

Minnesota 3M PFAS Settlement

Notes for Combined Working Group Meeting

Wednesday, May 15, 2024

9 a.m. – 12 p.m.

Hybrid Teams and in-person meeting

Combined working group members in attendance

- Chris Volkers
- Clark Schroeder
- David Filipiak
- Greg Johnson
- Jeff Holtz
- Jennifer Levitt
- Jess Richards
- Jessica Stolle
- Karie Blomquist
- Kevin Chapdelaine
- Kirk Koudelka
- Laurie Elliott
- Mary Van Milligen
- Melissa Kuskie
- Mike Madigan
- Monica Stiglich
- Pam Anderson
- Paul Christensen
- Rachel Dana
- Ron Moore
- Stephanie Souter
- Steve Johnson

Presenters

- Kirk Koudelka, Minnesota Pollution Control Agency (MPCA)
- Rebecca Place, MPCA
- Lucas Martin, Minnesota Department of Health (MDH)
- Heather Hosterman, Abt Global
- Emma Glidden-Lyon, Abt Global

Welcome

Heather Hosterman (Abt Global) opened the work group meeting by walking through the hybrid meeting logistics, conducting roll call, and discussing the meeting agenda. Kirk Koudelka (MPCA) provided opening remarks. He explained that a lot of work has been done since the fall work group meeting. He emphasized that the only constant with PFAS is that things are always changing. Today's meeting will look at how new standards will affect the Conceptual Drinking Water Supply Plan (Conceptual Plan) and budget allocations.

U.S. Environmental Protection Agency Maximum Contaminant Levels

Updates

Lucas Martin (MDH) presented an update of the Environmental Protection Agency (EPA) Maximum Contaminant Levels (MCLs). Lucas covered regulatory updates for PFAS and drinking water and noted that his presentation would not cover Minnesota's Health-Based Values (HBVs). Since the February work group meeting, the MCLs have been finalized.

On April 10th, 2024, EPA announced the final National Primary Drinking Water Regulation for six PFAS chemicals. This regulation includes MCLs, which are enforceable standards; Maximum Contaminant Level Goals (MCLGs),

which are health-based goals; and a Hazard Index (HI), which accounts for the additive health effects of two or more PFAS chemicals.

Lucas covered the differences between the final rule and the draft rule. In the draft rule, PFHxS, HFPO-DA (GenX), and PFNA were included together under the HI, whereas the final rule breaks these chemicals into individual MCLs and MCLGs. The level for both the MCL and MCLG for all three PFAS compounds (PFHxS, HFPO-DA, and PFNA) is 10 parts per trillion (ppt). In the draft rule, the HI was 1.0, whereas in the final rule, the HI is 1 (no .0). This is significant because it means that water systems with a hazard index of 1.4 and below round down to 1, not receiving a violation, and water systems with a hazard index of 1.5 or above round up to 2, receiving a violation. In the HI calculation, the denominator for PFHxS changed from 9 ppt in the draft rule to 10 ppt in the final rule.

Under EPA's new PFAS rule, public water systems will be required to test, inform the public, and take action. Regarding testing, water systems are required to complete initial testing within three years of the rule (by the end of 2027). Most large water systems will already fulfill this requirement through testing under the fifth Unregulated Contaminant Monitoring Rule (UCMR 5), which includes 29 PFAS compounds. Small water systems will likely need additional testing to comply with this requirement. Ongoing testing will also be required. Water systems with no detections will require testing on a reduced schedule, while water systems with detections will need to test more frequently. Water systems are also required to inform the public about violations. Consumer Confidence Reports (CCRs) are required to start including PFAS testing data three years after the initial sampling deadline. Data from UCMR 5 does need to be included before three years. Public notification is also required if there is an exceedance of the MCL. Finally, water systems have five years to take action and fully comply with the rule, whereas the draft rule provided water systems with three years to comply with the new requirements. This provides water systems with more time to take initial treatment actions before the compliance deadline. Minnesota looked at the potential to issue violations ahead of the five-year compliance deadline but is unable to do so without a separate Minnesota rule. Compliance Plans will be required for water systems with violations.

Compliance is based on the Quarterly Running Annual Average (QRAA) of four quarters of samples. If the average for a water system is over the MCL, the water system would receive a violation. If a sample result is less than the practical quantification level (PCL), it is treated as a zero in QRAA and HI calculations. This means that some water systems in Minnesota will not receive a violation, where they would have if those samples were included.

Violations are issued for entry point sampling, not raw water sampling. Entry points are where treated water enters the distribution system and where Safe Drinking Water Act (SDWA) compliance samples are taken. Individual wells are not issued violations.

Feedback

One work group member noted that they felt PFAS should be included in the Consumer Confidence Reports (CCRs), otherwise they are not accurate. Lucas agreed and noted that MDH is considering requiring PFAS information in the CCRs before EPA's deadline to include that information. Karla Peterson (MDH) added that information can be added to the CCR, and water systems are not limited to the template provided. There are some systems that already include information about PFAS in their CCRs.

One work group member asked what "backwards adjustment to the CCR" meant. Lucas explained that statewide testing has already been done and was reported publicly. However, these data were not required in the CCRs. Because these data have already been used for initial monitoring and rule compliance, MDH is considering if these data should or can be included in next year's CCRs.

One work group member noted that they would like to see a preface in the CCR about the new EPA requirements. It would be instructive for the people concerned and helpful to explain the transition. Lucas noted that there is already required standard information in the CCRs that cannot be changed, but additional context can be added. The work group member suggested that the State put together standard language for water systems to use, and Lucas noted that was a good suggestion.

One work group member asked for clarification on the amount of sampling needed for a Quarterly Running Annual Average (QRAA) or a violation. Lucas said that in cases where there is a known violation, the intention is to continue sampling quarterly. This way, if a violation does get issued, there is recent data to use for that violation.

Review Priority 1 metrics dashboard

Rebecca Place (MPCA) presented a review of the Priority 1 metrics dashboard. The dashboard shows how communities are spending the 3M Settlement funds and how they are implementing the Conceptual Plan and achieving safe drinking water goals. The dashboard primarily includes data from the release of the Conceptual Plan through December 2023. It is live on the Tableau public server, and the link will be posted on the 3M Settlement website.

Rebecca walked through the three dashboard tabs: an overview tab, a water treatment overview tab, and a community metrics tab.

The overview tab displays data on 3M Settlement spending. This includes a pie chart with overall spending on safe and sustainable drinking water projects. The total sums to more than \$700 million because of interest earned. In addition, the bar graph shows the spending across the five funding priorities established in the Conceptual Plan: capital, contingency, drinking water protection (DWP), operations and maintenance (O&M), and state administration. Users can hover over the bars for additional information about each funding priority. The graph shows spent and remaining funds, and total amounts also reflect interest earned. This tab also has a map of the projects in the East Metro that are funded through the Settlement.

Rebecca then reviewed the dashboard's water treatment overview tab. She explained that the Conceptual Plan targets several types of capital implementation projects, including connecting homes to municipal treatment, installing whole-home filter systems, and building new or expanded water treatment plants. This tab shows data for these types of projects. For example, the Conceptual Plan targeted connecting 695 homes to municipal water, and several communities have made progress on home connections (e.g., Cottage Grove has connected 185 homes, Lake Elmo has connected 180, and Lakeland and Lakeland Shores have connected 28).

Finally, the dashboard's community metrics tab shows spending by community, including expenditures and grants.

Rebecca noted that the Co-Trustees are looking for feedback on the dashboard. The dashboard will be updated on a regular basis, but the timeline for the next update is not yet set.

Feedback

There was no additional feedback at this time.

Public comments and questions

There were no public comments or questions at this time.

Future funding considerations

Emma Glidden-Lyon (Abt Global) presented an overview of future funding considerations. She explained that the presentation would cover current spending and earnings, anticipated spending, and fund reallocation.

Emma provided a recap from the fall meeting by showing a graph of the status of funds through Fiscal Year (FY) 2023 (July 2022 through June 2023), where FY24 began with approximately \$623 million remaining in unobligated Settlement funds. Emma then showed an update of funds committed through the first half of FY24 (through December 2023), with approximately \$570 in unobligated funds and still healthy earnings in interest.

Anticipated awards continue to ramp up through the remainder of FY24, and the Co-Trustees anticipate awarding approximately \$55 million in grants in the second half of FY24. These grants are primarily capital projects (\$36.8 million); some contingency projects (\$450,000); and other project types associated with temporary treatment O&M, planning for Lake Elmo and Oakdale, and projected drinking water protection, O&M, and state administration costs (\$18 million). Given these anticipated awards, the Co-Trustees expect to end FY24 with \$515 million in unobligated funds (this does not account for project requests that MPCA is currently unaware of and does not include any additional interest gained in the second half of the fiscal year).

Diving deeper, Emma then described anticipated awards in FY25, which include capital costs for major infrastructure projects and Point of Entry Treatment System (POETS) installation projects. Although this is a conservative estimate, the Co-Trustees anticipate that capital costs of around \$584 million will outstrip the original allocation of \$336 million.

Emma then walked through the implications of spending by fund allocation:

- The capital allocation will continue to fund eligible projects until the fund is depleted. FY25 capital grants are expected to exceed the original allocation amount outlined in the Conceptual Plan. These costs are expected over multiple years, but the Co-Trustees would like to have the full grant amount in the capital account before approving projects.
- The contingency allocation will also be used to fund projects. The Co-Trustees are likely to use the remaining dollars from this fund to cover capital projects in FY25.
- The O&M allocation will maintain individual POETS and municipal water treatment plants.
- The DWP allocation will complete the Project 1007 feasibility study and fund drinking water sampling for private wells and public systems.
- The state administration allocation will continue to fund the implementation of the Conceptual Plan.

Therefore, Co-Trustees propose a reallocation approach for FY25, where they will use the remaining \$175.2 million in uncommitted funds in contingency and then allocate proportionately from DWP (\$32.7 million), O&M (\$62.2 million), and state administration (\$6.7 million). This proposed reallocation will result in no remaining funds in the capital or contingency allocations and approximately \$102 million in unobligated funds remaining across DWP, O&M, and state administration. No reallocation is anticipated in FY24.

The needs for capital and O&M will continue after FY25, and will likely include private well sampling, treatment on existing and new wells in Lake Elmo, additional home connections in several communities, expanding the Oakdale drinking water treatment facility, construction on interconnects and a possible water treatment plant in Newport, Prairie Island Indian Community well treatment and distribution system, and treatment on one well in Lakeland and Eagle's Watch.

In summary, capital grant requests are anticipated to exceed the amount of funding originally allocated to capital and contingency in the Conceptual Plan, so there will need to be funding reallocation in FY25. The Co-Trustees propose proportionally reallocating from the other allocations. The Co-Trustees will work with communities and the work groups to improve cost estimates and projections and develop a “glide path” for using the remaining 3M Settlement funding. When the allocations run out of funding, drinking water activities would revert to being reimbursed by 3M under the 2007 Settlement Agreement and Consent Order.

Feedback

One work group member asked about how many years of O&M funding is likely given the current projections. Emma reiterated that the current O&M projection assumes \$2.5 million will be spent in FY24, ramping up to \$18 million per year in about six years. At this rate, there will be another six to seven years of O&M funding. The work group member followed up by asking if the projection has changed with more wells being added to the list. Hannah Albertus-Benham (WSP) responded that the projection is based on projects currently anticipated through FY26.

Another work group member noted that a lot of the information on the public treatment systems was based on the operation of the Oakdale water system and asked if there is data available from other public systems. Hannah said there is some available, but it is hard to obtain this information due to the infrequent changeout of filter media. Based on what the Co-Trustees have seen so far, the information from Oakdale is still valid.

One work group member noted that drinking water is the number one priority of the Settlement and asked if Co-Trustees considered a higher proportion of additional allocation coming from the drinking water protection fund for reallocation. Kirk clarified that drinking water is funded by all the funding buckets, and that the Co-Trustees are waiting for the results of the Project 1007 feasibility study to determine how to proceed with the drinking water protection allocation.

Regarding funding under the Consent Order, a work group member asked if communities should continue to work with MPCA, or if they will need to communicate directly with 3M. Kirk indicated that the Co-Trustees are discussing this with 3M. The work group member noted that this could be difficult for smaller communities that do not have the resources (e.g., attorneys) to work directly with 3M on the Consent Decree.

Another work group member asked about the total cost of the capital projects with inflation. Emma reiterated that inflation is hard to estimate and is not included in the projections, but that the Co-Trustees acknowledge the numbers presented are not the full story. Kirk added that the Co-Trustees need more information from the communities about their projects to obtain concrete numbers on future funding needs and noted that the cost projections are a result of several factors, such as inflation and the new MCLs and HBVs. The work group member added that if the O&M funding runs quicker than the anticipated 20 years and is not covered by the Consent Order, communities need to know as soon as possible because they cannot absorb large increases in costs overnight and may need to adjust rate structures with residents. The work group member highlighted that this is a shift in communication to residents. Jess Richards (Department of Natural Resources, DNR) noted that the work groups will need to discuss how the ramp up works with the end of Settlement funds and agreed that this issue could be discussed more at the next work group meeting.

One work group member asked about Stillwater and Hastings. Kirk reminded work group members that communities must have a nexus to one of four 3M disposal sites listed in the Settlement to be eligible for Settlement funding. The State is considering other avenues of funding for communities that are exceeding the MCLs but are not directly connected to one of the four 3M disposal sites. Another work group member pointed out that the Consent Order names the 3M disposal sites but not the former landfill, and then asked how the

landfill fits into the Consent Order. Kirk indicated that this is an ongoing conversation, but the former landfill is included in current calculations.

One work group member asked for clarification on the O&M funding timeline. Emma said that the FY25 estimate is based on historical spending, but as additional systems come online, O&M costs will increase. There is uncertainty as to how quickly these will increase and to what amount. Another work group member added that the Co-Trustees are underestimating the O&M costs and used the temporary treatment plants in Cottage Grove as an example. The work group member said that to change out a temporary treatment plant would cost upwards of \$2 million, without including any of the operational costs. When this comes online, the money will run out much sooner. Emma clarified that the Co-Trustees are not estimating \$2.5 million in O&M funds every year, just in FY25. The Co-Trustees assume in the six-year ramp up that there is an increase in spending to \$18 million per year.

Another work group member asked if Consent Order funds will be needed for future O&M and if there was any ambiguity in the Consent Order regarding 3M's liability for O&M. Kirk noted that this was previously discussed and that there is no ambiguity. 3M has paid for O&M before.

One work group member noted that they want to have 100% certainty in writing from 3M that O&M will be covered for treatment plants that are based on the new MCLs from EPA. The work group member noted that if O&M will not be covered in the future, communities need to start planning for that now. The work group member asked if the next step was to reinforce with the legislature that the funding is going faster than anticipated. Kirk said that the work group members are the first to see these numbers. The Co-Trustees' current focus is on having conversations with communities to obtain more information about projected costs so that everyone can start their planning.

One work group member asked if the EPA MCL announcement set aside federal dollars to help communities comply and asked how the State is going to use that money. Kirk said the money is a pre-existing set-aside and is for emerging contaminants.

One work group member noted that they are curious as to what happens with bottled water for those impacted who are not single homeowners on a private well, such as in Cimarron. The work group member asked what can be done to ensure they have access to the same solutions as others with an impacted well have. Heather noted that some funding for Cimarron is included in the FY25 projections, but Kirk noted that this is part of a larger conversation about community drinking water systems and available resources.

Next Steps

Rebecca Place (MPCA) reviewed the next steps and key dates. The State will continue to review grant forms, while developing a glide path as projects are conceptualized and implemented. In addition, the State will continue to resample private wells, communicate with residents about the need for private well testing, and install whole-home treatments. The next Priority 1 work group meeting is in Fall 2024; this meeting will cover the FY24 annual review and continue discussions on funding.

Feedback

There was no additional feedback at this time.

Public comments and questions

One person asked if the Co-Trustees are collaborating with the Pig's Eye Superfund cleanup effort. Kirk said that although some communities involved in the Settlement are affected by this site, it is a separate process because the source of contamination is different.

Another member of the public asked if the creation of PFAS would be reduced, including via regulations, and if companies other than 3M are adding PFAS to the environment in this area. Kirk said this Settlement is focused on cleanup and providing communities with clean drinking water, but there are additional state programs and offices that are dealing with prevention and management of PFAS. Minnesota banned PFAS in packaging and aqueous fire-fighting foam and has stricter PFAS laws than most other states. Amara's Law, for example, was recently passed, and will prohibit the sale of products with intentionally added PFAS. There is also a PFAS blueprint to build the management of PFAS into other regulatory programs.

One member of the public asked if there is a financial cap for the Consent Order and suggested that Minnesota has received one of the smaller funding amounts from 3M and asked if the State could ask 3M for additional funding. Kirk noted that the Consent Order does not have a cap and added that he is unaware of anyone else that has received more than \$850 million from 3M for such a small area. The national PFAS settlement with Chemours, DuPont, and 3M is \$10 billion for the entire country.

Another member of the public asked about long-term actions being taken to deal with the PFAS plume and if MPCA intends to utilize municipal drinking water plans to address it. Kirk indicated that the State is aware of how the plume moves and is continuing to track it to reduce the source. The Project 1007 feasibility study will have some of this information.

One member of the public urged attendees to advocate for legislation in Minnesota to prevent PFAS from being discharged.

Finally, a work group member asked for an update regarding the timing of well water testing for private homes. The work group member also asked if there is an expectation that more private wells will test at or above the 4 ppt MCL. Andri Dahlmeier (MPCA) noted that a batch of results was sent out the day of the work group meeting, and results will continue to be sent out at regular intervals. MPCA does anticipate around 650 wells will now have advisories and 1,300 additional wells will need sampling. MPCA is taking requests online for additional sampling.