

# **OHIO RIVER VALLEY WATER SANITATION COMMISSION**

**Roundtable Issues Forum  
Embassy Suites RiverCenter  
Covington, Kentucky  
Thursday, February 13, 2014  
1:00 to 3:15 PM EST**

Chairman Frevert called the Roundtable of Commissioners meeting to order at 1:00 P.M. Thursday, February 13, 2014. The Roundtable agenda was set to cover three separate topics with a fourth added. To initiate the first topic Chairman Frevert introduced Commissioner Potesta as the new Pollution Control Standards (PCS) Committee chair.

Upcoming Review of the Commission Standards: The Process and the Issues

Commissioner Potesta mentioned that the triennial review of the PCS would be starting in early March of 2014 and introduced Jason Heath of ORSANCO staff to present an overview of the review process, the timeframe, the amount of public involvement, and a brief discussion of currently proposed issues. Mr. Heath began with a background of previous reviews, provided some general information about ORSANCO's PCS including how and where they apply, and then discussed the procedures to announce the standards, public comment periods, and the notice of hearing.

Ross Wales, Legal Counsel to the Commission, asked for clarification regarding the use of webinars in relation to the public hearing. Mr. Heath clarified that two informational webinars would be held prior to the public hearing for those unable to attend the hearing. Comments would then be accepted at the hearing or additionally by postal or electronic mail.

Mr. Heath went on to identify the initial set of criteria proposed for consideration including total mercury water quality criterion, E. coli bacteria, human health temperature, total dissolved solids, ammonia, the prohibition on mixing zones for bioaccumulating chemicals of concerns (BCC), and nutrient criteria development.

Commissioner Potesta commented that while the discussion of the PCS issues among commissioners is an important part of the process, public input is also very important. Commissioner Potesta then introduced Eriks Janelsins, Chair of the Public Interest Advisory Committee (PIACO) to share the committee's views on the upcoming standards review. Mr. Janelsins presented four comments from the committee. The first was that the committee supports the public webinars and recommends recording them and posting them to ORSANCO's website. The second was that PIACO members committed to follow up the webinars with phone calls to strategic stakeholders within their respective states to make them aware of the process. The third was that the committee supports ORSANCO's new use of constant contact e-mail, and the fourth was that the committee supports the exploration of eliminating the legal notice requirement.

Commissioner Potesta then invited commissioners to discuss how the proposed PCS issues mesh with existing activities. Chairman Frevert began with two comments regarding the PCS process. The first involved the importance of using sound science to develop a criterion, but also addressing all other aspects of each standard up-front including how, when, and where it applies. The second comment was a recommendation to ensure that the next decision on the BCC mixing zone prohibition is well-informed and ultimately the final decision to avoid another suspension of the prohibition. Brief discussion followed regarding the concurrence of the end of the suspension of the BCC mixing zone prohibition and the adoption of PCS revisions both scheduled for October of 2015.

The need for effective public outreach and communication and the requirement to act quickly and holistically regarding these matters was stressed. A brief discussion ensued regarding the role of the state agency in which a facility requesting a variance to the PCS resides in interacting with ORSANCO to develop a variance for the facility.

To address the timing of the mixing zone prohibition and the PCS review adoption Commissioner Flannery suggested that the PCS Committee develop a proposal detailing the transition to the mixing zone prohibition to be adopted by the Commission in conjunction with the PCS revisions in October 2015. Chairman Frevert suggested close interaction between the PCS Committee and the Stream Criteria Subcommittee during the entire process.

Commissioner Bruny stressed the complexity of adopting accurate standards and reiterated the need to use sound science to adopt appropriate standards on the first attempt and to avoid “knee-jerk” reactions resulting in adopting inappropriate standards. Commissioner Bruny went on to suggest that no standard is better than a wrong standard. Commissioner Easterly suggested considering modification of the by-laws to require a majority greater than 50% to adopt a standard to ensure strong support of that standard.

Ron Schwartz, proxy for Commissioner Abruzzo, recommended including current proposed intentions along with issues during public comment period and updating as necessary during the process. Chairman Frevert agreed and added that detailing the rationale for each particular position early on in the review process would promote more informed public comments.

Discussion followed regarding the need to identify data gaps early in the process and to gather scientifically defensible data that can be used to develop the most accurate standards possible while recognizing the inherent uncertainty of standards development and understanding that new data will always be received that may cause the need for revisions.

Commissioner Wilson raised the question of needing a pathway for prioritization of standards to be reviewed. Commissioner Potesta pointed out that the prioritization process relies heavily on input from multiple sources including ORSANCO staff, committees, subcommittees, and public input. Chairman Frevert and Commissioner Bruny suggested that ORSANCO currently follows a structured prioritization pathway that mimics USEPA and state models that are driven primarily by needs and data availability.

Commissioner Flannery voiced support of the list of issues mentioned for standards review but suggested that the total mercury water quality criterion needs particular attention due to its questionable validity. Commissioner Flannery suggested that since the criterion is proposed for review, the National Pollution Discharge Elimination System (NPDES) subcommittee should be tasked with developing an interim mechanism for states to use in application of the total mercury water quality criterion until the standards review is completed in October 2015. Discussion of the enforcement of the 0.012 ppb total mercury criterion, its validity, and its relationship with the mixing zone prohibition followed. Chairman Frevert recommended that the PCS committee interact with the NPDES subcommittee to review this issue further.

#### The ORSANCO/Ohio River Users Program: A Partnership for Better Science

Commissioner Potesta discussed an enthusiastic meeting of the River Users Program Advisory Committee held on December 3<sup>rd</sup>, 2013 in which the members suggested the need to solicit funding and participation in the program. A result of this discussion was the creation of a draft brochure inviting participation and requesting donations and the submission of potential research topics. The brochure was described by Sam Dinkins of ORSANCO staff. Chairman Frevert suggested that the brochure should incorporate positive testimony from current corporate members to help encourage participation from other corporate citizens. Commissioner Butler suggested clarifying the first paragraph to better identify “river users” as more than industry and utilities and to clarify who is being asked to participate.

Protecting Our Drinking Water: Performance of the Organics Detection System during January, 2014 Chemical Release

Chairman Frevert introduced the third session topic of the performance of ORSANCO's Organics Detection System (ODS) in relation to the recent MCHM in the Elk River in Charleston, WV. Mr. Tennant gave a brief background on the ODS and its performance regarding the spill and opened the floor for observations from the commissioners regarding the spill.

Commissioner Scott voiced concerns of not being able to release ODS data (considered draft by the utilities and ORSANCO) and make it publicly available as close to real-time as possible. Commissioner Lovan mentioned that though definitely a negative situation for drinking water utilities and other river users, the situation creates a possible opportunity to consider expansion of ORSANCO's ODS. Jerry Schulte of ORSANCO staff stated the need to involve the public affairs personnel of the various utilities to help address the best approach to releasing information to the public. Bruce Whitteberry, Chair of the Water Users Advisory Committee, stressed the need to release only qualified data to the public to avoid any issues associated with the potential of re-communicating corrected data. Mr. Whitteberry also stressed the need to develop a unified strategy for data sharing among the utilities.

Commissioner Scott suggested that even simply relaying information regarding location of the leading and trailing edge, concentration peaks, and estimated travel times, regardless of actual contaminant concentration estimates would be valuable information to release to the public in as close to real-time as possible. Commissioner Flannery mentioned the need to coordinate the development of any data release policies with federal agencies and state agencies that may be dealing with the same issues.

Mr. Janelsins presented the perspective of PIACO regarding the spill and associated responses, stating that the committee felt ORSANCO's quick response and release of accurate data helped build confidence in the perception of the commission. However, shortcomings of the response were that information was not updated on the website over the weekend of the incident and any potential recreational use limitations were not relayed to the public.

Commissioner Duritsa initiated a brief discussion on the differences among states' regulations for above ground storage tanks and the development of new federal legislation and in West Virginia.

Mr. Tennant turned the discussion to determine what ORSANCO's next steps should be in the aftermath of the spill and addressed Commissioner Scott's question of whether ORSANCO has source water protection authorities by stating that the commission follows the states' leads on these issues. Mr. Schwartz mentioned the need for a centralized warehouse for toxicity data and in the short-term suggested ORSANCO should compile each state's website links for their own sources of toxicity data to make all links available in one place (ORSANCO's website). Discussion followed regarding the need to immediately develop specific and strategic plans to pursue federal, state, and county resources that would enable ORSANCO to increase its spill response capabilities and to better protect the source water of the Ohio River. Commissioner Flannery cautioned that during this process the commission should recognize the limitations of the ODS system and not over-promise what it can do. Commissioner Flannery also stated that expansion of the ODS system could have policy and regulatory implications of which the commission should be aware, such that due to the presence of a highly effective ORSANCO ODS in the area of a smaller utility may allow that utility to rely on ORSANCO's ODS for broad scale contaminants while the utility could then focus on smaller, near-field issues. Commissioner Easterly expressed concerns of how devastating a similar spill could have been had it occurred on a lower flow system. Discussion wrapped up suggesting a 10 step or similar program should be developed and presented to the Executive Committee on that group's next regularly scheduled call.

### Foundation for Ohio River and Education (FORE) Update

Heather Mayfield of FORE staff presented the first FORE update to the commission in seven or eight years and stressed that FORE is directly addressing the need of getting ORSANCO's story to the public which was a topic of discussion at the February 2013 commission meeting. Although the P.A. Denny was sold several years ago, FORE is currently contracting with Queen City Riverboats to continue the idea of the floating classroom in the form of the River Reach Program. This method has reduced operating costs by 60% compared to owning the P.A. Denny. This has allowed more programs in 2013 (40) than in the past while operating their own boat. A 22% increase in post-test versus pre-test results exceed the goal of 15% and indicate the effectiveness of the program. In addition, based on surveys of the students' impressions of the river before and after the program FORE has seen a 76% increase in favorable responses indicating that the program is successful at helping the students feel a much-needed connection to the river.

Mrs. Mayfield went on to discuss several programs with some of the 50 local partners that provide students with strong foundations in environmental topics and teachers with tools and training that enable them to help the students build upon those foundations. Mrs. Mayfield also stressed that FORE has strong public outreach components targeted at adults as well. Other programs FORE is involved with include coordinating land-based cleanups associated with the annual Ohio River Sweep and the Ohio River STEM Institute which is a partnership with Northern Kentucky University. The latter partnership has been responsible for many programs that encourage students (including under-privileged and homeless children) to get involved with Science, Technology, Engineering, and Mathematics and is responsible for producing a Water Quality 1.1 app for iPhones and iPads and maintains a water quality database housing Ohio River data collected by educators and students.

Commissioner Easterly asked if FORE activities are restricted to the Cincinnati area and Mrs. Mayfield mentioned that on the water activities currently are conducted only in the local area, but that through networking, training and other ways the foundation can and does have a presence throughout the basin.

### PIACO's Idea of a Stakeholder Meeting at June 2014 Roundtable

Mr. Tennant called upon Betsy Mallison, Chair of PIACO, to discuss PIACO's idea of arranging a stakeholder forum in conjunction with the next commission meeting in June of 2014. The forum could be held during the roundtable and would allow stakeholders each 5-10 minutes to discuss in the presence of the commission what they do on the Ohio River and what issues are important to them.

The Roundtable Issues Forum adjourned at 3:15 P.M.