

**SUMMARY NOTES OF THE NOVEMBER 10, 2023, MEETING OF THE
TECHNICAL ADVISORY COMMITTEE FOR
A CHLORIDE IMPACT STUDY FOR THE SOUTHEASTERN WISCONSIN REGION**

INTRODUCTION

The November 10, 2023, meeting of the Technical Advisory Committee (TAC) for *A Chloride Impact Study for the Southeastern Wisconsin Region* (Study) was convened online at 10:03 a.m. The meeting was called to order by Committee Secretary Laura K. Herrick, Chief Environmental Engineer, Southeastern Wisconsin Regional Planning Commission. Ms. Herrick welcomed the attendees to the meeting. Attendance was taken using the online software.

Members Present

Thomas M. Grisa, Chairman.....Director, Department of Public Works, City of Brookfield
Laura K. Herrick, Secretary Chief Environmental Engineer, SEWRPC
Brian Cater Interim Director of Public Works/City Engineer, City of Kenosha
Cody Churchill..... Winter Maintenance Engineer, Wisconsin Department of Transportation
David J. Hart Hydrogeologist, WGNHS
Bryan Hartsook Natural Resources Basin Supervisor, Wisconsin Department of Natural Resources
Craig Helker..... Water Resources Biologist, WDNR
Scott Kroeger Director of Public Works, Walworth County
Cheryl Nenn Riverkeeper, Milwaukee Riverkeeper
Neal O’Reilly Director, Conservation and Environmental Science Program, UWM
Charles Paradis..... Assistant Professor, Department of Geosciences UWM
Elexius K. Passante (for Samantha Katt) Wastewater Specialist, WDNR
Kurt Sprangers Engineer in Charge, Environmental Engineering Section,
Department of Public Works, City of Milwaukee
Scott Schmidt Chief Public Works Officer/County Surveyor,
Washington County Highway Department
David Strifling Director, Water Law and Policy Initiative, Marquette University Law School

Guests and Staff Present

Joseph E. Boxhorn Principal Planner, SEWRPC
James Mahoney Engineer, SEWRPC
Aaron W. Owens Senior Planner, SEWRPC
Justin P. Poinsatte Principal Specialist, SEWRPC
Margaux Serrano Research Assistant, Water Law and Policy Initiative,
Marquette University Law School
Thomas M. Slawski Chief Biologist, SEWRPC

Ms. Herrick introduced the presenters and the agenda for the meeting to review Chapters 1 and 2 of SEWRPC Technical Report No. 67 *Legal and Policy Considerations for the Management of Chloride*.

[Secretary’s Note: The agenda for this meeting is attached herein as Exhibit A.]

REVIEW OF THE SUMMARY NOTES FROM THE JUNE 28, 2023, TECHNICAL ADVISORY COMMITTEE MEETING

At Ms. Herrick's request, Mr. Owens reviewed the summary notes from the June 28, 2023, TAC meeting. He noted that in response to a question from Mr. Grisa, additions were made to Table 4.1 of the draft SEWRPC Technical Report No. 61. He explained that about eight percent of the continuous specific conductance measurements had been adjusted due to evidence of fouling.

Mr. Owens stated that Technical Report No. 61, which describes the field methods used in the Chloride Impact Study, has been published and that copies are available on the Study webpage on the SEWRPC website, www.sewrpc.org/chloridestudy.

TAC members offered no questions or comments on the review of the Summary Notes.

REVIEW OF PRELIMINARY DRAFT "INTRODUCTION," OF SEWRPC TECHNICAL REPORT NO. 67, *LEGAL AND POLICY CONSIDERATIONS FOR THE MANAGEMENT OF CHLORIDE*

At Ms. Herrick's request, Mr. Strifling reviewed the introduction to SEWRPC Technical Report No. 61 (TR-67). Mr. Strifling stated that he, Margaux Serrano, and Ivy Becker were the authors of this report. He stated that the report presents a menu of legal and policy options to control chloride pollution. He added that these options were not ranked and that not all options will be appropriate in every context. He indicated that the goal is to optimize chloride use to balance public safety with environmental integrity, not to eliminate the use of chloride.

TAC members offered no questions or comments on the introduction to TR-67.

REVIEW OF PRELIMINARY DRAFT CHAPTER 1, "SOURCES OF CHLORIDE TO THE ENVIRONMENT," OF SEWRPC TECHNICAL REPORT NO. 67, *LEGAL AND POLICY CONSIDERATIONS FOR THE MANAGEMENT OF CHLORIDE*

Mr. Strifling stated that Chapter 1 briefly examines the sources of chloride to the environment. He noted that chloride sources will be more fully discussed in other Chloride Impact Study reports. He explained that this material was included both to provide context for people reading only this report and because this information is useful for informing policy discussions.

At Mr. Strifling's request, Ms. Serrano reviewed draft Chapter 1 of TR-67. TAC members offered no questions or comments on the Chapter.

REVIEW OF SEWRPC PRELIMINARY DRAFT CHAPTER 2, "LEGAL AND POLICY STRATEGIES TO CONTROL CLORIDE DISCHARGES," OF SEWRPC TECHNICAL REPORT NO. 67, *LEGAL AND POLICY CONSIDERATIONS FOR THE MANAGEMENT OF CHLORIDE*

Ms. Serrano began the review of draft Chapter 2. She noted that there are contrasting drivers to chloride policy. On the one hand, studies show that the concentration of chloride is increasing in waterways. On the other hand, concerns about public safety and liability have led to overuse of deicing salt as being seen as a safe strategy.

Mr. Strifling reviewed the section on limiting liability. He described the State of New Hampshire's Green SnowPro program that provides a snow and ice-related liability waiver to certified winter maintenance personnel after training on use of winter maintenance best practices. Mr. Churchill commented that the Wisconsin Legislature is currently considering bills that would establish a similar program in Wisconsin. Ms. Nenn suggested encouraging State Legislators to bring these bills to the floor for a vote. She added that the main opposition to these bills is coming from the Wisconsin Association for Justice. Mr. Strifling explained that this group represents trial lawyers. TAC members offered no further discussion on limiting liability.

Ms. Serrano reviewed the section on direct regulatory strategies that could be applied for managing chloride. Mr. Churchill commented that the City of Madison has enacted an ordinance for residential properties prohibiting the overuse of deicing salts. He added that violators can be subject to fines. Mr. Strifling replied that this ordinance is described in the Chapter. He noted that the levels at which the fines are set are intended to be educational rather than punitive. TAC members offered no further discussion on direct regulatory strategies.

Mr. Strifling reviewed the section on informational strategies that could be used to address chloride use. He noted that the effectiveness of such strategies is in question, with some studies finding that they have a positive impact and others finding less impact. Mr. O'Reilly commented that educational approaches to recycling and pet waste have worked. He suggested that such strategies are worth combining with other approaches. TAC members offered no further discussion on informational strategies.

Mr. Strifling reviewed the section on chloride alternatives. He explained that this section largely examines the use of green infrastructure, especially permeable pavements, to reduce chloride use. Mr. O'Reilly suggested that text be added following the last sentence in the first paragraph on page 40 expanding on the effectiveness of green infrastructure in reducing salt use, especially with respect to reducing salt use and diverting water to groundwater

Mr. Hartsook suggested that the efficacy of pavers in reducing the need to apply deicers be discussed with municipalities. He explained that some municipalities such as the City of Wauwatosa have had to apply deicing salts to permeable pavements due to ice accumulation on the pavers. Mr. O'Reilly replied that manufacturers state that chloride salts should not be applied to permeable pavement both because it should not be needed, and it can degrade the pavement. He suggested that the poor performance was likely due to faulty installation or improper maintenance. Ms. Herrick stated that Commission staff would contact local units of government and ask what their experience has been for winter maintenance of permeable pavement.

[Secretary's Note: Commission staff contacted staff from four units of local government and asked about their experiences with winter maintenance of permeable pavement. Three of the communities responded that permeable pavements installed in their jurisdictions still required chloride-based deicing efforts similar to non-permeable pavements, while the fourth community responded that permeable pavements reduce ice formation on the pavement, thus reducing the need for intermittent salt use. In light of these differing experiences reported by communities in the Region, the Chapter text was edited to remove any definitive statements about the effectiveness of permeable pavements in reducing chloride use and transport to waterways.]

Ms. Nenn noted that other reports indicate that infiltrating chlorides are leading to groundwater contamination that is likely causing exceedances of chloride water quality standards during summer months. Mr. Strifling noted that the report does not examine the use of alternative deicers because they are

associated with other environmental problems. TAC members offered no further discussion on chloride alternatives.

Mr. Strifling reviewed the section on water quality trading. TAC members offered no comments on this section.

Mr. Strifling reviewed the section on integrated watershed management. Mr. O'Reilly suggested that the existing municipal separate storm sewer system group permits might be a good venue within which to start such an approach. Ms. Passante noted that there are currently four permit groups in the Southeastern Wisconsin Region: the Menomonee River Watershed Based Permit Group, the Upper Fox River Permit Group, the Root River Permit Group, and the North Shore Permit Group. TAC members offered no further discussion on the integrated watershed management section.

Ms. Serrano reviewed the section on economic measures and assistance. TAC members offered no comments on this section.

Mr. Strifling thanked the TAC for the comments and suggestions that they provided. He added that he is open to additional thoughts and provided his contact information.

Mr. Slawski noted that chloride contamination is beginning to make some water supply wells unusable and asked Mr. Strifling whether he would expect to see more litigation in the future and Mr. Strifling replied that he would. He explained that there have been successful lawsuits under the Federal Resource Conservation and Recovery Act over groundwater well impacts from manure spreading by dairies. He noted that this legal theory as well as theories related to nuisance and liability might also be successful for salt.

TAC members offered no further discussion on draft TR-67.

NEXT STEPS FOR THE PLAN

Ms. Herrick reviewed the next steps for the Study. Work will continue with research and report writing, developing regression and loading analyses, and gathering information on state-of-the-art practices.

Ms. Herrick announced that comments for Technical Report No. 67 are due by November 30, 2023. The next TAC meeting is anticipated to be in late January 2024 and consist of review of Chapters 3 and 5 of TR-62 which addresses the impacts of chloride. She indicated that meeting presentations and summary notes along with draft chapters will be posted on the SEWRPC project website at www.sewrpc.org/chloridestudy.

ADJOURNMENT

There being no further business, the meeting was adjourned by unanimous consent at 11:19 a.m.

Respectfully submitted,

Laura Herrick
Recording Secretary

ATTACHMENT

Exhibit A - Meeting Agenda (270468)

#270831 – TR-61 SUMMARY NOTES CHLORIDE TAC-November 10, 2023
200-1100
JEB, LKH
11/14/23, 1/3/24

Southeastern Wisconsin Regional Planning Commission

Notice of Meeting and Agenda

**TECHNICAL ADVISORY COMMITTEE FOR
A CHLORIDE IMPACT STUDY FOR THE SOUTHEASTERN WISCONSIN REGION**

DATE: Friday November 10, 2023

TIME: 10:00 am to Noon

TEAMS LINK:

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 250 293 698 859

Passcode: 89diud

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AGENDA:

1. Roll call
2. Review of summary notes from the June 28, 2023, TAC meeting
3. Review preliminary draft **Technical Report No. 67, Legal and Policy Considerations for the Management of Chloride**
 - a. Introduction
 - b. Chapter 1 – Sources of Chloride to the Environment
 - c. Chapter 2 – Legal and Policy Strategies to Control Chloride Discharges
4. Next steps
5. Adjourn

Laura K. Herrick
Chief Environmental Engineer

The summary notes and preliminary draft text can be found on the Study webpage at www.sewrpc.org/chloridestudy

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LKH 10/16/23