

Meeting 11 Summary – October 5, 2023

Meeting Summary

Background

The United States Environmental Protection Agency (EPA) has sought public input and information to inform potential regulatory revisions of eight National Primary Drinking Water Regulations (NPDWRs) included in five Microbial and Disinfection Byproducts (MDBP) rules following the third Six-Year Review. EPA hosted an initial virtual public meeting in October 2020 to solicit input on further improving public health protection from MDBPs in drinking water. Throughout 2021, EPA sought input relevant to potential rule revisions through additional public meetings focusing on topics identified through public comments and information.

EPA has charged the National Drinking Water Advisory Council (NDWAC or Council), a Federal Advisory Committee (FAC) established under the Safe Drinking Water Act (SDWA) of 1974 to provide the agency with advice and recommendations on potential revisions to the MDBP Rules. In addition, to support the work of the Council, EPA asked the NDWAC to form a Working Group (WG) to explore specific issues and identify potential MDBP rule revision options for the Council to consider in making recommendations to EPA. More information on the NDWAC MDBP Rule Revisions WG meeting schedules and other information are available at: <https://www.epa.gov/ndwac/national-drinking-water-advisory-council-ndwac-microbial-and-disinfection-byproducts-mdbp>. EPA is providing the public with an opportunity to send written input to EPA via the public docket at www.regulations.gov, Docket ID: EPA-HQ-OW-2020-0486.

Meeting summaries and background documents on each meeting topic are available in the MDBP Rule Revisions public docket at www.regulations.gov, Docket ID: EPA-HQ-OW-2020-0486. More information on the potential rule revisions is available at: <https://www.epa.gov/dwsixyearreview/potential-revisions-microbial-and-disinfection-byproducts-rules>.

Meeting Purpose

The eleventh WG meeting was held to review the status of draft recommendations, to discuss a path forward, and to vet and refine specific draft recommendations. This document provides an abbreviated summary of discussions from the meeting on October 5, 2023. The summary presents the agenda segments in the order that they were discussed. The order of discussion varies from the posted agenda topics and timing. The initial Working Group Draft Report including draft recommendations was shared with the WG members ahead of the meeting.

In addition to WG members, approximately 85 observers viewed the meeting.

Segment 1

Agenda Review and Meeting Procedures

Elizabeth Corr, MDBP Rule Revisions WG Designated Federal Officer, Office of Ground Water and Drinking Water (OGWDW), Office of Water, EPA

Ms. Corr thanked all for joining the eleventh meeting of the National Drinking Water Advisory Council's (NDWAC), Microbial and Disinfection Byproducts Rule Revisions Working Group (WG). She noted that the WG is assisting the Council and responding to EPA's November 2021 charge on potential revisions to MDBP rules. She then introduced Yu-Ting Guilaran, Deputy Office Director, OGWDW, Office of Water, EPA

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Ms. Guilaran thanked all members for their participation and input through the past ten meetings and for their continued engagement. Ms. Guilaran emphasized the progress made so far by the WG, from problem characterization to developing potential recommendations to address disinfection byproducts (DBPs), *Legionella*, Environmental Justice and implementation concerns, risk balancing and different areas that the agency needs to consider. Ms. Guilaran shared that there will be a NDWAC briefing on October 11 to discuss the WG's progress, followed by NDWAC deliberations at their November meeting, and then the NDWAC recommendations will be provided to EPA by December 15, 2023. Ms. Guilaran indicated that the MDBP WG's report will be crucial to inform NDWAC deliberations and consider regulatory and non-regulatory approaches as part of the rule development process. She stated that the suite of MDBP regulations is a cornerstone of delivering safe drinking water to the American people and will address improvements that the drinking water value chain will make to protect public health. Ms. Guilaran thanked WG members for their expertise and time working toward recommendations.

Andy Kricun, NDWAC MDBP Rule Revisions WG Co-Chair

Mr. Kricun extended thanks to the WG members for providing their expertise and making sure that the recommendations benefit the entire water sector and that no community is left behind. He also thanked EPA and the technical analysts for their guidance, and to Ross Strategic and their team for helping to frame the discussions.

Lisa Daniels, NDWAC MDBP Rule Revisions WG Co-Chair

Ms. Daniels thanked the WG for the work to date and emphasized that the WG has made good progress. She noted that this meeting's conversation will build on current discussions and focus on fine-tuning some of the recommendations and encouraged everyone to be in problem solving mode.

Robert Greenwood, Principal, Ross Strategic

Mr. Greenwood reviewed the meeting's agenda and the logistics for virtual participants.

See Appendix 1 for a roster of WG members and an indication of those in attendance.

Segment 2

Mr. Greenwood reviewed the path forward for finalizing the WG's recommendations, including briefing the NDWAC on the WG draft recommendation status at its October 11 work session, sharing an updated and marked up report with WG members for review in mid-October, collecting further edits on the draft WG report and identifying the WG's level of support for each recommendation, submitting attributed comments from WG members by November 6, and sending the report to the NDWAC on November 10.

Next Mr. Greenwood presented the cross-cutting themes from the twelve WG draft recommendations that will be reflected in the executive summary of the WG's report.

Mr. Greenwood then reviewed the WG draft recommendations with opportunity for full WG support along with observations received from the WG on the initial draft report. The WG members made further suggestions on the following points (in the order in which they were discussed):

- Draft Recommendation 10 on technical, managerial, and financial (TMF) capacity, identify the struggling utilities and start helping them comply with existing rules, as well as ensuring that TMF funding focuses on effectiveness and is allocated toward the efforts that have the highest potential to achieve public health protection;
- Draft Recommendation 1 on disinfectant residual, clarify that “regularly planned investigative sampling” will target areas that historically had low residuals;
- Draft Recommendation 6 on chloramination, indicate that it is not assumed that chlorine burn is always the right approach, potentially add that sampling for corrosion could also take place, and ensure that this recommendation focuses on guidance and includes flexibility for the different water systems;
- Draft Recommendation 7 on consecutive systems, address the imbalance of power between the consecutive systems and the wholesalers.

Mr. Greenwood then described the meeting approach for the day. He indicated that the discussion would focus on Draft Recommendations 3, 4, and 9, and added that further discussion will also be needed on Draft Recommendations 6 and 7.

Mr. Greenwood explained that as with WG meeting 10, the straw polling system would be used throughout the meeting to understand WG member level of support for each draft recommendation. The following framework characterizes the level of support and the aggregated WG member perspectives:

- Full: Support from all the present WG members (18 WG members were in attendance for the first half of the meeting; 14 out of 18 for some segments)
- Substantial: Support from equal to or more than 7/8 present WG members
- Strong: Support from more than half the present WG members
- Limited: Support from less than half of the present WG members
- Little: Support from less than ¼ of the present WG members

Following today's meeting, the initial draft recommendations will be updated and a marked-up report will be shared with the WG for review.

Segment 3

Mr. Greenwood introduced Draft Recommendation 9, related to Environmental Justice. He described that this draft recommendation has been amended to reflect the WG's feedback during and after Meeting 10. Mr. Greenwood also noted that Action Area 3, related to testing proposed revisions by examining how revised provisions may have changed the outcomes of recent water crises, received limited support during Meeting 10 and had been removed.

Mr. Greenwood then described the following action areas that remain in the draft recommendation:

Action Area 1: To ensure all communities equitably receive the benefits intended by the MDBP rule revisions, all of EPA's analyses to support rule revisions should identify and account for existing and potential disparate impacts to communities with EJ concerns.

Action Area 2: To ensure the most overburdened communities and water systems are adequately evaluated for compliance and provided resources for improved water quality, structure MDBP rule revisions to enable and incentivize problem solving and proactive improvement.

Action Area 3: To ensure all residents have access to timely information for protecting their families and communities, improve community access to public water system (PWS) performance information, outlined in three intervention subparts: 1) Intervention 1: Improve Public Notification of PWS Compliance and Performance Information to Consumers. 2) Intervention 2: Enhance PWS Data Management and Communications Capacity; 3) Intervention 3: Improve Systemic SDWA Data Access.

The Working Group members noted the following issues with regard to the action areas:

- There is a need to evaluate the effectiveness of public communications to understand if they have been clear about desired outcomes and have achieved the intended behaviors. The WG also noted that, as a rule, public communications should state the actions that the population is expected to take when advisories are being issued. The WG suggested that it would be helpful to have a set of known templates and potentially focus more technical assistance resources on public communications.
- A consultation process with EJ communities should take place to gather their input and ensure their needs are being addressed, including in public communications.
- There is a need to better distinguish between public notifications in Tiers 2 and Tier 3. Tier 1 implies taking action, while Tiers 2 and 3 may need to be revised to better understand their purpose, e.g., new science on DBPs health effects could indicate acute concerns that could require a shift in the nature and timing of the notice.
- There was general WG support for a state of the utility report to understand status of compliance, create accountability for TMF, and help identify where resources should be directed.

Following the discussion Mr. Greenwood sought to gauge the level of support among the WG members for the individual segments of the revised Draft Recommendation 9:

Straw Poll Action Area 1 (Impacts to communities with EJ concerns): Substantial support

Straw Poll Action Area 2 (Problem Solving): Full support

Straw Poll Action Area 3 Intervention 1 (Public Notification): Substantial support

Straw Poll Action Area 3 Intervention 2 (PWS Data Management and Communications): Substantial support

Straw Poll Action Area 3 Intervention 3 (SDWA Data Access): Substantial support

Segment 4

Mr. Greenwood then introduced the Draft Recommendation 3: DBPs of Emerging Concern and the Draft Recommendation 4: Multi-benefit precursor control. The WG discussion focused on the latter. Mr. Greenwood reviewed the suggestions received from WG members on Draft Recommendation 3 and indicated that there is an opportunity for full WG support on this recommendation, pending the outcome on

Draft Recommendation 4. Mr. Greenwood then reviewed the updates made to Draft Recommendation 4 to incorporate the WG's feedback during and following Meeting 10.

Mr. Greenwood described the following action areas that constitute Draft Recommendation 4:

Action Area 1: All Subpart H PWSs would undertake a "vulnerability screening" to identify those systems with a higher risk of DBP formation.

Action Area 2: Medium and high-vulnerability systems would be required to undertake monitoring of their source waters or distribution system water quality on a scheduled basis, determined by such factors as seasonal variability.

Action Area 3: Establish a treatment technique requirement for response to elevated precursor conditions characterized through the vulnerability assessment (Element 1) and targeted additional monitoring required under Element 2.

The WG members had an active discussion on Recommendation 4 and noted that the recommendation should remain rooted in a problem-based mandatory precursor control treatment technique requirement, but emphasis should be placed on what EPA should evaluate as part of the rules revision regulatory process and indicate that the recommendations include ideas/examples that EPA may want to consider. WG members suggested to also include additions related to wastewater effluent influence on drinking water source water in Recommendations 3 and 8. Members also suggested to potentially extend the vulnerability screening requirement to ground water recognizing that differences between surface water and ground water will likely lead to different approaches between the two.

Mr. Greenwood asked for a straw poll to indicate the Working Group's level of support for a revised Recommendation 4 (see below), incorporating the WG's feedback from today's discussion:

The WG will frame a recommendation that aims to put in a place a problem based treatment technique requirement (i.e., a regulatory program) that involves source water evaluation in order to understand vulnerability and, based on that, that path could trigger an enhanced treatment technique requirements ("enhanced" being defined as beyond what is currently achieved by the 3x3 matrix and what the current 3x3 matrix treatment technique produces).

Straw Poll Recommendation 4: Substantial support

Path forward: Draft Recommendation 4 will require revisions following this meeting to incorporate the WG's feedback.

Segment 5

Mr. Greenwood described the process and timeline for revising the draft recommendations following today's meeting: a NDWAC briefing will take place on October 11 to provide an overview to the NDWAC and answer questions on the MDBP WG recommendations; the facilitators will share an updated report with revised recommendations by mid-October for further WG review, along with a template to determine the WG's level of support for each recommendation; the final WG report will be vetted at the MDBP WG meeting on October 31 with a potential contingency meeting on November 2; and the WG report will be submitted to the NDWAC on November 10.

Mr. Greenwood also noted that individual WG member feedback and revisions will be solicited for the draft recommendations discussed today, as well as for the Draft Recommendation 6 (Chloramination) and Draft Recommendation 7 (Consecutive Systems).

The Co-Chairs, Lisa Daniels and Andy Kricun, thanked the WG, the Facilitators, the Technical Analysts, and EPA for the thoughtful discussion and expressed their hope for a good outcome for the entire water system.

Elizabeth Corr, DFO, closed the meeting.

Appendix 1: MDBP WG Meeting Attendance – October 5, 2023

Name	Attendance
Andy Kricun, WG Co-Chair	X
Lisa Daniels, WG Co-Chair	X
Alex Rodriguez	X
Benjamin Pauli	X
Bill Moody	X
Elin Betanzo	X
Erik Olson	X
Gary Williams	X
Jeffrey Griffiths	X
John Choate	X
Jolyn Leslie	X
Kay Coffey	X
Lynn Thorp	X
Lisa Ragain	X
Michael Hotaling	X
Nancy Quirk	X
Rosemary Menard	X
Scott Borman	X