

# US EPA's Regulatory Outlook Summarized at National Rural Water Association Conference



I recently attended the National Rural Water Association's annual WaterPro Conference in Fort Worth, Texas. I had the opportunity to attend an address given by three representatives of the US Environmental Protection Agency (EPA) and one representative of the Association of State Drinking Water Administrators (ASDWA). Each of the speakers provided information regarding changes to water regulations and other programs that the EPA is working on.

A panel of agency officials fielded questions from the audience during the recent National Rural Water Association conference held in Fort Worth, Texas. Left to right are Alan Roberson, CEO of the Association of State Drinking Water Administrators; Jennifer McLain, Deputy Director of the Office of Ground Water and Drinking Water at US EPA; Martha Shimkin, Acting Deputy Director of EPA's Office of Wastewater Management; and, Dennis "Lee" Forsgren, EPA's Deputy Assistant Administrator for the Office of Water. Matt Holmes, Deputy CEO of the National Rural Water Association, (far right), was moderator.



Dennis "Lee" Forsgren, EPA's Deputy Assistant Administrator for the Office of Water.

**Some of the language that is required to be included in public notices and consumer confidence reports can be very alarming and confusing to some customers**

The first speaker was Dennis "Lee" Forsgren, EPA's Deputy Assistant Administrator for the Office of Water. According to Mr. Forsgren, the EPA is working on improving on the ways water systems communicate risk to the public. Some of the language that is required to be included in public notices and consumer confidence reports can be very alarming and confusing to some customers. The EPA is looking at making changes to some

of this language so that it will be easier for the public to understand the level of risk that is involved with each type of contaminant that is present in their drinking water.

Mr. Forsgren also discussed the development of the new Water Sub-Cabinet, which consists of members from the US EPA, US Department of Agriculture, Army Corps of Engineers, National Oceanic and Atmospheric Administration, and the US Department of Energy. The primary focus of the water sub-cabinet is to find ways to reduce nutrient loading (nitrogen and phosphorus) in waters of the US, which can lead to harmful algal blooms and water quality issues. Members of the sub-cabinet will oversee research and look for new technologies and practices that will help resolve the issue of nutrient loading.

Finally, Mr. Forsgren mentioned that since the 2015 definition of the Waters

of the United States (WOTUS) or Clean Water Rule has been repealed and temporarily replaced with the original 1986 regulatory language, the next step is to replace the rule with a new version in the Fall of 2018.

The next speaker was Martha Shimkin, Acting Deputy Director of EPA's Office of Wastewater Management. Ms. Shimkin highlighted the Water Infrastructure Finance and Innovation Act (WIFIA), which provides affordable financing for water and wastewater infrastructure projects. The first round of loans started in 2017. In 2018, the EPA has received 62 loan applications and they are currently going through the selection process.

Ms. Shimkin also discussed a new rule in development for sewage treatment plants – the Peak Flows Management Rule. This rule looks at the issues associated with the management and treatment of peak flows during wet weather events at sewage treatment facilities. EPA is accepting public input through October 31, 2018 and they will be hosting three public listening sessions – one of which will be held on October 24, 2018 at 9:00 am at the EPA Region 7 office in Lenexa, Kansas.

The third speaker was Jennifer McLain, EPA's Deputy Director of the Office of Ground Water and Drinking Water. Ms. McLain discussed her office's strategic plan which has a very ambitious goal of reducing the number of drinking water systems that are out of compliance with health-based violations by 25 percent by the year 2022. Nationwide this includes approximately 800 systems that serve less than 500 people.

Ms. McLain also mentioned that more than 1,000 water systems in the US have compliance issues under the Stage 2 Disinfectants and Disinfection Byproduct (DBP) Rule. The EPA has initiated a study among select water systems across the nation to identify operational issues associated with DBPs and to pilot practices and solutions with these systems.



**Jennifer McLain, EPA's Deputy Director of the Office of Ground Water and Drinking Water.**

Ms. McLain also announced that the EPA will have new grant funding available to select water systems. There will be \$20 million available to systems with compliance needs, \$10 million available for reduction of lead in drinking water (priority given to schools that exceed lead action level; replace lead service lines), and \$20

million to support testing for lead in drinking water at schools and child care facilities.

Finally, Ms. McLain addressed the issue of Perfluoroalkyl Substances (PFAS) in drinking water. PFAS substances work well on the surface of rain coats, on the lining of sandwich wrappers, and as an active ingredient in some firefighting foams, but they are very persistent once they enter the environment. There are currently no maximum contaminant levels (MCLs) for PFAS chemicals. PFAS was

**Ms. McLain discussed her office's strategic plan which has a very ambitious goal of reducing the number of drinking water systems that are out of compliance with health-based violations by 25 percent by the year 2022.**

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**Alan Roberson, Chief Executive Officer of the Association of State Drinking Water Administrators (ASDWA).**

included in the third Unregulated Contaminant Monitoring Rule (UCMR3) and EPA initiated steps to evaluate the need for an MCL for PFAS. However, at this time, the EPA has only issued a health advisory for PFAS chemicals at 70 parts per trillion (which is non-enforceable). The EPA is currently reviewing human health

toxicity values for PFAS. The agency has spent the summer of 2018 at multiple locations across the nation accepting public comments on the topic of PFAS in drinking water. EPA is also working on developing a PFAS management plan.

The final speaker was Alan Roberson, the Chief Executive Officer of ASDWA. Mr. Roberson mentioned that ASDWA has been involved with the EPA and their development of the Long-Term Lead and Copper Rule, which will have a draft version available in 2019. He also mentioned that ten cyanotoxins (algal toxins) will be included on the UCMR4 list.

After the presenters were finished, the room was opened up for questions. Paul Fulgham, NRWA board member from Utah and chairman of NRWA's Regulatory Committee, asked if EPA had given further consideration to allowing water systems to distribute Tier 2 Public Notification electronically and also if EPA will consider "softening" the required language regarding health effects in public notices. Mr. Forsgren stated that the EPA will definitely work with the

NRWA to make electronic notification an option for Tier 2 public notices. Ms. McLain stated that the only way the required language could be changed in the public notice is through changing the regulations and that is a long and difficult process. At this point the session concluded.

In summary, there are some potential changes coming down the line from the US EPA, from lead and copper to public notification and risk communication. Kansas Rural Water Association will continue to watch for new developments from the US EPA and continue to keep Kansas water systems informed – and will continue to press legislatively in concert with other state rural water associations for reasonableness in regulations.

*Monica Wurtz began work with KRWA in October 2013. She previously worked at the Kansas Department of Health and Environment and also worked at US EPA Region 7 for four years. Monica is considered a national expert on various drinking water regulations.*



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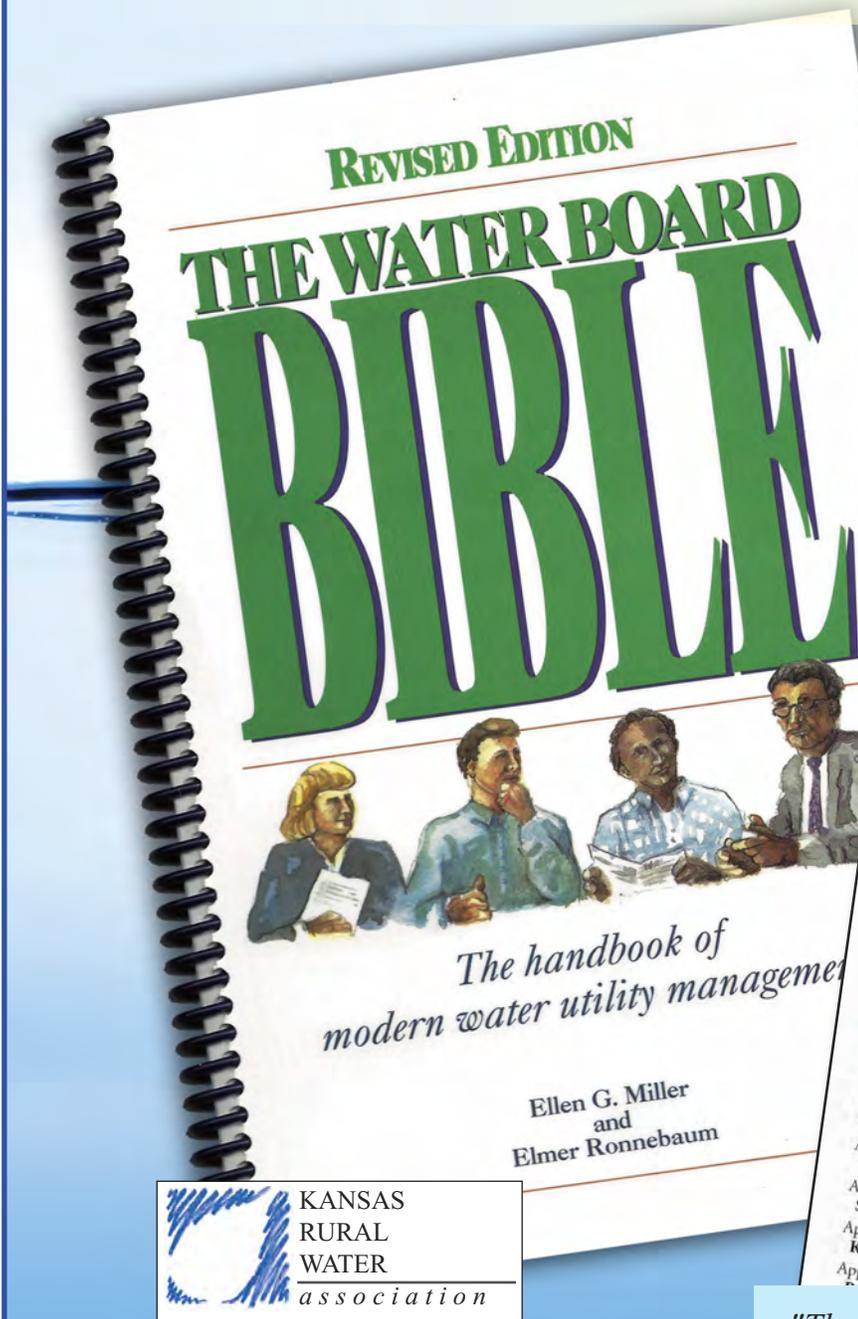
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A newly updated *Water Board Bible*  
is now available from Kansas Rural Water Association

Building on the strong foundation document authored in 1993 by Ellen Miller and Elmer Ronnebaum, the "Bible", was reprinted in 1995 and again in 2010 with minor revisions.

A much more extensive review and updates in the 2016 printing were provided by Gary Hanson, Stumbo Hanson, LLP (ret.).



**THE WATER BOARD BIBLE**

**CONTENTS**

*Foreword*.....

**Part I: The Big Picture**

1. What's your job? ..... 9

2. So how do you do your job? ..... 1

**Part II: Doing My Part**

3. Good meetings are a must! ..... 16

4. Officers are special people ..... 24

5. Overseeing the sup/oper/operator/manager (S/O/M) ..... 30

6. Budgets and audits: do you have to? ..... 38

7. The key to communications is U ..... 44

8. Ignorance is no excuse ..... 52

9. What in the world do we do with the experts? ..... 63

**Part III: Getting Ready for the Future**

10. Emergency plans ..... 69

11. The next generation ..... 75

Answers to selected questions ..... 83

Reading list. For Further Information ..... 85

Appendix A ..... 86

Appendix B ..... 87

Appendix C ..... 87

Appendix D ..... 87



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*"The Water Board Bible strikes the right tone with respect to current trends including diversity in the workforce, open government and post-Flint regulatory climate as well as the relationship with the consuming public and their water supply expectations,"*  
— Gary Hanson

Funding for the 2016 printing is courtesy of the Kansas Rural Water Finance Authority. The Authority has offered to donate copies to every rural water district in Kansas, upon such request. The handbook will also be used for board training provided by KRWA.