

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES
232nd Meeting of the Technical Committee
Hilton Cincinnati Netherland Plaza
Cincinnati, OH
June 27-28, 2023
Chair Scott Mandirola, Presiding

Call to Order

The 232nd meeting of the ORSANCO Technical Committee was called to order by Chair Mandirola at 1:00 p.m. on Tuesday, June 27, 2023. Seven states, three federal agencies, and four advisory committees were represented (for Roster of Attendance see on page 13). Chair Mandirola welcomed all to ORSANCO's dual in-person and virtual meeting of the Technical Committee.

Minutes of 231st Committee Meeting

ACTION: Motion passed to accept the minutes of the 231st Technical Committee meeting.

Chief Engineer's Report

Director Harrison remarked that he was proud of staff and ORSANCO's partners for the response effort regarding the East Palestine spill. He then also mentioned that ORSANCO continues to work with the Ohio River Basin Alliance and others in preparing an Ohio River Basin Restoration Plan/Initiative that would outline the problems, and restoration initiatives and funding needed for the Ohio River Basin. The restoration plan, once delivered to the U.S. Congress, will set the stage for a future Ohio River Restoration Initiative that will provide federal funding and resources to implement the plan, similar to other federal geographic funding initiatives, e.g. Great Lakes, Chesapeake Bay, Florida Everglades, etc. He summarized the main components of the restoration plan. The Mississippi and Missouri Rivers are developing similar plans. He discussed the significant amount of impaired streams in the Ohio Basin that demonstrates the need for the restoration initiative funding. He reported that because ORSANCO's funding has not kept up with inflation over the long-term, staff has been successfully working with the states to augment the regular budget with special state grant funding such as 604b, as well as water utility special funding.

Continuing Review of ORSANCO's Monitoring Programs

Jason Heath reported on activities of the Monitoring Strategy Committee that last met on April 19 to provide guidance on projects for use of FFY24 Monitoring Initiative grant funds. The committee considered multiple options for FFY24 USEPA Monitoring Initiative Funds of approx. \$79,000. These funds are not to be used for ongoing, routine monitoring programs, but more to fill short-term needs. The work would be completed for the period October 2023 through September 2024. Options considered included updating the Commission's monitoring strategy, long-term trends analysis, PFAS monitoring, evaluation of real-time bacteria sensors, updating PCBs, dioxin, and bacteria data for use in 305b assessments, mussel surveys, metals sampling on tributaries and upgrading ORSANCO's data management system. The states were asked to rank these initiatives, and based on that information, the committee is recommending that ORSANCO's monitoring strategy be updated in FFY24.

Technical Program Outcomes from the May 11 Program and Finance Committee Meeting

Jason Heath presented highlights of the Commission's proposed FY24 technical program as agreed by the Program and Finance Committee at their May 11 meeting. More specific details on the FY24 technical program may be found on the Commission's website under Technical Committee meeting presentations.

Biological Programs Update

Ryan Argo reported that the 2022 pool surveys of Belleville and Olmsted are now complete and have been approved by the BWQSC. The assessment of both pools indicated that they were meeting their aquatic life use designations; summary reports will be made available online shortly. Staff also provided an update on the recalibration of biological indices and the 2023 survey schedule, which includes National Rivers and Streams Assessments on behalf of USEPA and probabilistic surveys of New Cumberland and Cannelton pools.

Source Water Protection Program & Emergency Response Programs Update

Sam Dinkins provided an overview of the ongoing activities associated with the Commission's Source Water Protection and Emergency Response programs. This included an update on the Organics Detection System detailing the operational status of the system, the purchase and installation of a new gas chromatograph with mass spec, and progress to develop a data management and alert system for the Organics Detection System (ODS) monitoring network. The Committee was also briefed on a methanol barge accident in Louisville, Kentucky. An update was also provided on a separate incident involving benzene detections on the Mahoning River which have been ongoing intermittently since February 2022.

East Palestine Spill Debriefing

Sam Dinkins reported on the train derailment that occurred in East Palestine, Ohio on February 3, 2023 impacting local tributaries and the Ohio River. Approximately 50 railcars either derailed or were damaged, several of which were carrying hazardous materials. ORSANCO played a critical role in monitoring downstream water quality in the Ohio River and communicating results with drinking water systems and response agencies. The East Palestine response showcased the breadth of ORSANCO's response capabilities including utility notifications, river sampling, lab analysis, time-of-travel modeling, data reporting and mapping, and public engagement. Further review and inter-agency debriefings of the response will be completed to identify what worked well and how response activities could be improved in the future.

Member Updates and Interstate Water Quality Issues

Illinois

Scott Twait reported the following:

Triennial Review

- The Agency has scheduled the Triennial Review public hearing for July 6th at 2:00 and 6:00.

PFAS

- Legislature attempted to pass bills related to PFAS which dictated how the Agency would handle PFAS.
 - The Agency convince the legislators to put off the legislation, so the Agency could implement its own plan.
 - The Agency is requiring monitoring PFAS and the development of PFAS minimization program for all major facilities (industrial and municipal) as well as permittees with certain SIC codes.
 - PFAS minimization Program includes:
 - Inventory
 - Best Management Practices (BMP)

HAB dashboard

Harmful Algal Bloom (HAB): The Agency is updating the Illinois EPA's Harmful Algal Bloom (HAB) web page to include the 2023 Statewide HAB Program summary which has a link to the new HAB Dashboard. The Dashboard has been under construction for over a year, and SWS is excited to see it go live. The interactive dashboard is a map of reported cyanobacteria (blue-green algae) bloom locations in the State of Illinois. The information is derived from the online [Illinois EPA Bloom Report Form](#). Members of the public and Illinois EPA can use the form to submit photos, location, and descriptions of a suspected cyanobacteria bloom. The surface water section (SWS) reviews all bloom report submissions prior to publishing information on the Dashboard. If reported information indicates a cyanobacteria bloom, SWS may collect samples to determine if cyanotoxins are present. The dashboard also includes links to cyanobacteria bloom information and resources. People or pets experiencing signs or symptoms of cyanotoxin poisoning can contact Illinois Department of Public Health, poison-control, or their local physician or veterinarian.

HAB Dashboard Link:

<https://illinois-epa.maps.arcgis.com/apps/dashboards/e916019b725e4acca7d666e760b74b5f>

Indiana

Brad Gavin reported on the following items:

Drinking Water PFAS Sampling

Phase 1 (3,300 to 10,000 population served):

- Resampling is complete.
- 39 systems were selected for resampling.
- 13 systems had detectable levels of PFOS or PFOA in the resamples.
- Only 6 systems had PFOS or PFOA above the proposed MCL in finished drinking water.

Phase 2 (< 3,300 population served):

- 383 out of 562 systems participated.
- 324 systems returned samples between Dec. 2021 and Jan. 2023.
- Additional systems requested bottles after EPA's proposed MCLs were released.
- Only 28 systems had a PFAS compound detected in their finished drinking water.
- PFOS or PFOA was detected in the finished water of 10 systems. (Detection of PFOS or PFOA = above Health Advisory Level)
- Only 2 of the 324 systems sampled in Phase 2 exceeded the proposed MCL for PFOS or PFOA in finished drinking water.
- 26 systems will be resampled to verify results. (Resampling has begun)

Phase 3 (>10,000 population served)

- Around 85 systems to be involved for a total of 885 samples.
- Sampling began in January of 2023.
- 20 systems have submitted samples, so far.
- 7 systems have had detects.
- Same 7 systems have had detects in finished water.
- Resampling will be conducted as results come in.
- All PFAS sample results will be posted on our IDEM website at <https://www.in.gov/idem/resources/nonrule-policies/per-and-polyfluoroalkyl-substances-pfas/>.

Watershed Assessment and Planning

Blue-green algae (cyanobacteria) results are posted to the website at the end of each week.

<https://www.in.gov/idem/algae/>

IDEM analyzed water chemistry trends using our Fixed Station data that was collected from 2011 to 2020.

<https://storymaps.arcgis.com/stories/977fe35741c34a2b860b5702c797e020>

NPDES Permits

Industrial Permits: IDEM issued an NPDES permit renewal SABIC Innovate Plastics Mt. VERNON, LLC. This facility has a cooling water intake structure on the Ohio River regulated under Section 316(b) of the Clean Water Act. IDEM included a condition in this permit to address U.S. Fish and Wildlife Service concerns that the intake at this facility is harming endangered mussels.

Kentucky

Katie McKone reported the following:

The 2022 303(d) list was at public notice February 21 - April 22, 2023, and the Division of Water submitted the 2022 Integrated Report to EPA on June 9, 2023.

Staff are completing EPA's National Rivers and Streams assessment throughout Kentucky.

The Division of Water has published its [annual water recreation tips](#) to the Cabinet's blog "Naturally Connected", along with an article about Kentucky's [Annual Safe Drinking Water Act Compliance Report](#).

Kentucky plans to attend ORSANCO's meeting to discuss Gulf Hypoxia Grant funding in July. Kentucky will be coordinating with other states to update their [Gulf Hypoxia Program](#).

EEC and DOW were pleased to attend the ORBA on the Hill event on June 13. Representatives Massie, McGovern, Guthrie, and Rogers' offices were visited.

401 KAR Chapter 4 is being updated to:

- Develop new dam safety regulations related to Emergency Action Plans for significant and high hazard dams
- Update floodplain management regulations to reflect updated flood hazard and risk mapping, ensure development in flood-prone areas is relatively safe from flooding and to support flood insurance actuarial rating
- Update water supply planning to recognize the efforts put forth from 2000-2020 and focus on appropriate planning for water investments through 2050

PFAS:

- The Division of Water launched the 2023 drinking water PFAS study across the state. Study has been ongoing for several months.
 - The drinking water study is finished water where we've sampled 113 water treatment plants.
 - When we collect PFAS fish tissue samples as part of our tissue contamination program, we are also collecting ambient surface water samples.
- SWPB continues to assess the recommendations contained in EPA's December NPDES PFAS Memo and potential implications on the program.

Nutrients:

- The Division of Water will have a Nutrient Reduction Strategy kick-off meeting with various partners, including ORSANCO and surrounding states, this coming Friday, virtually or in-person. An agenda with zoom link is available if anyone is interested.
- SWPB continues work on addressing nutrient requirements for POTWs and is finalizing draft permit requirements for nutrient optimization under certain conditions.
- DOW is working with EEC Office of Energy Policy to identify (and fund) wastewater optimization efforts to reduce N and P in wastewater effluent

New York

Commissioner Mike Wilson reported the following:

The State of New York has had several proxies for Commissioner Basil Seggos to ORSANCO in the past year, reflecting retirements, reassignments and upward mobility in the Department of Environmental Conservation. Our current proxy for Commissioner Seggos is Damianos Skaros, who is an expert in surface water and is located in Region-9, which covers southwestern New York including the State's portion of the Ohio River watershed.

One of the nation's largest milk processing and cheese making facilities, which we have mentioned in past meetings, is now in production in southwestern New York. Its discharge is located above a nature preserve and is being carefully monitored.

Ohio

Melinda Harris reported on the following items:

Monitoring Updates

- Field season is underway. We will have crews in the Mad River watershed and Middle Scioto/Big Walnut/Walnut Creek watersheds. We are also conducting a statewide probabilistic headwaters sampling project. The final QAPPs are available at: <https://epa.ohio.gov/divisions-and-offices/surface-water/reports-data/statewide-biological-and-water-quality-monitoring-and-assessment>.
- A draft data summary report on the 2020-2021 Statewide Large River sampling project will be released soon.

Rule Updates

- Preparing to propose a water quality standards minimal change rules package to address the state required 5-year review and regulatory restriction removal requirements.
- Preparing to propose updates to the water quality standards definitions and methods rules – this includes ORSANCO’s biological assessment metrics.
- Triennial review report and work plan should be released next month.

TMDL Update

- Preparation is underway to send the final Maumee Watershed Nutrient TMDL to Region 5.

Pennsylvania

Kevin Halloran reported on the following:

1. DEP expects to present the proposed rulemaking for the 10th triennial review of water quality standards at the July 11th Environmental Quality Board meeting. If adopted, DEP anticipates publication in the Pennsylvania Bulletin in the late summer/early fall timeframe. Upon publication, the public comment period for the proposed rulemaking will be open for 45 days, and the EQB will hold at least one public hearing to receive testimony and comments on the proposed rulemaking.

17 new or updated WQ Criteria

- 14 Human Health (HH) (1,4 – Dioxane, 2,4-D, Chloroform, Barium, Boron, Methyl ethyl ketone, 1,2,3-trichloropropane, 1,2,4-trimethylbenzene, 1,3,5- trimethylbenzene, Xylene, Acetone, Formaldehyde, Metolachlor, Resorcinol
- 3 Aquatic Life (AL) Cadmium (updated), Carbaryl (new), Tributyltin TBT) (new) Minor definition revisions.

2. Final PFAS MCLs published January 14, 2023. PFOS 18 ppt and PFOA 14 ppt.

The PFOA and PFOS MCLs will apply to all 3,117 community, nontransient noncommunity, and bottled systems in PA. (1,905 community water systems, serving approximately 11.4 million; 1,096 nontransient noncommunity water systems serving approximately 507,000).

Initial compliance monitoring serving a population of greater than 350 persons begins January 1, 2024; initial monitoring for water systems serving a population of less than or equal to 350 persons begins January 1, 2025.

Initial monitoring will consist of 4 consecutive quarterly samples at each entry point.

3. ALCOSAN: continuing wet weather plan. The current capacity of 250 million gallons per day (mgd) will be increased to 480 mgd by the end of 2025 and to 600 mgd by the end of 2029. This additional capacity will help reduce the number of overflows caused by excess storm water entering the system.
4. Shell. Full operations. Had some air and NPDES violations related to start-up. Executed a Consent Order and Agreement that includes \$5 million for Community Environmental Projects.
5. East Palestine Derailment.

DEP personnel began the sampling and then transitioned to our contractor, GAI, to continue sampling. An interactive map showing all DEP/AG/EPA sample locations is available on the DEP website at: [Pennsylvania DEP Incident Response \(arcgis.com\)](#).

Private Wells: DEP collected potable water samples from sixty-nine private drinking water sources in Pennsylvania. Two rounds of samples were collected at most locations. The samples were analyzed for the constituents of concern for the derailment, including VOCs, SVOCs, and glycols. Of the sixty-nine locations sampled, only seven had a detection of any VOC and SVOC on the full parameter list. None of the detected parameters are considered to be related to the derailment. All but one of the detected parameters were below the health screening level for the parameter. The only parameter to exceed the screening level was bis(2-ethylhexyl) phthalate at three locations. Bis(2-ethylhexyl) phthalate is not considered to be a constituent of concern for the derailment.

Public Water Supplies: DEP collected potable water samples from 16 public water suppliers in Beaver and Lawrence counties in Pennsylvania. Two rounds of samples were collected at most locations. The samples were analyzed for the constituents of concern for the derailment, including VOCs and SVOCs.

No contamination linked to the derailment was found in any PA public water supplies. Of the sixteen locations sampled, only three had a detection of any VOC and SVOC on the full parameter list. All but one of the detected parameters were below the health screening level for the parameter. The only parameter to exceed the screening level was bis(2-ethylhexyl) phthalate at one location. Bis(2-ethylhexyl) phthalate is not considered to be a constituent of concern for the derailment.

Surface Water: DEP collected water samples from 23 surface water locations in Pennsylvania. The samples were analyzed for the constituents of concern for the derailment, including VOCs and SVOCs. Of the 23 locations sampled, only eight had a detection of any VOC and SVOC on the full parameter list. All of the detected parameters were below the residential groundwater standard and the Human Health Criteria for surface waters in PA.

Soils: DEP, with assistance from AG and EPA Region 3, collected 186 soil samples at 100 properties in Pennsylvania. EPA Region 3 collected dioxins at 34 of these locations. The samples were analyzed for the constituents of concern for the derailment, including VOCs, SVOCs, and dioxins.

Low levels of SVOCs and dioxins were detected at several locations.

The levels found were comparable to background concentration levels in soil. Dioxin results are available on EPA's website at: [EPA Residential, Commercial, and Agricultural Soil Sampling Results | US EPA](#)

Groundwater Monitoring Wells: Pursuant to the order, Norfolk Southern installed a series of groundwater monitoring wells to monitor potential impacts to groundwater and specifically to drinking water aquifers. Norfolk Southern has installed 14 groundwater monitoring wells, eleven in Ohio and three in Pennsylvania.

DEP, along with Norfolk Southern, has been collecting samples from the PA monitoring wells on a biweekly basis since installation. The samples were analyzed for the constituents of concern for the derailment, including VOCs and SVOCs.

One of the three monitoring wells in PA has had several detections for certain VOCs and SVOCs. None of the detected parameters exceed the health screening levels and none of the detected parameters are constituents of concern for the derailment.

Groundwater elevation levels from the Pennsylvania and Ohio wells indicates that groundwater in Pennsylvania is moving toward Ohio and the derailment location.

Vegetation Sampling: AG collected plant tissue samples from several locations. All samples were non-detect.

Virginia

Jeffrey Hurst reported the following:

- On February 1, per a General Assembly budget amendment, DEQ implemented a special water quality monitoring program to conduct routine monitoring of PFAS compounds in Virginia's lakes and streams. The program also includes ambient groundwater sampling at selected observation wells. The agency has partnered with Virginia's Division of Consolidated Laboratory Services, who is analyzing the samples using draft EPA Method 1633. Sampling was completed from February through May at approximately 250 monitoring sites across the state, and at approximately 11 groundwater observation wells (with over 550 samples collected). DEQ maintains a PFAS dashboard on its website where results are available to the public via a mapping application (see: <https://experience.arcgis.com/experience/5dcd4d69ab184442814cbc0a111d7c96>).
- A review package was received from EPA Region 3 on April 14, 2023, of Virginia's most recent Water Quality Standards regulations, approving all adopted amendments except for freshwater aquatic life criteria for aluminum. EPA is consulting with the National Marine Fisheries Service to ensure EPA's recommended Aluminum criteria are protective of federally listed threatened and endangered species and their critical habitat. Apart from the freshwater aluminum criteria, all elements of the Triennial Review amendments to the WQS became effective on April 18, 2023.
- On April 25, 2023, The Virginia Department of Environmental Quality Water Quality received a petition requesting that the State Water Control Board promulgate a site-specific aquatic life criterion for selenium for several tributaries to Knox Creek in Buchanan County. The Knox Creek watershed is a part of the Big Sandy River basin. Knox Creek flows downstream from Virginia through a portion of Kentucky and joins Tug Fork at the Kentucky/West Virginia state line. The petitioner has requested that the existing surface water quality criteria, as contained in the Water Quality Standards regulation (9VAC25-260), for selenium be amended to allow a special standard incorporating EPA's Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater (EPA 822-R-21-006). In addition to the request to promulgate updated site-specific selenium criteria, the petitioner asks that DEQ support implementation of EPA's recommended criteria with implementation guidance modeled after West Virginia's to provide consistency with the downstream watershed. The Virginia DEQ accepted public comments on this petition, which ended Monday, June 26, 2023, and will be meeting to discuss public comments later this week. Agency developed recommendations will be developed and should be ready for consideration at the next State Water Control Board meeting.
- Virginia is also initiating a Microcystin sampling effort on lakes and reservoirs within the Commonwealth. In recent years, potentially harmful algal blooms (HABs) have emerged as a concern in several Virginia lakes and reservoirs. Therefore, approximately 40 lakes and reservoirs are scheduled for enhanced nutrient monitoring in 2023, and 15 have been identified for Microcystin monitoring.
- Other water sampling initiatives include continued fish tissue sampling in the Big Sandy watershed, which includes Knox Creek, Levisa Fork, Garden Creek, Slate Creek, Dismal Creek, and the Russell Fork River. Tissue is being analyzed for metals, PCBs, and PFAS.
- TMDL development on the Middle Fork Holston River, which is a tributary to the Tennessee River, continues, as a second Stakeholders meeting is scheduled for July 11, 2023.

West Virginia

Scott Mandirola reported the following:

WV PFAS update

USGS has final results for the finished water at the 37 sites above the PQL for PFOA/PFOS/GENX in the raw water study.

19 hits above the new proposed MCL

(17 ground water and 2 surface water)

(6 PFOA)(12 PFOS)(1 GENX)

9 hit below 4.0 ppt

27 hits above the new Health advisory

7 have Hazard Index above 1.0

HB3189 passed legislature, the PFAS bill requires;

- DEP to write a PFAS action plan to identify and address sources of PFAS by July 1, 2024 for 37 sites (DEP plans to begin after beginning of FY, July 2023)
- DEP initiate a study to resample the finished water for 100 sites above MDL but below PQL and above the EPA HA by December 31, 2023 (DEP has a bid in hand from USGS to sample 106 site for finished drinking water, the original 100 mentioned in the bill and 6 additional ones that we feel qualify since the proposed MCL has come out. 6 raw water samples exceed the HI)
- DEP shall write a PFAS action plan to identify and address sources of PFAS for the public water system's raw water source for the 100 sites resampled above. First 50 plans by December 31, 2025 and the remaining by December 31, 2026.(DEP worked with WVRivers to apply for a grant from EPA to engage disadvantaged communities affected by the PFAS issue to help write the plans)
- For each community water system for which a PFAS action plan is required the public water system is required to deliver a Consumer Confidence Report to its customers under the Safe Drinking Water Act that included the PFAS raw water and finished water sampling results, DEP's schedule for developing any required PFAS action plan, a summary of results from any completed PFAS action plan, information about how to obtain any completed PFAS action plan, and contact information for an appropriate person or office at DEP to which questions can be directed.
- By December 31, 2023, all facilities which manufacture, use, or have used PFAS chemicals in their production process since January 1, 2017, and which have been issued a WV NPDES permit since January 1, 2017, must report the use of these chemicals to the DEP. DEP is required to put quarterly monitoring on these discharges. (NPDES permit group will send letters out after July 1 to permittees notifying them of the requirement to report)
- After the USEPA establishes final water quality criteria under the Clean Water Act for any PFAS, DEP shall propose adopting such criteria by rule as part of the next regular legislative rulemaking cycle.
- O&G funding bill being contemplated to bring back to full staff. 0.075% from severance tax and a tiered per well fee based on the amount of gas produced from a well per day.

HB 3110 O&G funding bill passed and will generate an additional \$2.1 million to bring the Office of O&G back to full staff. 0.075% from severance tax and a tiered per well fee based on the amount of gas produced from a well per day.

SB561 Relating to administration of WV Drinking Water Treatment Revolving Fund Act, passed which transfers the DW SRF fund and responsibilities to the DEP starting July 1, 2023.
All DEP Rules passed last session.

WQS Update

The review for the next triennial review has begun for presentation to the 2025 legislative session. A workgroup to review the trout stream definition in the WQS rule has been formed and is still working on the issue.

Legislative rules updates

Rules for the next session will be filed this week for 2024 session. Will notify you of them at next meeting following our discussions with EPAC, this week.

East Palestine wastewater will be treated on site and then transported to Valicor in Huntington for additional treatment. Following treatment at Valicor in will be trucked to Huntington WWTP for treatment and discharge to the Ohio River.

MVP 404 has been issued with the WV 401 WQ certification as part of it. Construction of the crossings will begin July 17 with an expected completions date of EOY.

Pipeline Crossings only remaining

- 189 streams
- 108 wetlands
-

Additional Crossings remaining (includes access roads and Additional Temporary Workspace) 298

US Army Corps of Engineers

Erich Emery reported the following:

- **UC Study:**
 - As I have mentioned previously, our Division office is working with the University of Cincinnati to conduct a study that more closely examines Ohio River system hydrology under low flow conditions.
 - The study examines the influences of our upstream reservoirs on the flows in the mainstem and will attempt to estimate the economic value of the flow augmentation provided.
 - UC is just wrapping up the hydraulic analysis portion of the study and transitioning to the economic analysis.
 - The study should be wrapped up by this time next year and I can coordinate with Jason to have the results presented to this group if desired.
- **DCP:**
 - Our Division Water Management team is also initiating a process to revise our Drought Contingency Plan. This a 2-yr effort being led by our Huntington District and will include agency coordination and a public review period.
- I will keep this Committee informed as both of these projects mature, and preliminary results or reports become available.

United States Environmental Protection Agency

Dave Pfeifer reported the following:

Sackett Ruling

Amendments to the 2023 Rule

The Environmental Protection Agency and the U.S. Department of the Army (agencies) are in receipt of the U.S. Supreme Court's May 25, 2023, decision in the case of **Sackett v. Environmental Protection Agency**. In light of this decision, the agencies are interpreting the phrase "waters of the United States" consistent with the Supreme Court's decision in **Sackett**. The agencies are developing a rule to amend the final "Revised Definition of 'Waters of the United States'" rule, [published in the Federal Register](#) on January 18, 2023, consistent with the U.S. Supreme Court's May 25, 2023 decision in the case of **Sackett v. Environmental Protection Agency**. The agencies intend to issue a final rule by September 1, 2023. <https://www.epa.gov/wotus/amendments-2023-rule>

PFAS Chemicals

- On March 14, EPA took a key step to protect public health by proposing the first-ever national **drinking water standard** for six PFAS chemicals. EPA accepted public comment on the proposal until May 30, is now reviewing these comments and plans to finalize the rule by the end of 2023.
- EPA is currently taking important steps to monitor drinking water in communities across the country through our fifth Unregulated Contaminant Monitoring Rule (or **UCMR 5**). This program is testing for 29 PFAS chemicals from 2023 to 2025 in thousands of drinking water systems nationwide. The UCMR 5 results will be released to the public via EPA's [UCMR web page and National Contaminant Occurrence Database \(NCOD\)](#). The first data release to the NCOD is planned for late July 2023 and approximately quarterly thereafter.
- In April 2022, EPA released draft **aquatic life water quality criteria** for public comment for PFOA and PFOS, which reflect the latest peer-reviewed scientific knowledge regarding the effects of these chemicals on freshwater aquatic organisms. We look forward to finalizing these criteria in the coming weeks.
- In September 2022, EPA published a proposed rule to designate **PFOA and PFOS as hazardous substances under CERCLA** (Superfund). EPA is currently reviewing public comments on the proposed rule. The timeline for publishing the final rule has shifted from August 2023 to early 2024. EPA continues to work closely with stakeholders to better understand and address equity concerns. In early 2023, EPA held two public listening sessions to inform development of a **CERCLA PFAS enforcement discretion and settlement policy**. And as an additional step, this past April, EPA published an Advance Notice of Proposed Rulemaking in the Federal Register that seeks public comment on designating **other PFAS chemicals as CERCLA hazardous substances**. The comment period on the notice is open until August 11.

- Under the Resource Conservation and Recovery Act (RCRA), EPA plans to propose two regulations in 2023. First, EPA plans to develop a proposed rule to add specific PFAS to **RCRA’s list of “hazardous constituents”** – which would mean these PFAS are subject to RCRA corrective action requirements. Second, EPA plans to clarify that emerging contaminants such as PFAS can be cleaned up through the RCRA corrective action process. These two proposed rules are currently at the Office of Management and Budget for interagency review.
- EPA published interim **guidance on PFAS destruction and disposal** in December 2020. In that document, we highlighted significant uncertainties about the effectiveness of some PFAS destruction and disposal technologies. We have a deadline to update the guidance by December 2023.

Power Industry Advisory Committee

Cheri Budzynski reported the following:

- The W.H. Sammis power plant went off line on June 1.
- The ELG reconsideration rule was released and requires zero discharge of FGD and Bottom Ash Transport wastewater.
- EUGs are permanently closing by 2028, however early-adopter utilities will be allowed to operate until 2032 (in proposed rules).
- Regarding legacy coal combustion rule surface impoundments, inactive surface impoundments at inactive facilities will have certain closure requirements.

Watershed Organization Advisory Committee

Chris Tavenor reported the following:

1. **Quarterly meeting.** The committee met on June 8 with the following agenda items:

- Updates from Executive Director Richard Harrison
- Discussion of American Rivers MER Designation
- Ohio River Basin Restoration Plan
- Organizational Updates
- ORSANCO 75th Celebration

2. **American Rivers’ Most Endangered River Designation of the Ohio River.** Over the past few months, organization members of the Watershed Organization Advisory Committee participated in American Rivers’ announcement of the Ohio River as one of its annual Most Endangered Rivers. We were excited to have ORBA joining the advocacy surrounding the announcement as well, and we believe the announcement emphasizes both the current strengths of the river as well as the opportunities to invest in long-term conservation throughout the watershed.

The Most Endangered River designation represents an opportunity for communities all along the river to advocate for the funding needed from Congress to reinforce existing progress toward restoring and protecting the many different uses of the Ohio River.

To us, we see the designation as fundamentally supportive of the values underpinning the immense work going into the Ohio River Basin Restoration Plan.

In early June, advocates from WOAC member organizations joined ORBA in Washington D.C. in advocacy for Ohio River funding. We believe consistent collaboration toward sustained funding for the watershed is key to meeting the needs of Ohio River communities. We hope to see federal funds allocated in a fair and proportional method for watershed groups and entities working to protect and restore the Ohio River.

3. **Ohio River Basin Restoration Plan.** Speaking of the Ohio River Basin Restoration Plan, many of the WOAC member organizations continued participating and recruiting for the listening sessions for the plan's design efforts. National Wildlife Federation has been instrumental in development of the plan's framework, and other member organizations are excited to provide feedback once draft chapters are completed. We encourage ORSANCO commissioners to be thoughtful and intentional in their review of plan drafts—we believe a robust, comprehensive plan is more important than rushing the plan to completion. Especially in the face of ongoing emergencies like the causes and impacts of global climate change, it's imperative to get the plan right.
4. **East Palestine.** WOAC would like to express gratitude to Executive Director Richard Harrison and especially ORSANCO field staff for their rapid response efforts following the East Palestine train derailment around monitoring the Ohio River—the continuous effort and coordination conducted by ORSANCO's team did not go unnoticed by advocacy and watershed organizations throughout the region. We especially appreciated the transparent communication of data from ORSANCO's team in the weeks following the detection of contaminants in the Ohio River itself. In the face of a difficult situation, the amount of resources dedicated to response is evident. While there are certainly opportunities for further refinement to emergency response strategies, the ongoing communication of data, tactics, and resources available to the community has been essential to meeting the needs of the impacted community.

ORSANCO 75th Celebration. Many of our members have representatives here this week, and we're excited to join you all in celebrating 75 years of ORSANCO's work on the Ohio River. Many of our organizations—and other grassroots organizations not currently part of WOAC—have booths at the festival later today, and we hope you'll stop by our tables to learn more about the work our organizations are doing throughout your states

Water Users Advisory Committee

Chris Bobay reported the following:

Our committee last met on May 31 and June 1. Our agenda centered around discussion of the East Palestine incident and subsequent Ohio River spill response. As is customary for any major river incident, we conducted an after-action review process. We went through the incident timeline and solicited feedback from those involved on the technical response. Once we compile our lessons learned, we will be happy to share our feedback and any recommendations with ORSANCO and this Commission.

The Committee makes the following commendations:

- We commend ORSANCO for the response to the East Palestine train derailment incident. We learned a lot from this incident. This was a major test of the system and our processes and procedures. So, thanks again to ORSANCO for their resiliency.
- We also commend the drinking water systems and the ODS operators. Our partners at Greater Cincinnati Water Works led the way on the production of timely, quality data that proved to be invaluable. But we also want to recognize all the ODS operators, especially those in the upper basin that kept their instrumentation running even when their plants were shut down. The strength of the ODS is the connectedness of the people in the network. Yes, we have an obligation to keep our tools sharp and our people trained up. But, this incident really demonstrated how the network operates and how the community of water professionals comes together. That connectedness must be preserved. And ORSANCO plays a major role in that ongoing coordination and facilitation.
- We also want to recognize Director Vogel and the staff at OhioEPA for their support and coordination. I've had the chance to talk to city council members and public health officials and many of us recognize that what happened in East Palestine, OH was very different than what happened in the Ohio River. I know many in the general public failed to recognize this difference, but we did. And we're thankful for your diligent efforts and coordination with ORSANCO throughout the incident.

Spill response is not the only thing on our radar. We have a proposed PFAS Rule and new MCL framework. We also have proposed revisions to the Consumer Confidence Rule. Comment periods have closed on those with many of committee members submitting comments to EPA. We are 6 months in on the next round of Unregulated Contaminant Monitoring for PFAS. And 2 years in on a 3-year implementation of Lead and Copper Rule Revisions. Collaboration with state agencies on implementation issues will be critical to our path forward and we look forward to working with many of you on these important issues.

Adjournment

The 232th meeting of the ORSANCO Technical Committee was adjourned by Chair Mandirola at 9:45 a.m. on Wednesday, June 28, 2023.

Approved:



Scott Mandirola

Roster of Attendance

Technical Committee

Chairman	Commissioner Scott Mandirola
Illinois	Scott Twait
Indiana	Brad Gavin/Gabrielle Ghreichi
Kentucky	Katie McKone
New York	Not present
Ohio	Melinda Harris
Pennsylvania	Kevin Halloran
Virginia	Jeffrey Hurst
West Virginia	Scott Mandirola
US Army Corps of Engineers	Erich Emery
US Coast Guard	Not present
US Environmental Protection Agency	David Pfeifer (virtual)
US Geological Survey	Jeff Frey
Chemical Industry Advisory Committee	Not present
Power Industry Advisory Committee	Cheri Budzynski
Public Interest Advisory Committee	Betsy Mallison Bialosky (virtual Tues/not present Wed)
POTW Advisory Committee	Not present
Water Users Advisory Committee	Chris Bobay
Watershed Organizations Advisory Committee	Chris Tavenor
NPDES Subcommittee	Brad Gavin
ORSANCO Chief Engineer	Richard Harrison
Staff Liaison	Jason Heath

Commissioners/Proxies

Douglas Conroe, George Elmaraghy, David Flannery, Toby Frevert, Bruce Hershlag, John Hoopingarner, Carey Johnson, Tiffani Kavalec, John Kupke, John Lyons, Brian Rockensuess, Anne Vogel, Mike Wilson, Davitt Woodwell

Staff

Ryan Argo, Nick Callahan, Stacey Cochran, Sam Dinkins, Tracey Edmonds (virtual), Nick Guthier (virtual), Emilee Harmeling, Richard Harrison, Jason Heath, Adam Scott, Sarah Segars (virtual), Annette Shumard, Bridget Taylor, Jamie Tsiominas, Greg Youngstrom, Lila Ziolkowski

Guests

Kathy Beckett	Steptoe & Johnson PLLC
Bill Boria	PIACO
Melanie Houston	OEC
Molly Jo Stanley	OEC
Kylie Johnson	OEC
Peter Goodmann	Louisville Water Company
Tom McCaffrey	PADEP
Nicole Tremblay	Louisville Water Works
Heather Hulton VanTassel	Three Rivers Waterkeeper
Lee Servatius	Retired New York Commissioner
Alan Vicory	Retired ORSANCO Executive Director