁵ Not only is PVC commonly used in water systems since it has been recognized as one of the safer alternatives for water supply⁶, but EPA is in the process of determining whether a risk evaluation should also be initiated for vinyl chloride—a main component used in the production of PVC. EPA may later determine that DINP and vinyl chloride pose an unreasonable risk to human health and the environment and cannot be used in water systems or place a ban on it generally, like actions it has already taken with respect to lead pipe. This would undoubtedly impact water suppliers on a national scale. While EPA action would not necessarily ban DINP or vinyl chloride, ACWA is highlighting this as a potential long-term implication for EPA to consider with respect to water supply.

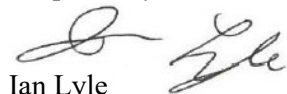
ACWA member agencies prioritize the delivery of safe and reliable water. ACWA member agencies work to ensure that drinking water as well as water impacting land and aquatic ecosystems, watersheds, forests, recreational uses, energy production, and more are free from harmful contaminants. Through regular and thorough testing and investments in water treatment technologies, ACWA member agencies ensure that drinking water supplies are safe and comply with all state and federal drinking water regulations.

ACWA therefore recommends EPA create guidance, using the best available science, on the safest piping materials used for water infrastructure projects to ensure that public water agencies like ACWA member agencies provide safe and reliable drinking water to communities.

IV. Conclusion

ACWA thanks EPA for the opportunity to provide comments concerning its draft risk evaluation for DINP under TSCA. ACWA looks forward to collaborating with EPA on this important effort. Please let us know if we can provide additional information or be of assistance. If you have any questions or would like to follow up on this matter, please contact ACWA Director of Federal Relations, Ian Lyle, at ianl@acwa.com or (202) 434-4765.

Respectfully,

A handwritten signature in black ink, appearing to read "Ian Lyle", is written over a light blue horizontal line.

Ian Lyle
Director of Federal Relations
Association of California Water Agencies

⁵ PVC Pipe Association. <https://www.uni-bell.org/About-Us/Public-Health>.

⁶ U.S. Environmental Protection Agency: Wastewater Technology Fact Sheet: Pipe Construction and Materials. EPA 832-F-00-068. September 2000. https://www3.epa.gov/npdes/pubs/pipe_construction.pdf.

Water Use Efficiency Updates (10/31)

Commercial, Industrial, Institutional Landscape Area Measurements and Land Use Classification Dataset

Part of the Urban Water Use Objective Requirements

Dedicated Irrigation Meter Standard

Section 969 (b)(2): *“No later than July 1, 2028, and periodically thereafter, a supplier shall quantify the measured total square footage of the irrigated area of CII landscapes with DIMs (DIM LA) and describe and substantiate how that area was quantified . Annual updates shall include the square footage of large landscapes that have had DIMs installed in accordance with section 973.”*

Mixed Used Meter Standard (mixed use meter = treated and water used to irrigate landscapes are on the same meter)

Section 965: *“(gg) “Large landscapes” are Commercial, Industrial, and Institutional landscapes that are ½ acre in size or larger with Mixed-Use meters.”*

Section 973: *“(a) Each urban retail water supplier shall either: (1) By June 30, 2027, identify all existing commercial, industrial, and institutional (CII) water users associated with large landscapes; or (2) By June 30, 2029, identify all existing CII water users associated with a large landscape and for which estimated outdoor water use exceeds the water budget calculated pursuant to subdivision (c)(1).”*

Outdoor Residential Water Use Standard

Section 968(b)(2)(A)(i) and (ii): *“(i) The supplier’s unique square footage of Irrigable Irrigated area included in the Landscape Area Measurements Project update released by the Department on December 6, 2023. After the effective date of this section, a supplier may adjust this value by adding the residential parkway area provided by the Department that the supplier has confirmed is associated with a residential service connection ; or (ii) For a supplier that has not received residential landscape area data from the Department by the effective date of this section, the supplier’s unique square footage of Irrigable Irrigated area shall be what the Department first provides after this section takes effect.”*

Ability to Review Residential Landscape Area Measurement Data. Conditional Data provided.

New IR Hexagon data

Can give Residential Validation for - Voided Landscapes

- Undeveloped lots
- inaccurate parcel boundaries (residential extensions)
- tree canopy

New data number correction is on the supplier



LAM Accepted dataset (10/22) attached

CII-LAM-LUCD is Technical Assistance specific to these parts of the UWUO ^a

Standard	CCR Title 23, Div. 3, Ch. 3.5 ^a	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	...		
Outdoor Residential	§ 968(a)	0.8 LEF (thru 6-30-2035)												0.63 LEF (thru 6-30-2040)				0.55 LEF			
		0.55 LEF																			
New Res. LA	§ 965(mm)	0.55 LEF																			
Res. SLA	§ 965(aaa); 968(c)	1.0 LEF																			
CII - DIMs	§ 969(a)	Actual Deliveries (thru 6-30-2028)				0.8 LEF (thru 6-30-2035)								0.63 LEF (thru 6-30-2040)				0.45 LEF			
		0.45 LEF																			
CII-DIM - SLA	§ 969(a)(5)	1.0 LEF																			
CII Performance Measures	§ 973(a)	MUM identification: Area based																			
	§ 973(d)	MUM identification: Area & Volume based				MUM Conversion to DIM or In-lieu Technology & BMPs (by June 30, 2039)												BMP & In-Lieu Maintenance			

^a - Effective Jan. 1, 2025 see: https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/regs/water_efficiency_legislation.html; accessed 10- 22 - 2024

^a Accessed 10-22-2024, Effective in California Code of Regulations (CCR), January 1, 2025; https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/regs/water_efficiency_legislation.html



Classification System

CII-LUCD Classification System		
Level 1	Level 2 (Validation Level)	Irrigation Status
1. Impervious	Impervious	Not Irrigable
2. Pools	Swimming pools/man made water features	Irrigated
3. Irrigated	3.1.1 Turf grass (FT / NFT) 3.1.2 Other vegetated ground cover	Irrigated (CII only: Turfgrass classified as either FT or NFT)
	3.2 Tree Canopy 3.3 Bare	Irrigated
4. Irrigable not irrigated	4.1.1. Turf grass 4.1.2. Other vegetated ground cover	Irrigable currently not irrigated
	4.2. Tree Canopy 4.3. Bare	Irrigable currently not irrigated
5. Non irrigated vegetation	Undeveloped for the purpose of irrigation	Not Irrigable
6. Undeveloped lands	Undeveloped Lands Mask (> 0.25 acre)	Not Irrigable
7. Horse Corrals	Horse Corrals	Irrigated
8. Open Water	Other open water bodies (rivers/lakes/ponds)	Not Irrigable
9. Artificial Turf	Artificial Turf	Not Irrigable
10. Agricultural Land	Agricultural Land (> 1.0 acre)	Irrigated

