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Member Association Legislative & Regulatory Update

December 2, 2020

1:00 – 2:30 PM ET

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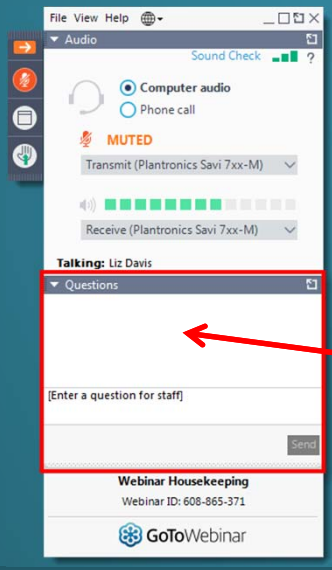
How to Participate Today



- **Audio Modes**
  - Listen using Mic & Speakers
  - Or, select "Use Telephone" and dial the conference (please remember long distance phone charges apply).
- **Submit your questions using the Questions pane.**
- **A recording will be available for replay shortly after this webcast.**

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Today's Speakers

- Brandon Koltz and Julie Nahrgang, *moderators*
- Steve Dye
  - Federal Advocacy Update
- Tracy Ekola, Emma Larson
  - Minnesota Section, Central States WEA
- Dan DeLaughter
  - Rocky Mountain WEA
- Doug Kobrick
  - Arizona Water
- Frank Dick
  - Pacific Northwest Clean Water Association

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Federal Update

Steve Dye
Legislative Director, WEF

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Water Priorities for the Coronavirus Relief Package:

- Water Associations seeking $4B for low-income and unemployed ratepayer assistance
  - House-passed $3T package includes $1.5B for ratepayer aid
  - House-introduced $2.2T package in late Sept. that includes $1.5B for ratepayer aid
- Grants or low-interest loans to utilities for lost revenues to support operations and maintenance.
  - *Estimated $13.9B & $12.5B in drinking water and wastewater lost revenues, respectively.*
- Aid to Utilities if a National Cut-Off Moratorium is enacted.

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Water Priorities for Economic Stimulus Package:

- Significant funding for water infrastructure should be included in any economic stimulus and infrastructure package.
  - The Council of Infrastructure Financing Authorities (CIFA) found $73 billion in DW, WW and SW infrastructure needs
- Funds should be awarded through SRFs, USDA, Title XVI, AWIA grants, etc.
- WEF members should send letters to Congress urging support for water infrastructure funding in package. Over 1,600 sent so far!
  - WEF Water Advocates Call-to-Action: https://wef.org/advocacy/water-advocates2/
- Joint Water Sector Letters: https://www.wef.org/water-sector-covid-19-joint-asks & https://www.wef.org/globalassets/assets-wef/3---resources/for-the-media/pdfs/pr-2020/water-associations-letter-to-congress----nov-16-2020.pdf

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H.R. 2, The Moving Forward Act

$1.5 trillion House Democrats' infrastructure package with a heavy green focus. Passed 233-188 on July 1, 2020. Water provisions were from H.R. 1497, the Water Quality & Jobs Creation Act of 2019, which is now being negotiated with the Senate as part of the 2020 WRDA bill.

Key water funding provisions include:

- Reauthorizes the CW SRF at $8B/yr
- Reauthorizes the DW SRF at $5B/yr
- Restores Advanced Refunding for tax-exempt bonds
- Lifts the volume cap on Private Activity Bonds
- Restore the Build America Bonds
- Increases the EPA Sewer Overflow & Stormwater Reuse Municipal Grant (OSG) Program to $400M/yr
- Allows state SRF programs to use 1% for funds for water workforce development
- Creates a new $10M/yr Dept. of Interior water workforce development grant program
- Authorizes $1B in resiliency grants to WRRFs
- $500 million grant program for Smart Water technology

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Senate America's Water Infrastructure Act of 2020

Senate Environment & Public Works Committee passed S. 3591 on May 11, 2020
Key Provisions:

- Clean Water SRF Reauthorization
  - $2B for FY21, $2.5B for FY22, $3B for FY23
- Clean Water SRF Uses
  - Additional subsidization, such as grants, negative interest loans and loan forgiveness, or to buy, refinance or purchase debt
  - Funds can be used to design and engineer wastewater and stormwater systems
- Stormwater Infrastructure Technology, Section 2019, includes
  - Establishment of up to five Stormwater Centers of Excellence
  - $5M/yr in stormwater planning & development grants
  - $10M/yr in stormwater implementation grants
- WIFIA Reauthorization at $50M/yr. for FY21 & FY22
- Workforce Grant Program Reauthorized to $2M
- OSG Program Reauthorized at $250M/yr., FY21&22
- New Resiliency Grants, $5M/yr.

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FY21 Appropriations

Program	FY20 Final	Pres. FY21	House FY21	Senate FY21	FY21 Asks	Function
Clean Water SRF	$1.6B	$1.1B	$1.6B + $8B	$1.6B	$1.6B x 2	Wastewater & Stormwater Loans
Drinking Water SRF	$1.1B	$863M	$1.1B + $2B	$1.1B	$1.95B*	Drinking Water Loans
WIFIA	$55M	$25M	$71M	$60M	>$55M*	All Water Infrastructure Loans
USDA Loans & Grants	$1.45B	$1.1B	$1.47B		$1.6B	Rural Communities Loans and Grants
Title XVI-WINN	$20M	$3M	$11.8M		$50M	Western US Water Recycling and Reuse
Water Workforce Grants	$1M	$1M	$3M	$1M	>$1M*	Workforce Development Grant
OSG Grants	$28M	$61M	$57M + $400M	$32M	$225M*	Grants for CSO, SSO, and SW Infrastructure
National Priorities Water Research	$6M				$20M	Grants for Water Research

* = Authorized level

Congress passed a Continuing Resolution through Dec. 11, 2020.

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Minnesota 2020 Regulatory Update

WEF Government Relations Committee

December 2, 2020

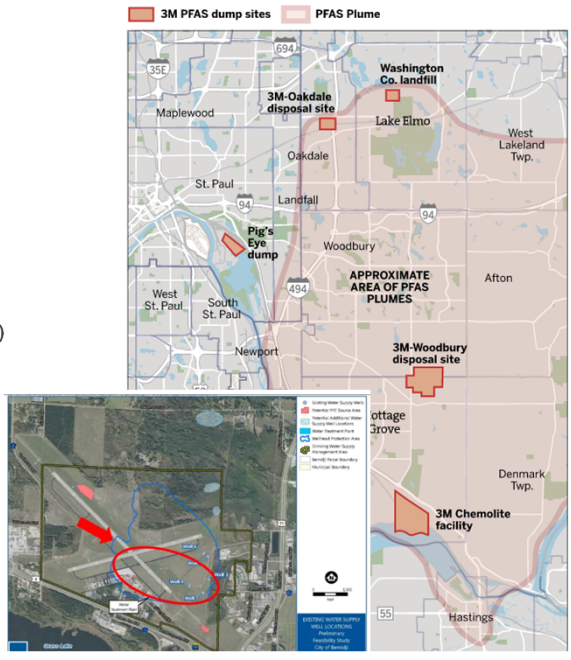
Tracy Ekola
Hazen and Sawyer

Emma Larson
City of St. Cloud, MN

Figure 1. Major drainage basins in Minnesota.

PFAS

- MN Dept of Health (MDH) monitoring specific sites in 2006; Add'l statewide targeted PFAS monitoring 2020/2021
- 2007 MPCA study sampled PFC's at multiple WWTF. PFOs detected at Brainerd WWTF 2008 (source determined to be from chrome plating industry)
- MN vs. 3M PFAs settlement Feb 2020 $850M (cleanup cost scenarios estimated from $250M - $1.2B) Impacted areas – East Metro communities
- Bemidji WTP upgraded 2020 due to PFAs from AFFF
- MPCA, MDH, MDNR working to understand PFA impacts
- Fish consumption advisory limits @ impacted lakes
- Potential for site-specific water quality criteria (WQC)
- More PFAs regulations TBD

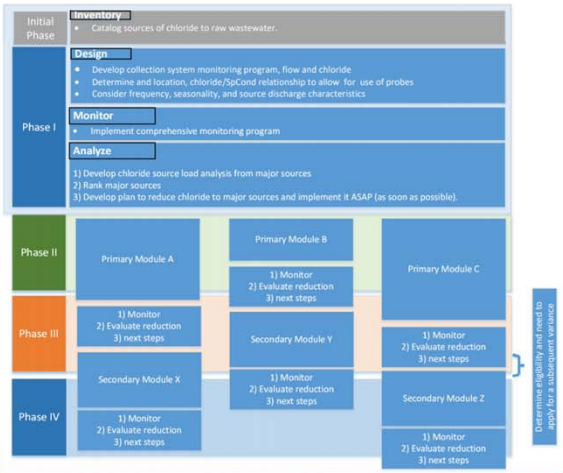


Chloride

- Longer chronic exposure is a 4-day average of 230 mg/L
- Shorter term acute exposure is a 1-day average of 860 mg/L

https://www.pca.state.mn.us/water/statewide-chloride-resources

Streamlined Chloride Variance Action Tree



MINNESOTA POLLUTION CONTROL AGENCY

www.pca.state.mn.us

Strategy for municipal chloride reduction and minimization

The goal of this strategy is to help municipalities develop a chloride investigation and minimization plan that results in chloride reductions to the maximum extent possible. It walks through steps to best determine possible sources of chloride, implement chloride reduction options, and evaluate their effectiveness on an annual basis. This strategy was put together with language from the chloride variance permit process in mind; however, it can be used for any chloride reduction effort. It is only a guide. Once an inventory is done, the city is responsible for considering source reduction options with help and guidance by the Minnesota Pollution Control Agency (MPCA).

The steps to develop a plan are:

1. Evaluate chloride at your wastewater treatment plant (WWTP)
2. Create a chloride source inventory
3. Identify options to reduce the chloride at the source
4. Review annually to see what worked and what things need to be changed

1. Evaluate chloride at your wastewater treatment plant

To understand how chloride affects the WWTP, trends and patterns need to be examined using data collected each month. This information can be found at the Wastewater data browser[1] or you can use your own records to look at values over time[2]. Changes in flow, concentration, or load could reveal trends that could be directly related to activities in the collection system and could be opportunities to target reduction activities. Pay attention to:

- Clean-outs or maintenance of equipment
- Weather events
- Seasonal changes in food production or other seasonal users
- Other?

You may also monitor the collection system using a specific conductance meter or total dissolved solids (TDS) meter. This is a cost effective way to narrow down sources of chloride and target reduction activities.

2. Create a chloride source inventory

In order to lower the concentration of the chloride pollutants that reach the WWTP, it is necessary to evaluate the users of the system. This starts with an inventory. The MPCA suggests breaking the users down into the specific source categories listed below. These are only suggestions for beginning an inventory. You may know more about the sources in your community.

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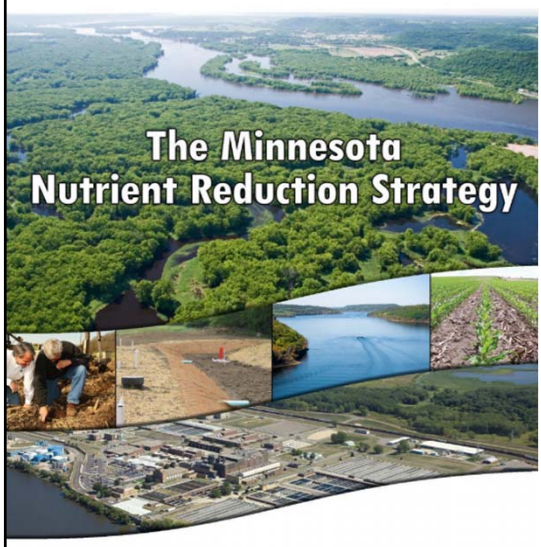

Phosphorus

Minnesota Phosphorus Strategy (MPCA 2000) 1 ppm limit

Lake Standards (2008)

River Standards (2014)

P limits 0.06 ppm to 1 ppm

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Phosphorus: River Standards Nutrient Eco-Regions

Three River Nutrient Eco-Regions

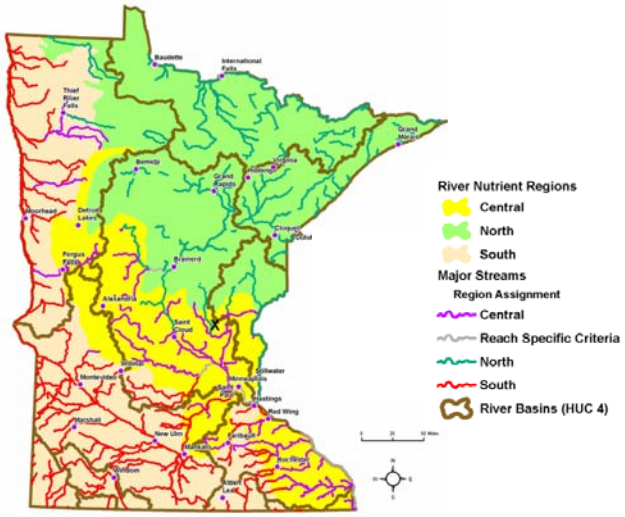
- North – 50 µgTP/L
- Central – 100 µgTP/L
- South – 150 µgTP/L

TP plus an Indicator

- Chlorophyll-a, 50-150
- DO flux, 7-35 µg/L
- BOD_5, 1.5-3 mg/L

Reach specific criteria:

- Lower Mississippi Pools
- Crow River



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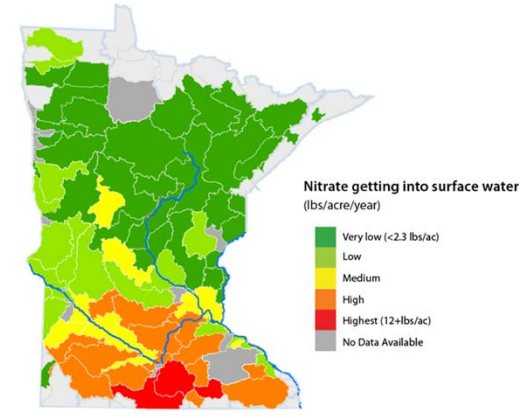
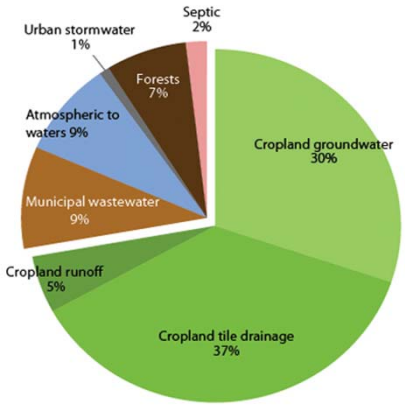
Nitrogen
2013 Statewide Study



Minnesota map showing pounds per acre per year of Nitrate getting into surface water

- NPDES Requirements/Considerations:
- Nitrogen monitoring at WWTF
- Nitrogen management plans for WWTF
- Provide nitrogen removal capacity with facility upgrade
- Consider point source to nonpoint source trading



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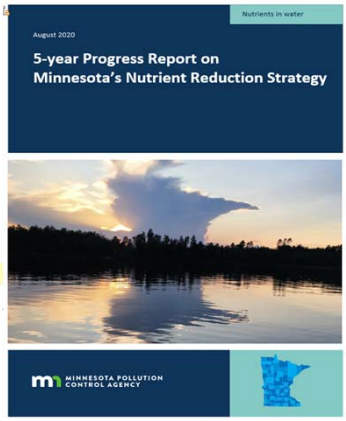
Minnesota Nutrient Strategy Progress

Nitrogen concentrations are increasing throughout much of Minnesota.

Phosphorus concentrations are decreasing throughout much of Minnesota.



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January 2019

Class 3 & 4 Water Quality Standards Revision

Technical Support Document

Changes to Class 3 and 4 standards will protect state waters while lowering regulatory hurdles

MINNESOTA POLLUTION CONTROL AGENCY

MPCA Current Rule Making

Class 3 (water quality for industrial use)
Numeric standards will be removed while the narrative standard will be retained and updated. Will be based on specific site conditions and focuses on water hardness.

Class 4 (Class 4A water quality for irrigation)
Many of the numeric standards will be removed while the narrative standard will be retained and updated.
For Class 4B (livestock and wildlife drinking), the salinity standard is revised based on current science and common water quality indicators.
(Note: Separate regulations exist for sulfate and nitrate standard).

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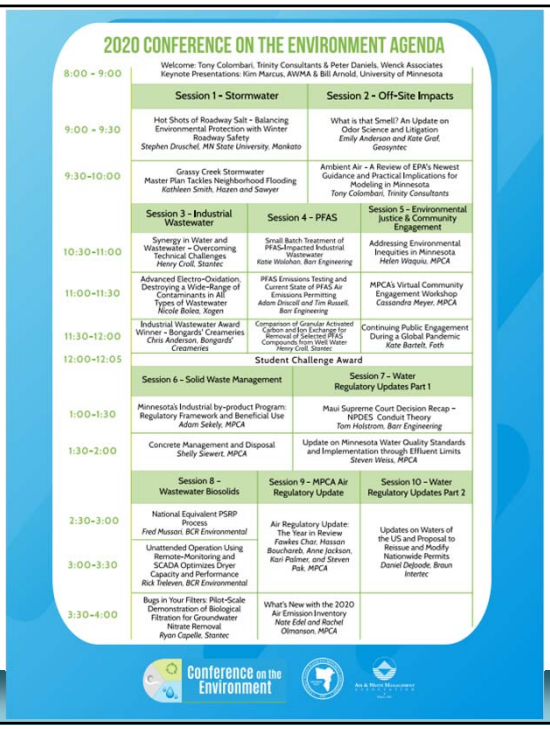
MN Section CSWEA

Government affairs activities:

Annual Conference on the Environment
Regulatory tract/sessions and opportunity to network with regulators

Attend WEF Fly-In
Funding and application process for 1 -2 representatives

Legislative letter-writing campaigns
Engage members to contact state legislators (i.e. state bonding and SRF fund allocations) and federal stimulus funding.



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Questions?

Tracy Ekola
tekola@hazenandsawyer.com

Emma Larson
Emma.Larson@ci.stcloud.mn.us

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Introduction

Dan DeLaughter, P.E.
Data & Regulatory Programs Manager

- Civil Engineer with an emphasis in regulatory compliance
- Regulatory leader with 15 years of experience in water quality planning, Clean Water Act compliance, permitting
- Co-Chair of RMWEA Govt. Affairs Committee, Chair of Barr Lake & Milton Reservoir Watershed Association, Board of SPCURE

SOUTH PLATTE RENEW

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RMWEA GAC Update

Water Quality Standards
Nutrients
PFAS Policy

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Water Quality Standards
10-Year Roadmap Update (CO)

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Water Quality Standards Updates - Colorado

- Cadmium
  - Last updated in 2005
  - 2019 - New standards adopted matching EPA's 2016 criteria
- Ammonia
  - Last updated in 2005, based on EPA's 1999 criteria
  - 2017 - Geospatial survey completed
  - 2023 - Draft criteria expected
  - 2027 - Revised standards expected (targeting sensitive mussels and snails in EPA's 2013 criteria)
- Arsenic
  - Many segments in CO have very stringent water + fish standards of 0.02 µg/L
  - 2019 - Statewide temporary modifications extended
    - Companion narrative current conditions policy requires monitoring, source assessment, and in some cases permit limits
  - 2023 – Draft criteria expected
  - 2024 – Revised standards expected
- Temperature
  - Many stream segments have issues
  - Significant reduction in temporary modifications
  - Shift toward site specific standards, DSVs/feasibility focus, refining criteria
- Selenium
  - 2022 – TAC to be formed
  - 2024 - Draft criteria expected
  - 2027 – Revised standards expected
- Nutrients
  - 2012 hearing – Lake and stream TP, TN, cl-a were all to be adopted by 2022
  - 2017 hearing
    - 2022 – Cl-*a* standards for streams, direct use water supplies and lakes w/ public swim beaches
    - 2027 - Stream standards for TN and TP, and Cl-*a* for remaining lakes
    - New Regulation No. 85 Voluntary Incentive Program (VIP), WQCC Policy 17-1

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Nutrients Voluntary Incentive Program (CO)

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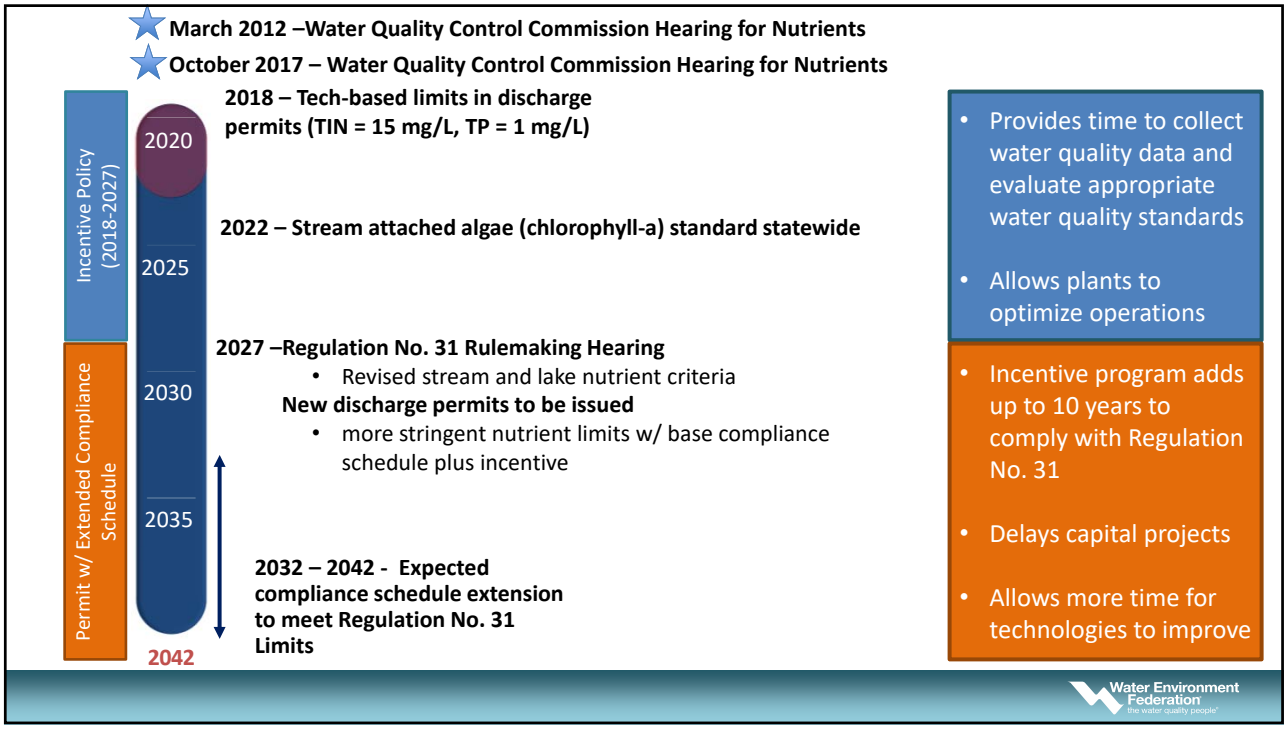

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Regulation No. 85 VIP Details

Credit System

Accumulation of incentive months

Total phosphorus annual median (mg/L)	≥1	≤0.7
Months earned	0	12
Total inorganic nitrogen annual median (mg/L)	≥15	≤7
Months earned	0	12

*Facilities must collect monthly data and submit annual report showing median TP and TIN concentrations

Participation

VIP Participant Characteristics

- 130 facilities applied
- 126 eligible
- Most participating facilities are relatively large

Facilities By Flow Category

Flow Category (MGD)	*Count - Annual Median Flow*
< 0.01	7
0.01 to 0.099	20
0.1 to 0.99	49
1.0 to 1.9	19
≥ 2.0	26

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PFAS Narrative Policy (CO)

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PFAS

- PFAS in Colorado were detected at elevated levels in Security, Widefield, Fountain, Commerce City, and two fire Districts near Boulder.
- 2018 – Site-specific standard = 70 ppt in El Paso County for groundwater (PFOA + PFOS)
- Stakeholder Process
  - Very short, less than 1 year
  - Heavy involvement
  - Initial legislative effort scaled back in favor of policy approach
- New *"Policy for Interpreting Narrative Water Quality Standards for Per and Polyfluoroalkyl Substances (PFAS)"* WQCC Policy 20-1
- Relies on interpretation of narrative standard through translator levels
  - Surface Water Regulation No. 31.11(1)(a)(iv) Groundwater Regulation No. 41.5(A)(1)
- Does not address drinking water standards through SDWA

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PFAS Translator Values

PFAS	Translation Level (ng/L)
PFOA	70*
PFOA parent constituents: 8:2 FTS (adjusted)**	
PFOS	
PFOS parent constituents: NEtFOSAA, NMeFOSAA, and PFOSA/FOSA (adjusted)**	
PFNA	
PFHxS	700
PFBS	400,000

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PFAS – (Permits Implementation)

Permit Requirements	Source Investigations	Effluent Limits
• Permit renewals • "Duty to provide information" • Division initiated modifications	• Identifying potential sources • Evaluating control options • Industrial user inventories	• Reasonable Potential analysis • Option for report only based on qualitative RP • One cycle of report only limits

- PFAS Discharger Survey
- Notification of Pass-through Letter

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QUESTIONS?

Dan DeLaughter
Data & Regulatory Programs Manager
ddelaughter@englewoodco.gov | 303-762-2605

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Extra Slides

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CO Surface Water Narrative Standard

(1) Except where authorized by permits, BMPs, 401 certifications, or plans of operation approved by the Division or other applicable agencies, state surface waters shall be free from substances attributable to human-caused point source or nonpoint source discharge in amounts, concentrations or combinations which:

(a) for all surface waters except wetlands;

(i) can settle to form bottom deposits detrimental to the beneficial uses. Depositions are stream bottom buildup of materials which include but are not limited to anaerobic sludges, mine slurry or tailings, silt, or mud; or

(ii) form floating debris, scum, or other surface materials sufficient to harm existing beneficial uses; or

(iii) produce color, odor, or other conditions in such a degree as to create a nuisance or harm existing beneficial uses or impart any undesirable taste to significant edible aquatic species or to the water; or

(iv) are harmful to the beneficial uses or toxic to humans, animals, plants, or aquatic life; or

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CO Groundwater Narrative Standard

A. Narrative Standards

1. Ground Water shall be free from pollutants not listed in the tables referred to in section 41.5(B), which alone or in combination with other substances, are in concentrations shown to be:

   a. Carcinogenic, mutagenic, teratogenic, or toxic to human beings, and/or,

   b. A danger to the public health, safety, or welfare.

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The Arizona Perspective – Legislative and Regulatory

Doug Kobrick, PE
President – AZWEA and AZ Water Association

Senior Associate, Hazen and Sawyer; Tempe, AZ
December 2, 2020

AZ Water Association
Professionals Dedicated To Arizona's Water

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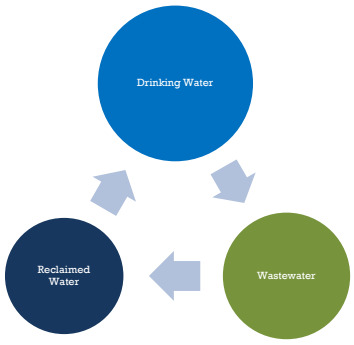
Arizona is a little bit different

- We have long recognized and accepted the vital role of reclaimed water as a renewable water resource
- Unified approach: AZ Water Association is a stand-alone professional organization that also acts as the WEF MA for Arizona and the AWWA Section for AZ
  - AZ Water members (total): 2000
  - AZWEA members (also AZ Water members): 450
- Approx. 85% of the wastewater generated in AZ is reclaimed and reused
  - Direct non-potable reuse
  - Aquifer recharge
  - Direct potable reuse – just beginning
  - Many plants do not have discharge permits
  - **Our most significant regulatory programs relate to reuse and recharge**



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Arizona regulatory landscape

EFFLUENT DISCHARGES	
Most areas of the state	ADEQ – Arizona Dept of Environmental Quality
	• *AZPDES program – since 2002* • *Based on surface water quality standards for designated uses – periodically updated* • *Pretty static situation* • *Some WOTUS implications* • *Ephemeral water bodies are a complication*
Native American lands	EPA - NPDES
DIRECT NON-POTABLE REUSE	
Reclaimed water reuse rules	ADEQ – Arizona Dept of Environmental Quality
	• *Reuse in AZ began 1926 at the Grand Canyon* • *First effluent reuse rules enacted 1973* • *Several updates since then, most recent 2001* • *Categories of reuse - specific criteria (A,B,C; +)* • *Key criteria: nitrogen, turbidity, disinfection, DBP control*

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Arizona regulatory landscape (continued)

AQUIFER RECHARGE – *the most significant element of regulation in AZ*	
Water quality	ADEQ – Arizona Dept of Environmental Quality
	• *Aquifer Protection Permit (APP) program – since 1986* • *Major update to APP rules in 2004* • *Basic goal: Protect aquifer water quality for designated uses. Drinking water supply is the default use → meet drinking water MCLs at a defined point of compliance* • *"BADCT" requirement* • *Pretty static situation*
Water "quantity" issues	ADWR – Arizona Dept of Water Resources
	Recharge permits *Underground storage permits* *Issues: protecting other groundwater users, prevent excessive mounding, water accounting* *Minimal regulation in rural areas outside "AMAs"*

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Existing regulatory regime is well-established and well-accepted

- No major changes (with one exception) in the last 15 years
- Arizona, historically: a conservative state
  - Republican governors and (R) control of Legislature are typical
  - "Pro-business"
  - Anti-regulation, but everyone sees the practical value of a regulatory system that enables efficient resource utilization
  - Promotes economic growth
  - Politics do appear to be shifting leftward
- Due to our water challenges, most Arizonans accept water reuse, recharge as "no-brainers"
  - History of innovation and success
  - No documented health issues

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Major development: Recycled Water rules

- ADEQ effort to modernize its rules and encourage responsible development of water recycling options
  - Existing reclaimed water reuse rules remain in place
  - Gray water - now legally-defined and regulated
  - **Direct Potable Reuse**
    - Previously, DPR was prohibited
    - Now legal on a case-by-case basis. Provisional approach: Must satisfy ADEQ that sufficient treatment/safeguards have been applied. Pilot testing likely required.
    - No one has yet attempted on a large scale
    - City of Scottsdale has a small DPR production process at its existing Water Campus AWT facility
    - ADEQ rule-making continues to develop a uniform DPR standard
    - Minimal controversy, so far. Maricopa County Environmental Services Dept remains skeptical.

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Water industry involvement in promoting DPR in AZ

- Steering Committee on Arizona Potable Reuse (SCAPR)
  - Panel of experts working to develop DPR water quality goals and Arizona-centric process trains to meet them
    - Brine disposal is a major challenge, seeking ways to avoid the need
  - ADEQ rule-making derived in large part from the work of the SCAPR
- Arizona "Pure Brew" Challenge
  - Consortium of utilities, UA, ASU, sponsors, WateReuse Association
  - Semi-trailer mounted AWTF producing potable purified water from sewage
  - Trailer traveled the state producing potable reclaimed water that local breweries used to produce craft beers
  - Great publicity

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Other aspects of political and regulatory involvement

- AZ Water generally has a strong relationship with ADEQ
  - We are a major provider of training and PDHs
  - ADEQ trusts us to issue PDHs in responsible fashion
  - ADEQ assists us in promoting educational events to operators
  - ADEQ staff participate in AZ water as members, committee members, and conference presenters. Varies somewhat due to ADEQ budget fluctuations
  - AZ Water and members involved in ADEQ rule development
- AZ Water outreach to elected officials has been spotty
  - Some politicians perceive the importance of our water issues, identify with them
  - Letters and invitations, not a lot of connection
  - This (was going to be) the year to step that up, pre-COVID
- COVID response
  - Water/wastewater industry (all aspects) designated as essential, we have continued with no slowdown. No limitations on construction activity either
  - Vaccine prioritization could be a new issue, outcome TBD

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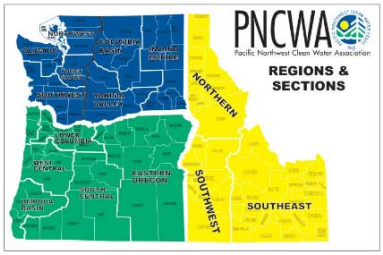
CITY OF Vancouver WASHINGTON



Frank Dick, P.E.
Wastewater Engineering Supervisor

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Washington state Wipes Labeling Law

"Do Not Flush" for Non-Flushable Wipes

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Wipes Don't Break Down in Sewers

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Wipes in Sewers form Strong Ropes

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The DNF Logo is Not Clear on Packages

All of these Packages Bear the Symbol . . .

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Better Contrasting DNF Symbols . . .

Washington State EHSB 2565

Passed March 2020 – Effective 7/1/22

- **House Env. Comm. Chair interest since 2015**
- **2019 sewage overflow at popular Seattle beach**
- **Support from key stakeholders**

Labeling only – expands on *INDA Code of Practice*

- **Types of wipes** ***(Baby and surface cleaning wipes)***
- **Placement on packaging** ***(Front facing, near dispense)***
- **Size** **(2% of package cover)**
- **Visible contrast / package background**

Does NOT define or address "flushable"

Past State Legislative Attempts

Attempted

2010 California

2010 New Jersey

2011 Maine

2015 New York

2016 Minnesota

2017 Maryland

2020 California

Legislation Passed

2017 Washington, D.C. – held up in court

Interested States

Oregon, Maine, Massachusetts, Michigan, Minnesota, Maryland

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Other Pacific Northwest GAC Interest

Puget Sound Nutrients

Temperature TMDL – Columbia – Snake Rivers

PFAS – Drinking Water; Washington State Chemical Action Plan

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