



## Ask the Experts

*“How does delaying contaminant standards, such as the recent arsenic rule, affect drinking water systems?”*

Each issue, we will ask members of the *On Tap* Editorial Advisory Board to answer a drinking water-related question. We will print as many responses as space permits.

### EPA Has the Choice

The effect of the U.S. Environmental Protection Agency (EPA) withdrawing a regulation, such as arsenic, will depend upon what action EPA takes after reviewing the rule. EPA has three choices: raise the standard, lower the standard, or leave the standard where it is. There are other minor changes that could occur, but without any great implementation issues.

If EPA raises the standard, then there will be a number of systems that will not have to treat for the removal of arsenic. Fewer systems will have increased monitoring, and some people will feel that the water is not as safe as it could be.

If EPA lowers the standard, then there will be a number of additional systems that will have to provide treatment for the removal of arsenic. Costs will be very high for these systems due to the very low level of compliance. Many more systems will be on increased monitoring created by being over 50 percent of the new maximum contaminant level (MCL).

If EPA leaves the standard the same as it is in the recent final rule, then those systems that will have to treat for arsenic will have less time to do so. This is a negative effect of the withdrawal. As the rule is now written, systems have five years to bring the system into compliance. This is a relaxation of the usual three-year compliance time period. It is unlikely that the compliance deadline will be moved back because of the withdrawal. So, if the withdrawal and review takes two years (a possibility that has been voiced at EPA), then those impacted systems would have the normal three-year time frame to come into compliance.

All in all, the withdrawal may remove a few systems from having to treat, may add a few systems to the treatment list, or not change those systems. One thing for sure, the compliance date will be shortened by however long it takes EPA to review the rule. Any system with arsenic between 5 parts per billion (ppb) and 20 ppb (the likely extremes of the new standard) should be looking at treatment options so that they can address these issues when the rule is once again brought forward.

Systems do not have the information on which they must make decisions regarding compliance with the standard. In other words, without a standard, they are left up in the air as to whether they have to do anything or not. It also confirms their thoughts that EPA does not know what they are doing, and that there was not enough information in the first place to make the decision on a new standard.



**Jerry Biberstein**

Principal Engineer  
National Rural Water Association

### What should the standards be?

Delaying the arsenic rule for Auburn fortunately does not create any problems as our source water analysis typically reveals that arsenic is nondetectable. However, I can sympathize with any water company that has to deal with any aspect of the arsenic issue. First, we know that the current standard represents a legitimate health concern that needs to be dealt with. What we don't know and what I believe that science can't tell us at this time, is what the standard needs to be. I don't feel confident now that science and EPA will be able to give us this definitive answer in time to calm the fears that have already been fueled from this debate. EPA is being unfairly accused of being politically inspired by their decisions, and I'm sure that there may never be an answer to this issue that will sit well with everyone.

In any event, whatever the final rule becomes, the costs to comply will surely be another issue to deal with. What I personally fear is that small water supplies will be forced to shut down because of the costs, forcing people to drill their own wells, which may avoid all the protection the EPA is trying to provide.



**Frank J. DeOrio**

Director of Municipal Utilities  
City of Auburn, New York

## Don't Wait for a Rule

For regulated contaminants, water systems already sample and have information regarding the contaminant levels in drinking water supplied to consumers. For community water systems regulated under the Safe Drinking Water Act, these consumers get this information on an annual basis through the Consumer Confidence Report. If a health issue is identified and an existing standard is being proposed to be lowered, such as with arsenic, why would a utility choose to wait until the rule becomes effective, particularly if it's several years down the road? In the interest of public health and consumer confidence, it would be in the best interest of the utility to begin to notify customers about the health effects and options available to them prior to a federal or state mandate imposing a requirement. Delaying a contaminant standard basically gives a utility time to develop an action plan and prepare for the financial impact of providing treatment if the contaminant is greater than a maximum contaminant level.



**Lisa Raysby**  
Peninsula Light Company  
Water Department

## Is it on or off?

It seems to me that it doesn't affect or impact the consumers as much as it does the utility programs. An "on again/off again" standard makes it difficult for utility program staff to get geared up for compliance. True you can wait until a standard becomes a law, (i.e., wait until the MCL compliance dates are finalized, etc., and then start worrying about it). But we encourage utility programs to stay ahead of the curve—to implement programs well ahead of the compliance dates. That way if corrections are needed, they can be accomplished early, with maximum planning time for securing funding and implementing alternatives. In the on again/off again scenario, the operators must ask themselves, "Do I start now, or do I wait?" The bottom line is that it is hard to optimize your system on a moving target.



**Rodney L. Coker**  
Tribal Utility Consultant  
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## We Still Have Much to Consider

One of the reasons that the arsenic standard was delayed was because of the estimated costs involved with meeting the originally proposed standard. Researchers found that the costs could be as much as 20 times higher than first believed, and would more than double the total compliance costs for all drinking water standards promulgated through 1994. They also pointed out that systems treating groundwater would bear the greatest burden in treatment costs. By delaying the standard, and proposing a higher MCL, hundreds of millions of dollars will be saved. This action rescued many small utilities from devastating financial burdens and will allow the EPA and Congress to better arrange for the funds necessary to accomplish our goals.

At the same time, this action could have a double-edged sword effect on utility customers. By delaying standards, consumers' confidence levels in the government's safe drinking water campaign may be diminished. However, by taking the time necessary to further investigate all of the ramifications of enacting treatment standards and by providing further research data as to the health effects of certain contaminants, the public will be better served in the end.

Many times, it seems that regulators put the cart before the horse—setting standards based on limited research and without much consideration given to the costs associated with compliance. What we are currently experiencing with the California power utility industry, regarding supplies and rates, will inevitably hit our industry too—probably sooner than we think. By taking time to better inform the public as to the "whys" and the "wherefores" of regulations, the government would be serving their people more effectively. In addition, utilities might gain an edge in requesting rate increases if their customers understand what is involved and why an increase is necessary to maintain their continuous supply of clean water.



**Nelson Yarlott**  
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## Got a Question?

Do you have a question you would like our experts to answer? If so, please contact Kathy Jespersen at [kjaspers@wvu.edu](mailto:kjaspers@wvu.edu) or Mark Kemp-Rye at [m Kemp@wvu.edu](mailto:m Kemp@wvu.edu). You also may call (800) 624-8301 or (304) 293-4191.