

U.S. Environmental Protection Agency
Redirection Comment Clerk
Water Docket MC4101
401 M Street, SW
Washington, DC 20460

Dear Sirs:

Enclosed are Department of Energy comments on the Office of Water's Drinking Water Program Redirection Proposal (EPA 810-D-95-001) of November 1995. Please contact James Bachmaier of my staff at 202-586-0341 if there are any questions concerning these comments.

Sincerely,

Raymond F. Pelletier
Director
Office of Environmental Policy
and Assistance

Enclosure

COMMENTS OF THE U.S. DEPARTMENT OF ENERGY ON EPA'S DRINKING WATER PROGRAM REDIRECTION PROPOSAL

The U.S. Department of Energy (DOE) supports the efforts of the U.S. Environmental Protection Agency (EPA) to reassess and redirect the focus of its national drinking water program. In particular, DOE welcomes the increased emphasis on sound science, adequate data, risk-based standard setting, and cost-impact assessment. DOE is affected by changes in the national drinking water program not only as a result of operating drinking water systems at many of its facilities, but also because of environmental restoration efforts driven by cleanup standards based on Maximum Contaminant Levels (MCLs).

While offering general support to this proposal, DOE prefers that EPA place highest priority on nationwide standard-setting. Protection of drinking water resources can be achieved most effectively with uniform standards developed in a consistent manner, rather than standards that vary from state to state. Allowing flexibility for implementing the standards, based on state or regional considerations is acceptable, as long as the standards to be implemented are uniform nationwide.

DOE also questions EPA's decision to decrease Federal emphasis on such pollution prevention programs as wellhead protection and underground injection control, even while selecting source water protection as one of its main objectives. These programs are designed to prevent contaminants from entering the ground water at levels that may impair the use of ground water resources for drinking water supply. DOE favors a continued emphasis on pollution prevention programs at the Federal level. DOE is concerned that without EPA's nationwide direction, prevention programs may not be consistently implemented if left to State and local priority-setting and funding decisions.

RESPONSES TO REQUEST FOR INPUT ON RESOURCE CHOICES

EPA seeks comments on four direct questions regarding the proposed drinking water program redirection and the proposed choices for utilizing Office of Water resources. DOE responses are as follows:

- 1. Do the primary objectives of sound science, risk-based standard setting, implementation partnerships and source water protection, as described in Section III, provide an appropriate basis for redirecting the drinking water program?**

DOE supports these primary objectives. Although the proposed objectives are appropriate bases for redirection of the drinking water program, there was no discussion of general timeframes and procedures for data collection, research, and risk assessment, or of contingency plans in the event that funding for the necessary data collection, research, and risk assessment is not available. This may be a more important consideration than ever, since

standard-setting for protection of human health and the environment is becoming more risk-based, which is data-intensive and rather expensive.

2. Has the Agency made the right choices for utilizing Office of Water resources and do these choices provide an appropriate balance among the four redirection objectives?

DOE generally supports the proposal, but prefers greater emphasis on nationwide standard-setting. The "balance" referred to in the proposal will vary, since all objectives will not necessarily be addressed at the same time. A general schedule of the overall redirection process should be developed to see the relationship between objectives and how the process will be kept in balance over time.

3. Are there other ways that Office of Water resources could be utilized to more effectively and efficiently support the four objectives?

Although DOE supports delegation of ground water protection programs to State agencies, there is still a need for centralized, nationwide guidance. Since pollution prevention is typically less expensive than treatment or remediation, and the major driving force for developing Comprehensive State Ground Water Protection Programs (CSGWPP) has come from the Federal level, support for these programs should not be greatly reduced until States have these programs underway.

4. How can the expertise and capabilities of other EPA offices, the Regions, the States, water suppliers and other stakeholders be brought to bear to address unmet national needs?

Although DOE has no comments on how EPA should pull together the combined resources of many stakeholders, DOE does recommend that EPA take advantage of the scientific and engineering capabilities within the DOE complex, in particular at our national laboratories. DOE has experience in risk assessment that can readily be applied to drinking water issues. DOE's engineering expertise can be applied to developing cost-effective treatment technologies for small drinking water systems.

COMMENTS ON REDIRECTION OBJECTIVES

DOE offers the following comments on specific aspects of the stated objectives of the program redirection proposal, and on additional related issues.

1. Sound Science and Adequate Data

DOE agrees with the objective of strengthening the scientific basis

for selecting contaminants and demonstrating the need for future standards, as well as improving risk assessment that supports decision-making and priority-setting in the drinking water program. DOE supports greater effort on establishing standards scientifically, as well as establishing schedules for developing these standards scientifically, rather than on a politically-driven basis. The added benefit of more scientifically-defensible standards is that State and local environmental protection programs (i.e., waste management as well as drinking water programs) could develop more effective and realistic controls for preventing threats to drinking water.

2. Risk-based Priorities for Setting High Quality Standards

DOE agrees with the Re-Direction Objective entitled "Risk-based Priorities for Setting High Quality Standards". In attempting to identify the highest risk contaminants, EPA should consider a "total risk" approach for setting drinking water standards, whereby new risks created by a standard as well as trade-offs of risks, either from one group to another (e.g., workers vs. the general public), or from one time period to another (short-term vs. long-term) are taken into account. EPA should consider total risk in deciding "whether" to set a standard, as well as "at what level" the standard should be set.

Additionally, EPA should acknowledge that the MCLs contained in the National Primary Drinking Water Regulations (NPDWR) are used in regulatory standard-setting contexts for which they were not intended. Examples are ground water protection standards adopted under individual State authority and ground water remedial design standards for RCRA and CERCLA cleanups. These contexts are generally not considered when developing a new MCL. The implications of the new MCL, however, can be substantial. DOE recommends that EPA consider the cost and environmental protection impacts of a new MCL on Federal and State ground water cleanup decisions, in addition to the cost and environmental protection impacts on drinking water systems and resources.

3. Strong, Flexible Partnerships with States and Local Governments in Implementation

DOE also supports strong intergovernmental partnerships, as discussed in the third objective. Increasing these partnerships while decreasing funding for them, and expecting State and local agencies to assume greater responsibility, will require significantly improved communication and collaboration between and among EPA, State, and local officials, as well as commitment of all stakeholders to a consistent set of priorities. The proposal should provide more emphasis on communication and cooperation between source protection stakeholders. The proposal should also discuss specific measures that EPA could take to enhance this cooperation, such as implementation of a consistent, nationwide

tracking system that can be used by State and local agencies to determine trends in occurrence data, better identify contaminant sources, determine vulnerability of drinking water resources, and understand contaminant distributions.

4. Community-based, Effective Source Water Protection

Concerning the approach of "leveraging businesses and citizen groups to help protect source waters instead of focussing exclusively on State and local agencies", EPA has previously used grants and other financial mechanisms to provide stimulus for largely voluntary efforts to delineate source water protection areas and to inventory shallow injection wells. It is unclear in this proposal whether EPA will continue to actively champion this type of local involvement. If EPA discontinues monetary support, what will the impact be on existing voluntary programs?

5. Radionuclide NPDWR

DOE urges EPA to commit to re-examining the technical basis for the July 1991 proposed Radionuclide NPDWR, after investing in "sound science and adequate data", to ensure that standards set for radionuclides in drinking water result in an overall reduction in risk, at a cost commensurate with other drinking water standards. Since EPA has decided to disinvest in promulgation of the July 1991 proposed rule, in favor of risk assessment and other priorities, the opportunity presents itself for gathering and analyzing specific data on occurrence and potential exposure, to ensure that a genuine, risk-based standard is eventually developed for radionuclides in drinking water.

6. Potential Future Sources of Drinking Water

DOE recommends that EPA further refine the concept of "potential future sources of drinking water" to allow more objective, straight-forward identification of those ground and surface water resources that are NOT likely to be used for human consumption, and therefore, could be protected on the basis of some other potential use. Protecting ground water resources on the basis of their "use, value, and vulnerability", as stated in EPA's 1991 Ground Water Protection Principles (Protecting the Nation's Ground Water: EPA's Strategy for the 1990s), is a worthwhile goal, but is not likely to be realized without objective criteria for identifying ground water resources that are suitable for uses other than direct human consumption. In the context of program redirection, EPA's leadership in establishing objective criteria for ground water that is not a likely future drinking water source, enables directing environmental protection efforts to ground and surface waters that are likely future drinking water sources.