

**SEFLUC  
Regulatory Update  
September 10, 2018**

**Updates**

• **FDEP Clarification of Rule 62-550.822 Disinfection Byproducts (DBP) Requirements: TTHM and HAA5**

- **September 5, 2018** – Confirmation from SE District that they are planning to have a separate potable water utilities session after the open house on September 27. The details are being worked out, and a notice will be sent out within a week.
- **August 30, 2018 – Conference Call with** Joni Synatschk and Jamie Shakar (DEP), Chris Pettit, Lisa Wilson Davis, Kevin Carter, Natalia Garcia, Ted Petride (Ops Director, City of Sunrise), Mark Darmanin (Ops Director, Broward County)
  - **DEP is looking for any kind of explanation to show that utilities are burning in excess of 21 days for a reason rather than just because it has always done it that way.**
    - Recommended testing during burn, which SEFLUC described as not appropriate
  - DEP Goal is for utilities to ok at alternate ways to keep disinfection byproducts lower
    - DEP could not offer suggested “alternatives” and we are waiting on them to provide any report containing suggested alternatives. DEP suggested “pretreatment”
  - SEFLUC advised DEP there are no other alternatives other than costly capital improvement projects.
  - Source of 21 day limit was only offered as “EPA recommends no more than 21 days”
    - SEFLUC requested the science supporting 21 days.
  - “You can go more than 21 days IF you provide some type of explanation...” DEP
    - There is no IF because there is no adopted rule or regulation limiting to 21 days.
    - No answer as to what is the penalty if we choose not to provide a justification.
  - State office will work with local regulatory offices to communicate “it’s not a regulation” and recommends we consult with local offices.
    - SEFLUC requested DEP attend the September 27 DEP SE District Open House to discuss this issue with more utilities
  - Follow up Email to DEP after call requesting:

- Any documents supporting 21 day limit
- Any documents containing recommended alternatives DEP believes we should be pursuing
- Address this issue at September 27 DEP SE District Open House
  - Also contacted Kent Edwards (DEP SE District) requesting discussion on this issue be held.
- **July 25 – Follow up Email with DEP (Joni and Jamie)**
  - “We reached out to the (DOH) Offices and discussed the clarification memo.”
  - **Has anyone heard from DOH regarding past alleged violations or clarification of the memo?**
    - **Hollywood/PBC**
- July 5 - DOH in Broward County (DOH-Broward) decided to voluntarily discontinue the delegation of authority from the DEP to DOH-Broward for implementation of the Federal Safe Drinking Water Act and the corresponding Florida Safe Drinking Water Act.
  - **Effective September 12, 2018 all DOH-Broward responsibilities for implementation of SDWA will be fully transferred to DEP.**
- **June 29** – Conference call with DEP (Joni Synatschk, MPH, CPM, Program Administrator, Capacity Development Supervisor/Division of Water Resource Management – Drinking Water and Aquifer Protection Program/Drinking Water and Jamie Shakar, Environmental Administrator/Division of Water Resource Management) to clarify intent of May 10, 2018 Guidance Memo.
  - Items discussed/clarified:
    - Both DEP and EPA are encouraging utilities to develop means/methods other than free chlorine burns to comply with the DBP requirements.
    - Confirmed 21 day max referred to in the memo was intended to be per chlorine burn.
    - Confirmed the 21 day max per/chlorine burn is not based on any adopted rules and is the result of an EPA Work Group. Therefore, the 21 day max per/chlorine burn is only recommended best management practice.
    - 2x per year chlorine burn was not included in memo but raised in verbal communications from DEP to County DOH and is also only a recommended best management practice.
    - Informed DEP that the AWWA manual “A Guide for the Implementation and Use of Chloramines” (2004) was actually a Water Research Foundation Guide and only WRF members can

purchase and is not listed in 62-550 F.A.C. They are looking into additional guidance manuals they can reference.

- DEP will reach out to DOH to clarify intent of guidance memo and that it cannot be relied upon for enforcement of 21 day per/chlorine burn / 2x per year limits.

**Text from Memo:**

- For systems that monitor quarterly, regulatory offices must review DBP monitoring plans to identify the specific week of the quarter that will be sampled. For systems on annual monitoring, schedules must designate the specific month that will be sampled.
  - **e. The length of chlorine burns should be kept to a maximum of 21 days. Whenever possible, systems should try to optimize processes using guidance such as AWWA manual “A Guide for the Implementation and Use of Chloramines” (2004).**
- **Biosolids TAC**
  - **September 5, 2018 – First TAC meeting; overview of regulations and types of disposal used across Florida**
    - TAC will move forward with review of current information and new science regarding land application to address algae blooms and other potential environmental concerns.
      - What are options for biosolids management in the state?
      - Are there better ways to manage biosolids to ensure the environment is protected?
      - Is there a need for research on biosolids management?
  - <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> -
- **Potable Reuse Commission Meeting**
  - **Next Meeting - September 21**
  - **August 10 Meeting** – Discussion of Potable Reuse Framework Concepts and Recommendations (Best available Technology Approach; Scenarios 3 and 4); Draft Outreach Plan
  - **July 25 Workshop** - Water Research Foundation provided a summary of recommendations based on stakeholder input.
    - Active workshop with utilities emphasizing desire to not just implement the same framework from other states; focus on incorporating existing regulations and expanding to address issues with direct/indirect potable reuse
  - **July 12 Meeting** – discussed framework
  - **June 15 Meeting** – discussed draft outreach plan; consideration of technical, managerial and financial requirements in regulatory framework; operator training and certification; source control; website

- <http://prc.watereuseflorida.com/>
- **SFWMD Emergency Actions Moving Water South**
  - [www.sfwmd.gov/managinghighwater](http://www.sfwmd.gov/managinghighwater)
  - Website provides videos demonstrating system constraints and storage capacity to help explain high water emergency.
  - Actions include:
    - Installation of temporary pumps to lower water levels in water conservation areas either to tide or to Everglades
    - Working with private landowners to store property
- **SFWMD South Florida Ecosystem Restoration Task Force Subcommittee Working Group to Stop Discharges**
  - August 17, 2018 – subcommittee meeting held
    - Congressman Mast proposes to keep Lake O at lower levels in winter and reduce need for summer discharges
    - SFWMD and ACOE respond with concerns regarding regulation schedule and risk associated with lower levels.  
[https://www.sfwmd.gov/news/infographic\\_lake\\_okee\\_depth](https://www.sfwmd.gov/news/infographic_lake_okee_depth)
- **WOTUS**
  - **LEGAL – South Carolina court granted motion for summary judgment against the “applicability date” rule. This means the 2015 WOTUS rules will be in effect in 26 states (does not include Florida)**
    - Effect – in these 26 states, interpretation of what constitutes a water of the US for permitting purposes is based on the WOTUS rules that we were concerned expanded the prior interpretation to include additional wetlands and small waterways (such as storage treatment ponds and ditches/canals)
  - **Public comment ended August 13, 2018**
    - EPA and ACOE requested comments on additional considerations that support the agencies’ proposed repeal of the 2015 WOTUS rule
- **EPA Requests Comments on Conduit Theory**
  - Monitoring Court Cases and EPA Action/No Change
    - August 30, 2018 - Maui case appealed to US Supreme Court

**Continuing to Monitor/No Update**

- **Amendment 1 Funding**
  - Judge Dodson canceled trial brought by environmental groups challenging the State’s use of Amendment 1 money stating he was finding in favor of the plaintiffs and the use of Amendment 1 money by the Legislature did violate the Florida Constitution. Order is still pending and State will appeal. This will have significant impact on portions of DEP’s and the FWC’s budgets.

- **EPA Risk Management Rule**
  - Promulgated in 1996 under Section 112<sup>®</sup> of the Clean Air Act
  - EPA has delayed the May 14, 2017 effective date until February 19, 2019 due to petitions for reconsideration under CAA Section 307(d)(7)(B) – included Florida State Attorney General.
  - Developed a Notice of Proposed Rulemaking to reconsider the RMP Amendments.
  
- **EPA Toxicological Profile for Perfluoroalkyls**
  - **Comments due July 23**
  - The Agency for Toxic Substances and Disease Registry (ATSDR), within the Department of Health and Human Services (HHS) announces the availability of the Draft Toxicological Profile for Perfluoroalkyls for review and comment. All toxicological profiles issued as “Drafts for Public Comment” represent ATSDR's best efforts to provide important toxicological information on priority hazardous substances.
    - ATSDR is seeking public comments and additional information, reports, and studies about the health effects of these substances. Although ATSDR considers key studies for this substance during the profile development process, this document solicits any relevant, additional studies. ATSDR will evaluate the quality and relevance of such data or studies for possible inclusion into the profile. ATSDR remains committed to providing a comment period for this document as a means to best serve public health.
  - The Tox Profile is accompanied by a fact sheet that utilities may find helpful in putting drinking water PFAS exposure in context for customers.
  - EPA is expected to release draft toxicity values for perfluoro-2-propoxypropanoic acid (GenX) - a replacement chemical for PFOA, and perfluorobutane sulfonate (PFBS) in August.
  
- **PFOA/PFAS Standards**
  - Currently, the EPA has a **non-enforceable** health advisory level of 70 parts per trillion for Perfluorooctanoic acid (PFOA) and Per- and polyfluoroalkyl substances (PFAS) combined.
    - The two compounds are the focus of several activities at EPA, including a national summit in Washington, D.C., in May. **The agency has committed itself to evaluating PFOA and PFAS for regulation in drinking water.**
    - Community outreach workshops in New Hampshire, Pennsylvania and Colorado.
      - EPA will initiate steps to evaluate the need for a maximum contaminant level (MCL) for PFOA and PFOS. We will convene our federal partners and examine everything we know about PFOA and PFOS in drinking water.

- EPA is beginning the necessary steps to propose designating PFOA and PFOS as “hazardous substances” through one of the available statutory mechanisms, including potentially CERCLA Section 102.
- EPA is currently developing groundwater cleanup recommendations for PFOA and PFOS at contaminated sites and will complete this task by fall of this year.
- EPA is taking action in close collaboration with federal and state partners to develop toxicity values for GenX and PFBS by this summer.
- New Hampshire signed into law a state bill that will have his state’s Department of Environmental Services set drinking water maximum contaminant level standards for Perfluorooctanoic acid (PFOA) and Per- and polyfluoroalkyl substances (PFAS) by Jan. 1, 2019.
  - EPA conducted community engagement meeting on July 25
  - Vermont set its on MCLs for PFOA and PFAS at 20 parts per trillion in late 2016, while New Jersey set an MCL of 14 parts per trillion for PFOA last November.
- **State Assumption of CWA 404 Permit Program**
  - WAITING FOR DRAFT MOAs
  - Trump administration supports delegation of program to all states.