Working Group Meeting on Contaminant Candidate List Regulatory Determinations and the 6-Year Review of Existing Regulations, June 5-6, 2000

On June 5 and 6, 2000, the National Drinking Water Advisory Council (NDWAC) Working Group on Contaminant Candidate List (CCL) Regulatory Determinations and 6-Year Review of Existing Regulations met at the offices of RESOLVE, located at 1255 23rd Street, NW Washington, D.C. The Working Group recently finished deliberations to develop a protocol for CCL Regulatory Determinations. That protocol has been submitted to the full NDWAC for their consideration. This meeting is the first in a series of three scheduled meetings to discuss and develop a protocol for 6-Year Review of Existing Regulations.

The purpose and overall mission of this Working Group is to make recommendations to the full NDWAC regarding specific provisions of the Safe Drinking Water Act (SDWA) 1996 Amendments. Under SDWA, the U.S. Environmental Protection Agency (EPA) must periodically review existing National Primary Drinking Water Regulations (NPDWRs) and, if appropriate, revise them. This requirement is contained in Section 1412(b)(9) of SDWA, as amended in 1996, which reads:

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.

The Working Group will recommend a protocol for selecting existing NPDWRs for possible revision and develop specific recommendations for analyzing and presenting the available scientific data. The Working Group does not plan to discuss specific contaminants as a part of this exercise.

The meeting began with an overview of the background and context for 6-Year Review. EPA staff gave three presentations, reviewing the background and context under SDWA, and describing an EPA developed draft strawman framework for the review of existing regulations. These presentations emphasized that making a decision whether or not to revise a contaminant in drinking water must be made within the context of meeting the statutory requirements specified in the SDWA, as amended in 1996. The Working Group will use EPA's draft strawman as the starting point and, where appropriate, draw on elements of the CCL Regulatory Determinations protocol. The decision-making framework in the 6-Year Review protocol will be more qualitative than the scoring scheme in the CCL Regulatory Determinations protocol.

Working Group members discussed an issue pertaining to statutory intent that could affect the protocol. Unlike the language of the Regulatory Determinations provision, the language of the 6-Year Review provision does not specifically tie public health considerations to exposure as a result of contaminant occurrence at public water systems. Is it the statutory intent that EPA also consider how a change in an NPDWR might affect public health protection from other environmental programs that base their requirements on drinking water standards?

Several of EPA's key assumptions should be revised. Instead of reviewing as many contaminants as possible at one time, as proposed by EPA, after the current review is completed, the Working Group recommends subsequent reviews be phased within each 6-year window to reduce the number of NPDWRs that must be reviewed at one time. Working Group members believe these subsequent reviews should be conducted early enough in the 6-year window so that the review and any subsequent rulemaking can be completed within 6 years. Working Group members also want to revise the assumption that "unless new information to the contrary exists, EPA assumes existing regulations are adequate." The Working Group recommends that EPA review the basis of each regulation (e.g., assumptions regarding relative source contribution, contaminant occurrence, etc.) and revise the NDPWR if the basis is

inconsistent with actual data and/or current Agency policy guidelines. One Working Group member suggested that, where key data are more than 10 years old, EPA should identify the data gaps and flag them as research priorities.

The Working Group discussed how EPA should expand some of the planned technical analyses and decided to recommend the following revisions. The health effects analysis should consider sensitive sub-populations during the review (rather than doing this analysis during any subsequent rulemaking phase) unless this analysis already has occurred as a part of the most recent reference dose re-assessment. As a part of the health effects review, and to the extent that data are available, EPA also should consider such factors as the potential for endocrine disruption and the synergistic effects of co-occurring contaminants. The occurrence analysis needs to look at contaminant occurrence in both ambient and finished water.

During the review phase, the cost and benefit analysis does not need to be overly detailed as in-depth analysis will occur as a part of any subsequent rulemaking. During the review, the Working Group recommends that EPA list all potential costs and benefits (including indirect impacts on other environmental programs that rely on drinking water standards) in qualitative terms and try to quantify the "big ticket" items. An "order of magnitude" estimate should be sufficient during the review phase. Cost and benefit considerations should not be used as a determinant factor in the revise/not revise decision unless it is clear that costs will be extremely high and not offset by the benefits.

The discussion in the strawman protocol describing the risk management factors to be considered as a part of the decision-making process needs to be restructured. Some Working Group members prefer the following model: (1) identify the risk; (2) identify alternatives (both regulatory and non-regulatory) for reducing the risk; and (3) consider the costs and benefits. Other members believe that the costs and benefits of regulatory options should be considered before looking at non-regulatory alternatives. Non-regulatory options should apply only as an interim measure until the regulatory revision takes effect and/or to supplement the regulatory revision. Non-regulatory approaches should be used in lieu of regulatory revisions only in those instances where the regulatory revision would be cost-prohibitive. The Working Group has not yet reached consensus on which model to use.

The Working Group formed three sub-groups, each assigned to revise specific portions of the protocol with EPA to revise the remaining portions of the document consistent with the Working Group's discussions. EPA will distribute a consolidated revised draft to Working Group members prior to the next Working Group meeting which will be a conference call on July 10, 2000.

Contact

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Attendees

The following is a list of Working Group members. The asterisk (*) indicates members that did not participate in the June 5-6 meeting.

Judy Lebowich	William C. Carpenter, Jr.	Jane Houlihan
Mohamed T. Elnabarawy	Joye Emmens	Brenda Afzal
Ron Entringer	Glenn Patterson	*David Esparza
*Gary A. Toranzos	Tom Yohe	*Buddy Morgan
J. Steve Schmidt	Richard Danielson	Monty C. Dozier