



Drinking Water Advisory Committee

May 19, 2009
9:30 a.m. - 12:00 p.m.
Ohio EPA
Lazarus Government Center
EPA Conference Room A

Abstract

The following are highlights of the May 19, 2009 Drinking Water Advisory Committee (DWAC) meeting. The executive summary follows the abstract.

Major agenda items included discussions on Ohio EPA's Division of Drinking and Ground Waters (DDAGW) budget, the American Recovery and Reinvestment Act (also known as the Stimulus Bill), the Ohio Water Resource Committee's balanced growth initiative, a roundtable discussion, and several federal and state rule making updates.

As a side-note, we would like to continue receiving RSVPs at least 3 days in advance for future DWAC meetings. Please be sure to respond to the e-mail sent out with the agenda.

A. Chief's Update - Mike Baker

Federal EPA Update

Mike spoke about changes at the federal level of EPA, specifically the recent nomination of Peter Silva for the U.S. EPA Administrator of Water. Mike expressed optimism about this candidate's vast experience in the water industry. No news about the nominee for the Region V Administrator.

We are starting to see some policy changes at the federal level with the change in administration. In particular, U.S. EPA is required to consider small public water system affordability when adopting rules under the Safe Drinking Water Act. The previous administration was considering allowing small systems to appeal to states for waivers under which they would be allowed to produce water at up to three times the maximum contaminant level. Ohio EPA and other state drinking water are very concerned about this potential two tiered level of public health protection. This issue will be discussed at the next meeting of the National Drinking Water Advisory Committee and we are hopeful for a change in policy direction.

Mike also mentioned a proposed bill reauthorizing the State Revolving Fund programs under the Clean Water Act and Safe Drinking Water Act recently passed by the Senate Environment and Public Works Committee. The proposal increases the amount of funding for both programs and modifies use of set-asides. The stimulus bill has been helpful in revealing the great level of infrastructure needs supporting the argument for increased and on-going infrastructure funding.

DDAGW Budget

Mike mentioned the latest newspaper articles on the State revenue shortfalls. The State needs to address a revenue shortfall this fiscal year, which ends in June, of approximately \$912 million.

The biennium budget proposal for Ohio EPA included increased municipal solid waste and construction and demolition fees. The version passed in the House reduced the fee amounts requested, and also allocated a portion of Ohio EPA's funding to the Environmental Review Appeals Commission.

Ohio EPA has and will continue to see some reductions in resources. Due to budget constraints, DDAGW has eliminated 11 positions and has not filled and additional 14 vacant positions. This is about a 15% staff reduction from a year ago. Mike is hopeful the division will be able to fill some of the vacancies once a budget is finalized.

In addition to the cut in resources, the employee union has negotiated a new contract which takes affect July 1st. For two years, employees will not receive step increases and will take a reduction in pay, which will occur through the loss of personal leave and ten mandatory cost savings days. Despite the pinch in money, DDAGW continues to make a lot of improvements and is preparing for challenges to come.

American Recovery and Reinvestment Act (or the Stimulus Bill)

Mike and other Agency staff have been spending their past five months with the American Recovery and Reinvestment Act (ARRA) and determining how money awarded to Ohio would be distributed. The Act passed in February and allocated \$2 billion for drinking water infrastructure. Ohio's share of the money is \$58,460,000. A web site was developed for potential applicants to express their interest in receiving ARRA funds. The deadline to express interest was March 6. Pre-applications then needed to be submitted to Ohio EPA by March 13. Ohio EPA received and reviewed approximately 1700 drinking water project pre-applications totaling over \$2 billion. Ohio is choosing to award all of the ARRA funds it receives as subsidy in the form of principal forgiveness, ARRA only requires fifty percent of funds to be provided in subsidy. No project will receive

100% principal forgiveness loans. Principal forgiveness will range from 40% for standard loans to 80% for Ohio's neediest communities.

Scoring and ranking of the projects was completed using DDAGW's existing structure, which is based on public health risk, economic affordability and noncompliance. The projects were also reviewed against the ARRA objectives. For example, ARRA specifies a goal of awarding at least 50% of available funds to projects ready to proceed to construction by June, and 20% have to be "green" infrastructure projects (e.g., replacing leaking water lines or installing meters where no meters exist). Remaining funds were allocated to projects ready to start construction by September. If there are any unspent funds remaining as of February 2010 they will be returned to the federal government to be redistributed.

On April 23, DDAGW announced a draft Intended Use Plan (IUP) and a two week public comment period. A public meeting was held on May 7. Ohio EPA is in the process of finalizing the IUP including the final Intended Projects List (IPL) in response to comments. We hope to have a final plan submitted to U.S. EPA within the next week. We currently have identified 65 projects to be funded for 52 public water systems. DDAGW will also award some funds at substantially reduces rates for non-ARRA projects. The final list of approved projects will go out soon and systems will be responsible for meeting the ARRA requirements (e.g., to buy American, to post new jobs on the "Ohio Means Jobs" web page, and be subject to a lot of reporting and oversight).

Ohio Water Resource Council (OWRC) – Balanced Growth Initiative

Mike spoke a little about OWRC's Balance Growth Initiative which will help Ohio better support the coordination of local land use decisions and water resource management. The Balanced Growth Initiative was originally developed by the Lake Erie Commission and was recently adopted as a statewide model by the OWRC. Under this initiative, communities within a watershed work together to develop a Balanced Growth Plan, identifying priority development areas and priority preservation areas. When 75% of the local jurisdictions sign-off on the plan, a suite of incentives are made available (e.g., receiving priority points for state revolving fund applications). So far, several pilot projects have been implemented in the Lake Erie basin and OWRC would like to pursue additional pilot projects. This is a voluntary, incentive-based approach has proven to be a significant educational process for the local communities.

B. Members Roundtable (Items of interest to committee members)

The roundtable discussion was moved up on the agenda in order to give committee members an opportunity to discuss items of interest.

Steve Grossman – OWDA is reducing its normal interest rate by ½ point for the next 18 months. Also, Ohio Urban University is sponsoring a talk on June 2 at 4 p.m. on water infrastructure financing and management.

Tom Fishbaugh – Ohio RCAP is holding a “Plan B” workshop on June 3rd for those systems who don’t receive ARRA funding. The training will be held at the Department of Agriculture in Reynoldsburg. As of the May 18th, RCAP has 49 signed up to attend.

Curtis Truss – OTCO is working with Jobs and Family Services to “re-career” folks towards the water and wastewater industry. Their goal is to reach out to 500 people in the next 2 years.

Mike Miller – OPWC received \$120 billion in stimulus money, combined with their normal \$170 million.

C. Rulemaking Update – Beth Messer & Holly Kaloz

Federal Rule Update

Total Coliform Rule

U.S. EPA is working on revisions to the Total Coliform Rule. In September 2008, the federal advisory committee signed an Agreement in Principle. Since then, Ohio has been participating as a co-regulator in follow-up stakeholder meetings. Ohio is one of only 3 states invited to participate in the rulemaking process. U.S. EPA intends to issue a proposed rule in 2010 with a final rule in 2012.

Perchlorate

In January, U.S. EPA issued an interim health advisory for perchlorate of 15 µg/L. Also, U.S. EPA is seeking advice from the National Academy of Sciences before making a final determination on whether to issue a national regulation.

State Rule Update

License to Operate (LTO)

The LTO rules were revised and the changes became effective this year. The revisions establish Ohio EPA’s procedures for conditioning, suspending, revoking or denying a license to operate. DDAGW has identified five systems to consider for a conditioned LTO. Another 13 public water systems may be considered based on compliance with current enforcement actions. The division’s going to focus on educating the noncompliant, noncommunity water systems, such as bars, restaurants and gas stations. Our goal is to not have to proceed with conditioning and/or revoking their license, but instead to encourage compliance.

Underground Injection Control (UIC)

The UIC program revised rules which became effective in April of this year. The rules were reorganized, revised, and condensed. In particular, plain language was added to ban motor vehicle disposal wells and large capacity cesspools; rules were revised and language added to permit approval of injection wells used for remediation purposes, and prior to injecting treated drinking water as part of an aquifer storage and recovery project; and to require owners of Class V storm water drainage wells to construct such wells in a manner minimizing the injection of contaminants.

Well Standards

Well Standard rule revisions were proposed on April 20th. A public hearing at Ohio EPA is scheduled for May 27, and the JCARR hearing will be on June 22nd. The division expects the revisions to be effective in July of 2009.

The division made adjustments to the drafted rules prior to proposing them for adoption. A majority of interested party comments were related to the well siting criteria, pumping test requirements, and time frame for submission of source water protection plan. Revisions were made to provide additional flexibility, including allowing two years to submit protection plan.

The proposed rule revisions include requirements providing for the long-term protection of the well's source water, including specific setback distances from certain waste management activities for all public water supply wells. Additionally, they include a prohibition from siting a new well where it could capture water from an aquifer beneath certain types of waste management facilities. The capture zones are the drinking water source protection area (five-year time-of-travel) or the inner management zone (one year time-of-travel). Proposed revisions also include requirements to develop or update a drinking water source protection plan within two years after receiving the director's approval for a new well. The rule will be applicable to most community water systems providing water to at least 250 people and serve a political subdivision of Ohio, except school districts.

Lead and Copper

Revisions to these rules are being made to incorporate the federal provisions published on October 10, 2007. The majority of the revisions are straightforward and clarify portions of the rule; however there is a new requirement to note. Under the adopted rule, systems will be required to issue a consumer notice of tap water lead monitoring results to all served by the sampling site, regardless of whether the sample exceeds the lead action level.

Currently, the revisions are open for review and a public hearing is scheduled for May 27th at Ohio EPA. The JCARR hearing will be on June 22nd and we hope the rule revisions will be effective some time in July of 2009.

Disadvantaged Community Loans

These rules were proposed for revision on May 1 to allow increased flexibility in the administration of disadvantaged community loans. The public hearing at Ohio EPA is scheduled for June 4th and the JCARR hearing on June 22nd. The anticipated effective date is for some time in July of 2009.

Plan Approval

The plan approval rule revisions include updating a reference to the 2007 version of the Ten State Standards, and adding rule by references to the Guidelines for Design of Small PWS (aka Greenbook), the Arsenic Treatment manual and the Approved Capacity document. The Approved Capacity document provides a framework for establishing an approved capacity for water-supply sources, drinking water treatment plants, and source/WTP systems; and contains requirements for water systems to complete water demand projections and take appropriate action to address future needs.

The interested party comments for these rules are currently under review. The division intends on proposing the rules this summer, with effective revisions in fall of 2009.

Laboratory Certification

Revisions to the laboratory certification rules will be proposed this summer and will likely be effective in fall of 2009. Amendments to these rules are to require mandatory electronic reporting of data and submission of lead and copper data on individual sample reports beginning 7/1/10, and require revocation of a lab certification when a corresponding operator certificate is revoked for falsification.

Long Term 2 Enhanced Surface Water Treatment Rule (LT2)

This rule supplements federal provisions previously adopted (Interim Enhanced Surface Water Treatment Rule and Long Term 1 Enhanced Surface Water Treatment Rule). The State received an extension from U.S. EPA (until January 4, 2010) to adopt rules; early implementation was overseen by U.S. EPA. DDAGW is currently reviewing comments received during interested party review. Expect to see proposed rules this summer and effective rules in the fall.

Stage 2 Disinfectants/Disinfection Byproducts Rule (Stage 2 D/DBP)

This rule supplements federal provisions previously adopted (Stage 1 D/DBP) and it should reduce disparity between high and low disinfection byproduct levels in a distribution system. The State received an extension from U.S. EPA (also, until January 4, 2010) to adopt rules; early implementation was also overseen by U.S. EPA. The division is currently reviewing comments received during interested party review. The majority of the comments received are related to "extra" sampling and the implementation dates of the rule. Expect to see proposed rules this summer and effective rules in the fall.

Ground Water Rule

DDAGW will be adopting this federally driven rule sometime in 2010. However,

implementation under the federal ground water rules starts December 1, 2009. The workgroup is currently drafting the rules.

The ground water rule deals with the assessment and treatment of ground water sources vulnerable to microbiological contamination. Almost all public water systems will be affected. Ground water systems which do not demonstrate 4-log removal and have a positive sample under the Total Coliform Rule will be triggered into source water monitoring. DDAGW intends on sending a notice to public water systems soon, allowing them to choose whether they will demonstrate they are already meeting 4-log removal or to conduct triggered source water monitoring if necessary. Ongoing monitoring and reporting is required if 4-log removal is claimed. The triggered source water monitoring provisions kick in December 1, so it is recommended non-community systems collect their fourth quarter sample before then.

DDAGW Representatives:

Mike Baker
Kirk Leifheit
Beth Messer
Holly Kaloz
Susan Baughman

DWAC Attendees:

Curtis Truss, Operator Training Commission of Ohio (OTCO)
Garry Cole, Ohio Campground Owners Association
Mike Miller, Ohio Public Works Commission
Tim Fishbaugh, Great Lakes Rural Community Assistance Program (RCAP)
Steve Grossman, Ohio Water Development Authority (OWDA)
Kent Scarrett, Ohio Municipal League (OML)

Handouts:

- Fact Sheet: Drinking Water Assistance Fund and the American Recovery and Reinvestment Act of 2009
- State Rule Making Update
- Federal Rule Making Update

Next Meeting:

To be scheduled