RMWEA Government Affairs Committee Meeting

DATE & TIME: AUGUST 22, 2019 | 5:00PM
LOCATION: 5251 DTC PARKWAY, SUITE 405, GREENWOOD VILLAGE, CO 80111

ATTENDANCE

PRESENT:
- John Kuosman – Colorado Water Business Team Leader for Garver
- Randy Kenyon – Senior Engineer for CGRS
- Emma LaBelle – Colorado Office Manager for Garver (notetaking)

CALLED IN:
- John Burgess – Operations Quality and Condition Auditor for South Platte Water Renewal Partners
- Amy Zimmerman – Engineering Review Unit Manager for Colorado Department of Public Health & Environment
- Will Raatz – Principal for W2 Engineers (W2E)
- Dan DeLaughter – Applied Data & Policy Engagement Programs Manager for South Platte Water Renewal Partners
- Cole Sigmon – Engineering Project Manager for City of Boulder
- Carol Martinson – Project Engineer for TriHydro

COVERED AGENDA ITEMS

- Introductions
- Review of Key Committee Issues

a. Technologically Enhanced Naturally Occurring Radioactive Material (TENORM)
   - Update provided by Dan DeLaughter
   - The stakeholder process has begun again, a series of meetings have been set up to talk about regulatory levels. Information on these meetings is available on the Division’s website. Topics:
     - Drinking water residuals, or wastewater plants that receive drinking water residuals
     - Oil and Gas
     - Landfill
     - Biosolids – discussing an exemption for facilities that do not accept drinking water residuals (possibly a more broad exemption for less than 5 picocuries/gram). There
is also interest in on-the-ground monitoring of what is accumulating on the farm once biosolids are applied. There is a meeting coming up focused on setting a regulatory exempt level. If 5 picocuries/gram is exceeded, there is discussion as to whether there should be a covenant on the property that goes with the specifying the property has been used for TENORM land application, or possibility requiring additional worker training and protection – but no specifics yet.

- Final report from Rule Engineering is out. Division is trying to develop recommended regulation by end of this year, legislative requirement is to finalize the regulation by the end of 2020.

b. Regulation 22

- **Update provided by Amy Zimmerman and Dan DeLaughter**
- The stakeholder group has finished with their combined workgroups, and each group’s draft has been collated into a final Regulation 22 draft version of the proposal going to public comment before revisions and presentation to the Water Quality Control commission. That draft is published on the Division’s website and accepting comments until September 2nd. Highlights include:
  - Updates to Reg 61 specifically regarding the definition of the capacity of a wastewater treatment works.
  - Streamlined version of the interceptor site location process, as well as changes to the lift station site location process. Added provision for existing lift stations where existing site location approval cannot be demonstrated. Includes amendment process for making modifications to lift stations.
  - Clarifications on smaller wastewater treatment plants which are close to the 2000 gal/day definition of domestic wastewater treatment works.
  - Organizational changes.
- **TASK: Amy to send link to draft to John Kuosman. (Done)**
- **TASK: John Kuosman will write up an RMWEA email blast with a link to the draft to let people know it is under review now and accepting comments. (Done)**
- Dan DeLaughter was part of the design flow workgroup. Biggest issue they discussed was flexibility on what needs to be approved in a Site application request vs. what actually needs to be built to maintain a capacity rating. They couldn’t come to a solution in the time available for the workgroup process. Being moved over to the ten-year roadmap workgroup for continued discussion.
- Scheduled to be in front of the Commission in the March hearing.

c. Regulation 100

- **No update provided**
- **TASK: John Kuosman will follow up with David Kurz about this.**

d. Standard Perfluoroalkyl Substances (PFAS) Contamination

- **Update provided by John Kuosman and Dan DeLaughter**
- On May 16th, Senate Bill 1507 “PFAS Disclosure Act” was introduced. If enacted and signed into law, this will amend the Safe Drinking Water Act requiring the EPA to
promote MCLs for both PFOA and PFAS, and possibly other contaminants, within two years. As currently drafted it leaves those MCL levels up to the EPA for determination.

- Per the letter AWW sent to the congressional budget office, it is estimated that the potential capital cost of implementing a national PFAS regulation would quickly exceed $3 billion, and if federal implementation were to mirror the direction of state-level efforts, capital costs would exceed $38 billion.

- State has a workgroup process kicking off, meeting dates are on the website. Per Dan DeLaughter’s conversation with Nicole Rowan they are being required to get some kind of guidance in place by spring of 2020.

- TASK: John Kuosman will reach out to Nicole Rowan for an update.

- TASK: John Kuosman will put together a draft for an article/fact sheet in the RMWEA publication on PFAS/PFOA.

d. **Lead and Copper (L&C) Rule**

- **Update provided by Dan DeLaughter, Randy Kenyon, Amy Zimmerman**

- **Denver Water Optimal Corrosion Control Treatment Requirement:**
  - The stakeholder process has wrapped up as of this week. Denver Water determined they would submit a variance request. Rather than the previously required treatment of orthophosphate addition, they would instead do accelerated lead service line removal which would speed up lead service lines from fifty years from natural attenuation down to about 15 years. Would also provide point-of-use filters to people during that time for protection while that work was going on. Even with that accelerated program, would also do a pH adjustment for additional corrosion control, up to 8.8.

  - Submitted the 20\textsuperscript{th}, triggering a 30 day comment period from EPA on the variance. Denver Water is looking for as much support as it can get, especially if federal-level agencies can be involved. If the variance doesn’t happen, March 2020 is the date where Denver Water would have to start dosing the orthophosphate.

  - Part of the stakeholder process was an evaluation of watershed and wastewater impact, that report will be finalized September 6\textsuperscript{th}, Division will be providing comments by September 12-13\textsuperscript{th}. Haven’t been able to say whether they will support it or not, but the indication through the workgroup process is that they lean toward support. This could set a precedent for other utilities to approaches short of orthophosphate.

  - The decision on variance is now going to be at EPA headquarters, which could indicate recognition of the national significance of this decision.

  - Randy was at the distributor’s forum, they are not 100% in favor of it. The North Front Range Water Quality Planning Association is writing a letter of support, they want to keep phosphate out of the systems. The Government Affairs Committee typically doesn’t take stances on this sort of thing, but we may consider it.

  - In New Jersey and Flint, Michigan, municipalities handed out point-of-use filters where there had been issues, and water still tested high in lead, over the action level. In New Jersey, the starting concentrations were much higher. There were also administrative
issues, and issues with residents knowing when to replace filters. If Denver Water’s variance is based on handing out filters to residents, that data could cause an impact.

- Denver Water did coupon testing with copper pipes with lead solder, and it was determined that ortho phosphate addition would be the best course of treatment for those, rather than replacement. Those concentrations are still below any kind of health concern.
- Houses built between 1984 and 1987 are showing elevated lead, they don’t know why because it’s not associated with service lines. Lead-based solder was phased out around the same time.
- This summer, EPA updated their March 2013 guidance manual on implementing Lead & Copper rules for regulating agencies.
- Randy brought up a study that identified copper source leeching from pinebark beetle kill. Trees uptake it, then release it as they die.
- TASK: John Kuosman will look into national Lead & Copper rule update for next time.

f. Temperature Standard

- Update provided by Dan DeLaughter
  - The main topic at the Water Quality Roadmap workgroup meeting was the CSU Johnny Darter study, one of the warm water Tier 1 fish. The batch of fish at 12°C had died off, and they were only able to collect fish at the 4°C temperature. There is a big range in terms of using that to set water quality standards. 90 days over winter cold temperatures was showing the best result in terms of reproduction – 60 days and 120 days were also tested. Looking into redoing the 12°C study, possibly studies at other temperatures, and starting a field component. The thesis will be published in 2021, coinciding with the rulemaking hearing on temperature.
  - They are trying to get funding for warm Tier 2 species, which is a more difficult study involving more species. They are currently doing some compilation of macroinvertebrate thermal tolerances. Standards will be based on both fish and bugs.
  - A couple of white papers have come out of the technical workgroup. One is almost finalized on the transition zone concept – how standards are handled between streams of different temperatures.

- Review of Outside Group/Committee/Organization Involvement

  a. Unregulated Contaminant Monitoring Rule (UCMR)
     - Update by John Kuosman
       - We are currently under UCMR 4. The UCMR 5 proposal for new unregulated contaminants is scheduled for summer 2020 with final rulemaking winter 2021 and monitoring going into effect 2023-2025.
       - The UCMR can only contain 30 contaminants per the Safe Drinking Water Act. The list started with over 450 contaminants; they have narrowed it down to 69. Of those, 29 are tied to PFAS, the other 40 include disinfection byproducts, pesticides, pharmaceuticals,
legionella, and one metal. The 30 final contaminants will most likely be a subset of these 69.

- UCMRs used to collect data only from populations that served more than 10,000 people. Now, because of the American Water Infrastructure Act, they will collect data from populations serving 3300 people or more, which is an additional 5,000 systems. This data will still be collected at EPA’s expense, but it will be an additional requirement for smaller facilities and a huge issue for EPA and laboratory resources to handle the additional load.

b. FEMA / Denver Urban Area Security Initiative

- **Update by John Burgess**
- John attended a conference put on by FEMA for the northeast region of the state. FEMA wants to determine what to expect in the event of an emergency, and is collecting information on what kind of emergency plans the utilities have in place, and how quickly service can be restored. The example provided was a cyberattack on the northeast region, the target was to return service to 800,000 people within 5 days of an event. The event was underattended, it appears no one is contributing much to FEMA’s planning or even knows that FEMA is looking for this input.
- John Burgess sent the sample worksheet FEMA is using to John Kuosman.
- South Platte is going to talk to the Director and the deputy directors to see what they can report to FEMA and how else they can help.
- **TASK:** John Burgess will provide contact info for the FEMA rep he met at the conference, who would be willing to speak to our group and bring us up to date.
- **TASK:** Cole Sigmon will find out who is handling this at City of Boulder and connect with them.
- **TASK:** John Kuosman will look into how FEMA uses the data, how to put together a more coordinated response, and getting more utilities involved.

c. Water Congress

- **No update provided**

d. Air Quality Ozone Non-Attainment Area

- **Update provided by Cole Sigmon**
- City of Boulder is loosely tracking air quality ozone non-attainment area rulemaking, which is lowering the level of NOX and VOC required. Advanced monitoring will be required if a certain level is exceeded. Boulder is right under that level, some of the bigger utilities in the state will be affected by this change, especially Denver. We don’t know if the non-attainment area captures more than a handful of utilities.
- The existing standard at the high level wasn’t making enough headway, so it’s being lowered. The change mostly affects large oil and gas operations, but may have some residual effect on wastewater treatment facilities.
- Here is APCD’s Ozone Planning for Industry page: [https://www.colorado.gov/pacific/cdphe/ozone-planning-information-industry](https://www.colorado.gov/pacific/cdphe/ozone-planning-information-industry)
Colorado must meet the 2008 ozone standard by 2018 (based on data from the 2015-2017 3-year average). Based on current data, the Denver Metro/North Front Range might not meet the 2008 standard by the 2018 deadline, which could result in the nonattainment area being reclassified to “Serious” by 2019. This would cause major source permitting thresholds for facilities emitting VOC and NOx to drop to 50 tons per year. Currently, there are many factors that are affecting this classification, but we are working with stakeholders and EPA to determine the best path forward and prepare for this potential change. The attainment deadline could be extended by one year because Colorado met the standard for 2017. This deadline could be extended by another year if Colorado meets the standard in 2018.

Here are links to the Agenda and Presentation given at the August 22nd update meeting.

1. https://drive.google.com/file/d/1rTKx-Evji128onkr7Tqijxh8kAnNqRcw/view
2. https://drive.google.com/file/d/19yHc11E-BqMdVuRDfFoVhXfkO0DUMmpp/view

In a meeting September 19th, APCD will request that the AQCC schedule a hearing in December 2019 to consider proposed revisions to Regulation 7.

e. Current Conditions and Numeric Effluent Limits

- Update by Dan DeLaughter

- There has been a shift in mentality around implementation of the temporary modifications based on current conditions – the Division wants to move toward more numeric effluent limitations on current conditions until the standard is finalized. Going over the limit could require source control or treatment.
- This is something interested stakeholders should be monitoring, and thinking about what it means for temperature.
- The current commission and EPA are not happy with the number of temporary modifications that Colorado has. If the EPA had its way, they would want an interim numeric value in the standards themselves. This is a middle ground that the permit commission is looking at.