Safe Drinking Water Act (SDWA) Program: Updates and Current Activities

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Jennifer Best

Michella Karapondo

Office of Groundwater and Drinking Water

Standards and Risk Management Division

Technical Support Branch

Cincinnati, OH

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Overview

- Contaminant Candidate List (CCL)
- Unregulated Contaminant Monitoring Rule (UCMR)
- Regulatory Determination for CCL4
- PFOS Strategic Roadmap
- PFAS Drinking Water Health Advisories
- MDBP Potential Rule Revisions
- Drinking Water Laboratory Certification

Contaminant Candidate List (CCL)

https://www.epa.gov/ccl

- List of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations, but are known or anticipated to occur in public water systems
  - SDWA requires EPA to publish the CCL every five years
  - SDWA directs EPA to consider the health effects and occurrence information for unregulated contaminants to place contaminants on the list
  - SDWA further specifies that EPA prioritize contaminants on the list that present the greatest public health concern related to exposure from drinking water
- After a final CCL is published, EPA must determine whether or not to regulate at least five contaminants from the CCL in a separate process called Regulatory Determination
  - EPA will compile and evaluate additional data on CCL contaminants and determine which contaminants have sufficient information to be evaluated against the three criteria listed in SDWA for making a regulatory determination

Draft Contaminant Candidate List (CCL) 5

https://www.epa.gov/ccl/contaminant-candidate-list-5-ccl-5

- On July 19, 2021, EPA published the draft fifth Contaminant Candidate List (CCL 5)
  - The comment period closed on September 17, 2021
  - EPA followed the stepwise process used in developing the CCL 3 and CCL 4, which was based on expert input and recommendations from the SAB, NRC and NDWAC
- Draft CCL 5 includes 66 chemicals, 3 chemical groups (per- and polyfluoroalkyl substances (PFAS), cyanotoxins, and disinfection byproducts) and 12 microbial contaminants

Unregulated Contaminant Monitoring Rule (UCMR)

https://www.epa.gov/dwucmr

- Used to collect data for contaminants that are suspected to be present in drinking water and do not have health-based standards set under the Safe Drinking Water Act (SDWA)
- Five-year cyclical program
- UCMR 4 (2017-2021) completed– data available at:
  - https://www.epa.gov/dwucmr/occurrence-data-unregulated-contaminant-monitoring-rule#4
- UCMR 5 final rule published December 2021 (86 FR 73131)
  - https://www.epa.gov/dwucmr/fifth-unregulated-contaminant-monitoring-rule
  - Monitoring for 30 chemical contaminants at the Entry Point to the Distribution System
  - 29 PFAS and lithium
  - Methods: EPA 533, EPA 537.1, EPA 200.7/SM 3120B/ASTM D1976-20
  - UCMR 5 sampling period 2023 – 2025

UCMR 5

https://www.epa.gov/dwucmr/fifth-unregulated-contaminant-monitoring-rule

- UCMR 5 includes many more small PWSs than in prior UCMR cycles
  - ~6000 small PWS (vs. 800 small PWS in previous cycles), subject to availability of appropriations (to fund monitoring at small PWSs) and sufficient laboratory capacity
- The UCMR Laboratory Approval Program closes August 1, 2022
  - Labs need to be *certified* to analyze one or more drinking water *compliance monitoring parameters* to apply for *EPA approval* to support *UCMR 5*
  - Qualify and participate in PT studies offered by EPA
  - Demonstrate capability to perform methods for which approval is being sought.
- Laboratories approved for UCMR 5 analyses:
  - https://www.epa.gov/dwucmr/list-laboratories-approved-epa-fifth-unregulated-contaminant-monitoring-rule-ucmr-5
- Labs wishing to support analysis of samples from small PWSs (via contracts with EPA) must be approved for methods that cover all 30 UCMR 5 analytes

Regulatory Determinations for CCL 4

https://www.epa.gov/ccl/regulatory-determination-4

- Published on February 22, 2021
- Final determination **to** regulate perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA)
- Final determination to **not** regulate six contaminants (i.e., 1,1-dichloroethane, acetochlor, methyl bromide (bromomethane), metolachlor, nitrobenzene, and RDX)
- Technical Support Documents for Final Regulatory Determinations 4 are available on www.regulations.gov: Docket ID No. EPA-HQ-OW-2019-0583
- Goal ~~Target~~ for proposed PFOS/PFOA NPDWR is Fall 2022

EPA PFAS Strategic Roadmap

https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024#ow

- On October 18, 2021, EPA announced the Agency's PFAS Strategic Roadmap
  - A whole-of-agency approach to addressing PFAS
- Office of Water's PFAS actions include:
  - Undertake nationwide monitoring for PFAS in drinking water under UCMR 5
  - Establish a national primary drinking water regulation for PFOA and PFOS that would set enforceable limits and require monitoring of public water supplies
    - Proposed rule anticipated fall 2022, final rule anticipated fall 2023
  - Toxicity assessments to better understand their human health and environmental effects
    - https://www.epa.gov/chemical-research/human-health-toxicity-assessments-genx-chemicals
  - Public health advisories to enable tribes, states, and local governments to inform the public and take appropriate action
    - https://www.epa.gov/sdwa/drinking-water-health-advisories-genx-chemicals-and-pfbs

PFAS Drinking Water Health Advisory

https://www.epa.gov/sdwa/drinking-water-health-advisories-genx-chemicals-and-pfbs

- On June 15, 2022, EPA issued:
  - **Final** health advisories for two PFAS:
    - 1) hexafluoropropylene oxide (HFPO) dimer acid and its ammonium salt (referred to as "**GenX chemicals**")
    - 2) perfluorobutane sulfonic acid and its potassium salt (**PFBS**).
  - **Interim** *updated* drinking water health advisories for PFOA and PFOS
    - https://www.epa.gov/sdwa/drinking-water-health-advisories-pfoa-and-pfos
    - Replace those issued in 2016
      - Based on new science

MDBP Potential Rule Revisions

- In January 2017, the Agency's third Six-Year Review of NDPWRs announced
  - Candidates for revision from the following MDBP rules:
    - Stage 1 and Stage 2 Disinfectants and Disinfection Byproduct Rules (DBPR)
    - Surface Water Treatment Rule (SWTR)
    - Interim Enhanced Surface Water Treatment Rule (IESWTR)
    - Long Term 1 Enhanced Surface Water Treatment Rule (LT1)
  - Eight candidates for revision:
    - chlorite
    - *Cryptosporidium*
    - Haloacetic acids
    - Heterotrophic bacteria
    - *Giardia lamblia*
    - *Legionella*
    - total trihalomethanes
    - viruses

MDBP Potential Rule Revisions: Stakeholder Meetings

https://www.epa.gov/dwsixyearreview/public-engagements-potential-revisions-microbial-and-disinfection-byproducts-rules

- EPA hosted virtual public meetings throughout 2020 - 2021 to solicit input on further improving public health protection from MDBPs in drinking water.
- EPA has provided a charge to the National Drinking Water Advisory Council (NDWAC), to provide the agency with advice and recommendations on key issues related to potential revisions to MDBP rules.
  - EPA asked the Council to form a working group that includes individuals with a variety of backgrounds and expertise
    - https://www.epa.gov/ndwac/ndwac-membership#tab-3
- EPA will consider the data and/or information provided at these meetings, comments submitted to the docket, comments on the Six-Year Review 3 Federal Register notice, and information gathered at other stakeholder engagements in its determination on how to proceed with any potential rule revisions.

Drinking Water Laboratory Certification: LT2 update

https://www.epa.gov/dwlabcert

- Round 1 and Round 2 monitoring required under the Long Term 2 Enhanced Surface Water Treatment Rule now **complete**
- Rule continues to apply to ***new*** surface water systems
  - *Cryptosporidium* monitoring would only be required for *new* ***large*** *surface water systems.*
    - Oversight of any additional monitoring would be implemented by Primacy Agencies
- States can continue to certify laboratories for *Cryptosporidium* if desired
  - EPA-developed technical support materials for Method 1623/1623.1 posted on EPA website for use

Safe Drinking Water Act (SDWA): Primacy

https://www.epa.gov/dwreginfo/primacy-enforcement-responsibility-public-water-systems

- SDWA Authorizes EPA to set federal enforceable health standards for contaminants that apply to all public water systems
- Establishes a joint Federal-State system for assuring compliance:
  - Authority to implement/enforce regulations is **delegated** to the "States" through Primacy Agreements
    - 40CFR § 142.10 (c) **The establishment and maintenance of a state program for the certification of laboratories** conducting analytical measurements of drinking water contaminants pursuant to the requirements of the state primary drinking water regulations including the designation by the state of a laboratory officer(s), certified by the administrator, as the official(s) responsible for the State's certification program
  - Certification Authority has been delegated authority by EPA to certify laboratories through Primacy Agreements
    - Roles/responsibilities described in Delegation of Authority document

Safe Drinking Water Act (SDWA): Delegation of Authority

- Non-governmental agencies (i.e., NGO ABs) are not Primacy Agencies
  - ***Can not be delegated the authority to certify DW laboratories for compliance sample analyses***
- States can utilize Third Party Auditors (TPAs) to conduct laboratory audits
  - TPAs are not the same as Certification Officers
- Certification decisions **must** reside with the Primacy Agency
- TPAs must address any Conflict of Interest (COI) concerns

Contact information:

Jennifer Best
best.jennifer@epa.gov
513-569-7012

Michella Karapondo
karapondo.michella@epa.gov
513-569-7141