

EPN “All Hands” Call, Friday, June 21, 2019

This month’s all-hands call provided an introduction to the [Safe Drinking Water Act](#) (SDWA) and current issues surrounding the program, including implementation, budget shortfalls, and regional interoperability.

Presenters

Dave Coursen, former Attorney-Advisor at EPA’s Office of General Counsel and co-lead of EPN’s Member Engagement Team, hosted the call and introduced the speakers.

Tom Grubbs, Environmental Engineer at EPA, who worked for 31 years on drinking water rule development and implementation both in Region 4 and Headquarters.

Carl Reeverts, former Project Manager of the Infrastructure Branch in the EPA Office of Ground Water and Drinking Water, as well as the Deputy Director of the Drinking Water Protection Division. He also leads EPN’s Drinking Water Team.

SDWA Introduction

Safe drinking water is a major EPA public health program, with an easily discernible and direct correlation with public health. The Safe Drinking Water Act, signed in 1974, was updated twice in the next two decades. However, since 1996, there have been no major changes to the law, and existing amendments may not be adequate. EPA Administrator Wheeler has called safe drinking water a top priority at EPA, but there are challenges from both agency and external factors.

Presentation on SDWA Challenges

Tom Grubbs presented background on the SDWA and its several amendments, distinguishing EPA’s drinking water program from other initiatives. Some of the key differences include:

1. The regulated industry in this case is Public Water Systems (PWS), and while nobody is pushing for unhealthy drinking water, PWS sometimes do not have pricing rates high enough to allow for large investments in infrastructure. It was noted that utilities do not have the ability to raise money as other regulated entities do, so they deal with public rate hearings where customers are very opposed to higher prices.
2. PWS must take in a variety of contaminated water sources and put out standard drinking water; this makes the SDWA more effective when other EPA programs that limit the contamination of water in the first place are working. While EPA regulates 90 contaminants, there are many that have not made that list, which makes pollutant control programs for surface, land, and groundwater key.
3. EPA regions are the go-betweens for the federal program, and states implement and enforce the rules, but each state differs based on the number and type of PWS, the authorities under state laws, the resources in state budgets, the contaminants they need to address, and more.

Tom provided a quick summary of the 90 contaminants currently regulated, which include inorganic chemicals (e.g., lead, copper, fluoride, nitrate), organic chemicals (e.g., atrazine, benzene, carbon tetrachloride), radium and uranium, pathogens (e.g., cryptosporidium, giardia, viruses), and disinfectants and their byproducts. Most pollutants are source water contaminants, but distribution system contaminants are more difficult to address. State permits require simultaneous compliance with each of these categories, which creates difficulties for PWS. In the case of pathogen control, PWS use disinfectants to inactivate pathogens, but this can affect compliance with disinfectant byproduct regulations.

Carl Reeverts explained how the safe drinking water program is a mature system where EPA, the states, and PWS have settled into long-standing and mutually supporting roles, but the last three years have disrupted this relationship. EPN could shine a light on issues affecting the relationship and aim to restore the program to its previous operational level. Issues that Carl pointed out include:

1. The proposed perchlorate regulation has a Maximum Contaminant Level (MCL) so high that almost nobody will violate it.
2. EPA is projecting studies and pre-rules next year for selected per- and polyfluoroalkyl substances (PFAS), but is clearly not addressing the breadth of the PFAS contamination crisis.
3. EPA is projecting a lead and copper rule (LCR) proposal this summer, but all signs point to an LCR proposal and related lead actions that will be markedly incomplete.
4. The Trump Administration's 2020 budget proposal apparently maintains existing levels for the drinking water State Revolving Fund (SRF), but EPA still has no clear strategy to meet its needs and start to address the drinking water infrastructure crisis.

Carl emphasized that state grant funding has been maintained at about the same level since 2016 (around \$100 million), even though the President's budget proposal every year included cuts. The Association of State Drinking Water Administrators (ASDWA) has strongly estimated that current levels are not sufficient to effectively run the full program and recommends budget increases. It is clear that the future success of the SDWA depends on state and partner buy-in, and it is crucial to build a mutually supporting relationship between EPA, regions, states and state environmental agencies, and PWS. Since federal budget deficits will likely remain an issue in the future, EPA has to live within a deficit environment, and this makes the state partnership even more important.

Following the presentation, we opened the line for questions and suggestions. Some of the ideas that came up were as follows:

- EPN needs to consider PWS as regulated entities, similar to any other industry. At the same time, the issue is less that PWS are unwilling to invest in infrastructure, but rather are more concerned about costs and bureaucratic problems.
- A study was released that said \$500 billion over the next twenty years is needed to update the nation's infrastructure, but while there is progress on that front, it may not be enough. A half trillion dollars is still a large amount, even when divided by twenty.
- EPN needs to form a team focused on a regulatory and economic analysis of the lead and copper rule (LCR) as a target of oversight opportunity.
- EPN could release a "lay of the land" paper that outlines the context of the program, drawing on Government Accountability Office (GAO) audits and Congressional Research Service (CRS) analysis.