

National Drinking Water Advisory Council

Meeting Minutes and Recommendations for a Meeting Held on June 14, 2000

Denver Convention Center Denver, Colorado

A conference call meeting was held at the Denver Convention Center, 12:00 Noon Mountain Standard Time (MST). The purpose of the meeting was to complete recommendations tabled at the May 2000 meeting in San Francisco on the Proposed Long Term 1/Filter Backwash Regulations and to complete the first phase of work being done by the Contaminant Candidate List (CCL)/6-Year Review Working Group, acceptable of the protocol for making regulatory determinations from the current and future CCLs. The following persons were present:

National Drinking Water Advisory Council Members:

In person:

Bill Bellamy
David Spath
John Scheltens
Tom Yohe
L.D. McMullen
Ken Merry
Jeffrey Griffiths

By phone:

Henry Duque
Diana Neidle
Cindy Roper
Valerie Lemmie

Attendees:

James Taft (Acting DFO), U.S. Environmental Protection Agency (EPA)
Evelyn Washington (EPA/Office of Ground Water and Drinking Water (OGWDW))
Karen Wirth (EPA OGWDW)
Bill Zilli (City of Dayton, Ohio)
Maria Tikkanen (East Bay Municipal Utility District)
Richard Haberman (CA State Health Dept.)

Welcome

L.D. McMullen called the meeting to order at 12:10 p.m. (MST) and took attendance. He indicated that a quorum existed and proceeded to consider each item on the agenda.

Public Participation

The first order of business was public participation. The only member of the public who wished to speak was Mr. Zilli of Dayton, OH. He offered several comments on the draft protocol for making regulatory

determinations from the CCL. He said he believed that Chapter 2 needed to be emphasize that the route of exposure was an important consideration when judging the importance of a contaminant. He also felt that the analytical capabilities of laboratories should be fully considered when analyzing various contaminants on the CCL. Finally, he stated that he felt that Chapter 3 of the document need to clearly indicate that the effectiveness of treatment in removing microbiological contaminants needed to be carefully evaluated.

Discussions/Recommendations on Long Term 1/Filter Backwash

The NDWAC was asked to consider and approve or amend a document entitled "Report of Ad Hoc NDWAC Subcommittee on Issues regarding the Proposed Long Term 1 Enhanced Surface Water Treatment Rule and Filter Backwash Rule" (see attached). The Council agreed that items 2, 4, and 5 were acceptable without change. However a discussion ensued about the wording of items 1 and 3.

Regarding item #1, Dave Spath argued that early implementation of the rule is not specifically required and thus the implication that states that couldn't accomplish accelerated implementation could get an extension was inappropriate. He suggested, and the Council agreed, to omit this sentence.

Regarding item #3, Tom Yohe suggested that the words "is illogical" be struck from the first sentence and that "logical" be struck from the second sentence and replaced with "allowed." Mr. Yohe argued that, whether or not direct washwater recycling is practiced is not a question of logic, but rather one of sound engineering practice. The Council agreed with the report with the above-described changes.

Therefore, the following recommendations are forwarded to EPA:

Council Recommendations

ISSUE #1: Is it appropriate for EPA to require systems to perform (and require States to administer) disinfection profiling beginning two years after promulgation of the final rule?

Yes, if it is mutually agreeable to the States. The states and small systems are under numerous deadline pressures from rulemakings related to the 1996 SDWA amendments. EPA should negotiate a letter of agreement with each state for early implementation of the profiling and should provide incentive(s) to the states for participation. The NDWAC recognizes that disinfection profiling provides valuable information to the water system operator and supports early implementation of this process.

ISSUE #2: Can combined filter effluent monitoring be used in lieu of individual filter monitoring for small systems with only two filters?

No, data averaging will not provide adequate information on individual filter performance and may give a false sense of security regarding filter performance and filtered water quality.

ISSUE #3: What additional data should be collected to aid States in identifying and addressing risks associated with direct recycling?

The concept of direct washwater recycling (with no solids wasting, flow equalization or treatment) in a direct filtration plant (no sedimentation) should not be allowed. In systems where recycling of washwater is allowed, it would be valuable to determine the variability in hydraulic loading on filters that is attributable to (adjacent) filter washing and collective recycle.

ISSUE #4: Should specific language be developed to define recycle return locations?

No, the proposed LT1FBR requires that recycle streams receive all treatment unless an alternative is approved by the State. It is important that the States maintain the flexibility to approve (and not preclude) configurations that optimize treatment performance while protecting public health.

ISSUE #5: What specific areas of guidance would be beneficial for small systems, what level of detail should be included and what avenues of distribution should be utilized?

Initially, the EPA and the primacy agencies should develop fact sheets on early implementation activities regarding disinfection profiling. This should be followed up with training programs for States and technical assistance to Public Water Supplies. NDWAC acknowledges EPA's innovative use of the Internet and would encourage continued utilization of this resource for communications and identifying areas of concern during implementation of the LT1ESWTR.

Discussions/Recommendations on Contaminant Candidate List Working Group Report

The Council reviewed the proposed recommendation (see attached) and agreed to accept it with a modification to 1st paragraph under "Outcome" (see attached). The Council felt that the statement that cost impacts were not a key consideration may be somewhat confusing, without appropriate modification. The Council, led by Mr Yohe, agreed that cost impacts are not a consideration at the regulatory determination, but wished to be clear that public health impacts are the principal consideration at this stage. Thus, the following sentence was agreed to be substituted for the last sentence in the first paragraph under "outcome": "The working group determined that public health impacts (and not economic impacts) should be the key consideration in the decision of whether or not a National Primary Drinking Water Regulation is developed."

The report submitted follows, ending in the Council's recommendation:

SDWA Requirements

The Safe Drinking Act (SDWA), as amended in 1996, requires the United States Environmental Protection Agency (EPA) to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL). The first CCL was published on March 2, 1998 (63 FR10273), and must be published every five years thereafter. The SDWA also requires that the Agency select at least 5 contaminants from the CCL and determine by August 2001 whether or not they should be regulated. Regulatory determinations for at least 5 contaminants must be made 3½ years after each new CCL. If the determination is to regulate a contaminant, proposals and subsequent final regulations must be developed. If the determination is not to regulate a contaminant, the decision is considered final Agency action.

Section 1412(b)(1)(B)(ii) of SDWA specifies that the determination to regulate a contaminant must be based on a finding that each of the following criteria are satisfied: (i) the contaminant may have adverse effects on the health of persons; (ii) the contaminant is known to occur, or there is substantial likelihood that the contaminant will occur, in public water systems with a frequency and at levels of public health concern; and (iii) in the sole judgement of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

In addition, under Section 1412(b)(9) of SDWA, the EPA must periodically review existing National Primary Drinking Water Regulations (NPDWRs) and, if appropriate, revise them. SDWA states, "The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons."

Task of the Working Group

The Working Group on CCL and 6-Year Review was formed to make recommendations to the National Drinking Water Advisory Council regarding specific provisions of the SDWA addressing regulatory determinations from the CCL and the review and revision of existing regulations. The first task of the Working Group was to provide recommendations for a protocol for making regulatory determinations from current and future CCLs.

Outcome

The Working Group has developed a protocol and specific recommendations for analyzing and presenting the available scientific data. SDWA Section 1412(b)(1)(B)(ii) served as the basis for the protocol development. The protocol is not specifically tailored to the contaminants on the current CCL, but is sufficiently robust to accommodate regulatory determinations from current and future CCLs. Similar but separate approaches are being recommended for chemicals and microbiologicals due to the unique characteristics of these two types of contaminants. The working group determined that public health impacts (and not economic impacts) should be the key consideration in the decision of whether or not a National Primary Drinking Water Regulation is developed.

The protocol provides a consistent approach to evaluating contaminants for regulatory determination, and is a tool that organizes information in a manner that it will clearly communicate the rationale for each determination to stakeholders. The protocol identifies factors and associates significance and weights to each of the factors. It does not score or rank contaminants, but provides EPA with a semi-quantitative evaluation tool that highlights the relative importance of the various factors in making a finding based on the three statutory criteria. The protocol is not meant to substitute for the need of Agency judgement in making regulatory determinations, but is means to assist EPA in making these decisions.

Council Recommendation

It is recommended that the protocol and recommendations developed by the Working Group on CCL and 6-Year Review be used by EPA for making regulatory determinations.

The protocol is attached to these minutes.

Adjournment

L.D. McMullen adjourned the Council meeting at 1:00 p.m. (MST).