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Of note:

- EPA delivers cyanotoxins plan to Congress
- Advisory council considers recommendations on Lead and Copper Rule
- EPA seeks input on *Legionella* control
- House-Senate panel takes up transportation bill, WIFIA
- EPA funding could get bogged down in policy disputes

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Nov. 20, 2015

Welcome to the latest issue of the *Water Services Insider*. In this issue:

- 'Good Samaritan' legislation would address abandoned mine issues
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- House committee reauthorizes bill to assist small water utilities

'Good Samaritan' legislation would address abandoned mine issues

AWWA government affairs staff has been studying concepts for "Good Samaritan" legislation that would allow entities to clean up mine sites without assuming liability risks. With more than 400,000 abandoned hard rock mines throughout the United States, several members of Congress have expressed interest in introducing such legislation. Under current Clean Water Act and Superfund laws, parties that might act as Good Samaritans lack incentives to get involved with these sites. We are gathering input from water utilities and other experts to produce principles that will protect drinking water in the creation of proposed remediation plans.

EPA delivers cyanotoxins plan to Congress

The U.S. Environmental Protection Agency delivered its "Algal Toxin Risk Assessment and Management Strategic Plan for Drinking Water" to Congress on Tuesday, as required by the "Drinking Water Protection Act" (P.L. 114-45). The plan outlines EPA's actions to date, as well as anticipated work to evaluate the risks posed by cyanotoxins in drinking water. While

not explicit, it appears that cyanotoxins will be included in the next round of the Unregulated Contaminant Monitoring Rule as part of the agency's continued work to determine if a SDWA standard is appropriate. EPA outlines how it is evaluating the comparability of available ELISA analytical methods with LC/MS/MS methods, as well as collecting information that will inform future recommendations to water utilities and states on management of cyanotoxins. While much of current efforts are focused on microcystin and cylindrospermopsin, the plan recognizes the need for research on a larger universe of cyanotoxins. The UCMR is scheduled for proposal in early 2016 and is to be finalized in 2017.

Advisory council considers recommendations on Lead and Copper Rule

The majority of this week's National Drinking Water Advisory Council meeting focused on drafting recommendations for revising the Lead and Copper Rule. In August, a NDWAC workgroup completed its report for the council's consideration. After evaluating the report and public comments, the NDWAC decided to forward the workgroup's recommendations to EPA Administrator Gina McCarthy. A transmittal package is now in development. The central element of the recommendations is that all systems would develop and implement a strategic plan to remove all lead service lines from water mains to building walls. In public comments to NDWAC, Flint community advocate Lee Walters challenged water systems to do more sooner, including posting their current LCR monitoring instructions to homeowners on their websites and revising those instructions to remove elements that reduce apparent lead levels (e.g., advising pre-stagnation flushing, capping the length of stagnation period, removing aerators). Yanna Lambrinidou, a member of the NDWAC Working Group with a dissenting opinion, called for utilities to make lead monitoring data more readily available to the public as well as offer additional measures beyond those reflected in the Working Group report.

EPA seeks input on *Legionella* control

EPA held a public meeting last week to garner input on "Technologies for *Legionella* Control: Scientific Literature Review." The agency is providing this literature review -- primarily focused on disinfection technologies -- to assist building owners contemplating adding treatment for *Legionella* control. The literature review is not SDWA "guidance," and EPA is explicitly leaving to state primacy agencies decisions on when a building must comply with SDWA requirements. Participants in the meeting were concerned that the literature review might be perceived as guidance, that there were technologies that were not included and that review did not summarize the literature in terms of controlling proliferation of *Legionella* in building systems. The document will be reviewed by subject matter experts in early 2016 and finalized in 2016.

House-Senate panel takes up transportation bill, WIFIA

A House-Senate conference committee began meeting this week to produce a single long-term surface transportation bill, and one that hopefully will contain the long-sought-after technical correction to the Water Infrastructure Finance and Innovation Act. One heartening development occurred during opening statements when U.S. Rep. Bob Gibbs of Ohio, chair of the House Subcommittee on Water Resources and Environment, said fixing WIFIA was one of his three priorities in producing the transportation bill. Rep. Bill Shuster, chair of the House Committee on Transportation and Infrastructure, said his goal was to file the final legislation Nov. 30 and have it on President Obama's desk by Dec. 4. However, he also admitted this would be a difficult task. AWWA ramped up its grassroots and direct advocacy efforts this week. While we have heard considerable support for the fix on the Hill, anything can happen in a political environment. Other water associations have ramped up their efforts as well. The Senate version of the transportation bill already contains the WIFIA correction.

EPA funding could get bogged down in policy disputes

While Congress and President Obama did produce a two-year budget deal earlier this fall, funding for EPA and its programs, including the state revolving loan fund, could still face a complicated road. Bills funding EPA and related agencies in both the House and Senate contain policy riders that could attract a veto or blocking maneuvers in the Senate. Those bills have apparently died. The two highest-profile riders would kill the Clean Power Plan and the rule defining "Waters of the U.S." Right now, the federal government is operating under a continuing resolution until Dec. 11. Expect to see an omnibus spending bill fund the government after that. Debates are still going on in the Capitol on whether the omnibus bill will contain the riders. If it does, the threat of a presidential veto or tough congressional battles will loom.

House committee reauthorizes bill to assist small water utilities

The House Committee on Energy and Commerce has approved and sent to the full House S. 811, a bill that would reauthorize technical assistance for small public water utilities. By passing the Senate bill without amendment, members hoped to speed final passage. It would let EPA make grants or initiate cooperative agreements with non-profit organizations to provide such assistance to small systems. Authorized funding would remain \$15 million annually. Congress has provided more than \$12 million a year for the program even after authorization expired in 2003.



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