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**To:** <commentletters@waterboards.ca.gov>, bryan brock  
<BBrock@waterboards.ca.gov>  
**Date:** 1/19/2006 8:44:37 PM  
**Subject:** Re: Comment letter

Ms. Potter and Mr. Brock:

In my email, I neglected to include a copy of the attachment I referred to in our letter. Here is that attachment. Thank you.

Chris Sproul wrote:

> Ms. Potter and Mr. Brock:  
>  
> Please find attached a revised comment letter from several  
> environmental groups I represent. We sent a version yesterday, but  
> this new version replaces that version. We have added Natural  
> Resources Defense Council as a signatory in this version.  
>  
> I will also mail a hard copy version of this revised version.  
>  
> Thank you.  
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## Drinking Water

### **Byproducts, Atrazine, Perchlorate Likely To Get Scrutinized as Endocrine Disruptors**

**A**s new information emerges on the reproductive and developmental effects of pharmaceuticals in drinking water, three contaminants in particular could be subject to new federal review, a water utility representative said May 4.

Those contaminants are disinfection byproducts, atrazine, and perchlorate, which either are regulated by the Environmental Protection Agency or are under consideration for regulation, according to Alan Roberson, director of security and regulatory affairs for the American Water Works Association.

Roberson made his remarks during a Webcast sponsored by AWWA, which considered pharmaceuticals, such as prescription and nonprescription drugs, and other contaminants such as personal care products, including shampoo and fragrances.

EPA set a standard for disinfection byproducts in 1998, and is scheduled to issue the Stage 2 Disinfection Byproducts Rule at the end of 2005, he said (40 C.F.R. § 141.64).

Disinfection byproducts, which are formed when organic material reacts with a disinfectant such as chlorine, may be linked to miscarriages and other health problems.

**Atrazine Standard Set in 1991.** A standard for the herbicide atrazine was set in 1991 at 3 parts per billion for atrazine in drinking water, Roberson said (40 C.F.R. § 141.61). Although a 2002 EPA risk review found atrazine probably is not a human carcinogen, it was shown to be a possible endocrine disruptor.

Although perchlorate is not yet regulated, new information could spur EPA action on that contaminant, he said. Perchlorate is linked to thyroid disease.

Pharmaceuticals traditionally have not been considered contaminants and have not been monitored.

Although research on the health effects of these newly recognized contaminants is in the early stages, some studies are showing they might disrupt the endocrine system in wildlife, according to the U.S. Geological Survey.

Roberson said EPA's regulatory schedule for screening and testing the three contaminants is not yet clear. If further review is warranted, he said, it would probably lead to more frequent monitoring, at a higher cost, for drinking water utilities.

**Geological Survey Investigation.** To better understand the effects of pharmaceuticals in the environment, the USGS is studying the source, occurrence, and movement of the compounds, and their effect on the ecology, according to Dana Kolpin, a research hydrologist at USGS.

Kolpin said USGS has detected 158 compounds in water with a wide variety of uses, including prescription and nonprescription drugs, caffeine, and DEET.

USGS has said that most endocrine disruptors have been found at low concentrations in water and that some can survive drinking water and wastewater treatment. Kolpin said USGS has developed ways to measure small concentrations of pharmaceuticals and most have been found at low levels.

"Our ability to measure contaminants currently exceeds our understanding of their environmental effects," he said.

**Rapid Evolution Predicted.** On May 2, Ed Furlong, a research chemist with USGS, told BNA that the organization's research was probably just touching on a small fraction of the total number of pharmaceuticals in the environment.

To date, there is little data to determine whether there are human and ecosystem effects, he said.

"We're in the beginning stages of trying to understand transport, fate, and effect of pharmaceuticals," Furlong said.

However, "understanding will probably evolve fairly rapidly because people have done similar kinds of work for pesticides, and many of the compounds we are looking at have some chemical relationship to pesticides," he said.

BY PATRICIA WARE

## Discharge Permits

### **EPA Says Permits Needed for Communities That Send Wastewater for Outside Treatment**

**C**ommunities that send their wastewater to a centralized location outside their jurisdiction for treatment should apply for a Clean Water Act permit to ensure their discharges are covered in the event of a sewer spill, Environmental Protection Agency officials said May 2.

Officials from EPA's Office of Wastewater Management addressed a meeting of the National Association of Clean Water Agencies about a draft "fact sheet" on sanitary sewer overflows (SSOs) that was distributed for review to state regulators in March.

The Clean Water Act prohibits discharges to rivers, lakes, and streams in the absence of a National Pollutant Discharge Elimination System (NPDES) permit.

"We want to get the message out that if they have an SSO that discharges to waters of the United States, or [has] the potential to discharge to waters of the U.S., that they have a duty to submit a permit application and be subject to the NPDES permit program," said Kevin Weiss, the SSO program manager at EPA.

Members of NACWA, formerly called the Association of Metropolitan Sewerage Agencies, questioned how the document would apply to "satellite collection systems." These generally are small communities that do not own or operate their own wastewater treatment plants, but collect stormwater and wastewater and send it to a neighboring community or regional sewer district for treatment.

Operators of the centralized facilities that treat this imported wastewater have maintained they should not be liable for sewer overflows and other potential Clean Water Act violations in satellite communities because they have no legal authority to address the underlying issues of infrastructure or management outside their jurisdiction.

**States Reluctant to Issue Permits.** Some states have been reluctant to issue permits to satellite systems because it would significantly increase the number of permits and state resources are already limited. In some

cases, a regional sewer authority may have dozens of satellite communities as customers, many of which are small and have limited resources, one official said.

"Who are you going to come after in an overflow?" Ray Orvin, executive director of the Western Carolina Regional Sewer Authority, asked the agency officials. His system operates 12 treatment plants that serve 400,000 people in four counties in the Greenville, S.C., area.

Some states do not think they have the legal authority to issue permits to satellite systems, said Lisa Hollander, assistant general counsel for the Northeast Ohio Regional Sewer District.

Weiss said EPA would make case-by-case determinations of whether the operator of the publicly owned treatment works or the satellite community would be liable in the event of a sewer overflow.

Steve Sweeney, an attorney in the EPA Office of General Counsel, said that if enforcement officials think "satellite communities need to do something to effectuate the remedy, these communities would be brought in as indispensable parties."

The draft fact sheet clarifies permit conditions. Specifically, facilities with permits must:

- notify the permitting authority in the event of a sewer overflow;
- provide a written report within five days of learning of an overflow;
- establish a process for notifying third parties of overflows that could endanger health because of the likelihood of human exposure;
- maintain records of overflows; and
- properly operate and maintain their facilities in accordance with a specified program, such as the capacity, management, operation, and maintenance.

**Satellite Communities Said to Lack Incentive.** One municipal official said satellite communities do not have an incentive to apply for a permit. If they obtain permit coverage and have an overflow, they would be subject to an enforcement action for violating the permit, including penalties.

If there is an overflow without a permit, the satellite community most likely would be part of a larger consent order negotiated after an enforcement action against the system as a whole. Such a negotiation could take 10 years, but the cost may be spread more broadly.

Clyde Wilbur, an engineering consultant, asked whether satellite communities that obtain permits would be allowed to participate in negotiations to resolve enforcement actions resulting from an overflow.

He has done work for the Allegheny County Sanitation Authority (ALCOSAN), which serves about 800,000 people in 82 communities in the Pittsburgh area.

"We don't interpret the fact sheet to mean that during enforcement cases, you should invite municipal satellites to discuss the remedy for the permittee," Weiss said, adding that EPA officials recognize the complexity of dealing with satellite systems.

Linda Boornazian, director of the permits division in the EPA Office of Wastewater Management, said the draft fact sheet was only intended to pull out and clarify issues involving SSOs that do not need to be addressed through a formal rulemaking.

"In the fact sheet, we didn't take on the whole satellite issue," she said. "We just want to reiterate that you can't discharge without a permit."

**Treatment Officials Need to Be Involved.** Several NACWA officials said EPA should have treatment officials involved in the discussions with states over the fact sheet.

"If permits are required, a POTW owner absolutely has to be at the table," said Donnie Wheeler, general manager of the Hampton Roads (Va.) Sanitation District. "There is the very tortured issue of liability involved with SSOs. Hampton Roads is incurring liability because we think it is in the best interest of the communities we serve."

Hollander said the standards are the primary issue with permitting satellite communities.

"Unless you have a consistent standard, you can't explain to the satellite community what is expected of it," she said.

Gordon Garner, an engineering consultant with CH2M Hill in Kentucky, said the fact sheet is merely taking away from what he said is the real issue, which is the lack of a consistent, national policy for dealing with sewer overflows.

BY SUSAN BRUNINGA

## Enforcement

### **Former Delaware Official Sentenced For Wastewater Discharges Into Wetlands**

**P**HILADELPHIA—A federal court in Wilmington, Del., sentenced a former manager in Delaware's natural resources agency to six months in prison and two years probation for illegally discharging polluted wastewater into wetlands, the Environmental Protection Agency announced April 28 (*United States v. Daisey*, D. Del., No. 04-CR-134, 4/28/05).

William Daisey, the former chief of operations for the Delaware Department of Natural Resources and Environmental Control (DNREC) dredging facility in Lewes, Del., was sentenced in U.S. District Court for the District of Delaware after pleading guilty in January to a criminal violation of the Clean Water Act (36 ER 178, 01/28/05).

Daisey admitted that from January 2000 until April 2001, he regularly directed a DNREC employee to discharge wastewater contaminated with hydrocarbons and other chemicals associated with used oil and anti-freeze into a sump pit, from which the water was pumped through an underground pipe into nearby wetlands, according to EPA.

Daisey was charged with knowingly discharging pollutants without a required Clean Water Act permit.

The DNREC facility in Lewes is used for docking and maintaining dredge boats operated by the state and for warehousing supplies, chemicals, and equipment used by beach replenishment crews.

After an EPA search of the facility in July 2003, DNREC conducted an EPA-supervised cleanup at a cost of about \$325,000, removing two tons of hazardous and nonhazardous waste that had been stored or disposed on the site, EPA said.