American Water Works Association

The Authoritative Resource on Safe Water®

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January 28, 2011

The Honorable Lisa Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson,

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to safe water. We have always supported regulations that ensure safe water, are developed through a transparent process, are based on the best available science, and provide meaningful public health protection in an affordable manner.

The SDWA mandates a rigorous process for evaluating risks to public health and determining what risk management actions are appropriate. Following the best available peer-reviewed science is a requirement of the Act and also a principle this administration has strongly endorsed, as evidenced by the March 9, 2009 Memorandum for the Heads of Executive Departments and Agencies on Scientific Integrity. These principles are important to ensure the Agency directs water providers to address actual risks and doesn't misdirect resources based on incomplete or faulty information. Once misdirected, a community's resources cannot easily be recovered to address genuine risks and other important community needs.

Unfortunately, the recent EPA actions on chromium-6 do not follow the principles to which the Administration has committed, or the principles of the Safe Drinking Water Act. For example,

1. **Unregulated Contaminant Monitoring Rule.** EPA's chromium-6 monitoring guidance does not employ a fully validated analytical method. Nor are there validated performance standards for laboratories. Absent these things, it is not possible to be confident about the error bar around any sample, to compare samples analyzed by different laboratories, or even to confidently compare different samples

analyzed by the same laboratory. Moreover, there is no mechanism provided for the Agency's collection of test results so as to inform future potential regulatory decisions. Given these shortcomings, the scientific value of the data that utilities may collect is unclear.

The Agency has available to it a regulatory structure that addresses these issues through the Unregulated Contaminant Monitoring Rule (UCMR). UCMR is a time tested process for obtaining a meaningful and actionable national occurrence dataset for contaminants of potential concern in drinking water. All laboratories currently engaged in UCMR monitoring are using well characterized analytical methods meeting known performance requirements. Similarly, sampling requirements are developed with the goal of producing a dataset that supports regulatory decision making. If the Agency wished water providers to undertake extensive testing for chromium-6, we believe the UCMR process should have been cited and used.

2. **Risk Communication / Health Advisories.** EPA has not completed a risk assessment to support its recommendations on chromium-6. Neither water systems nor the public have a clear point of reference as to whether minute quantities of chromium-6 represent a health risk and if so, how much. Therefore, utilities are placed in the untenable position of not being able to explain to their customers the relevance of the monitoring that EPA has recommended. Risk communication with the public on potential health effects in drinking water is extremely challenging under the best of circumstances. For the Agency to have responded in the way it did to the EWG release only compounds this difficulty.

   The preliminary IRIS Toxicological Review on Chromium-6 has not completed peer review. The Toxicological Review is built upon a number of embedded assumptions, some of which are known to be controversial. Moreover, the IRIS document is just the first step in the risk assessment process as it only characterizes the potential hazard associated with Chromium-6. Actually completing the risk assessment process will require substantial effort by EPA. To date, EPA has not clearly conveyed this process to the public.

3. **Taking Regulatory Action.** The tone, content, and delivery of EPA's chromium-6 action implies that regulatory change is urgent and a foregone conclusion. In fact, the current MCL for total chromium was addressed in the second six-year review of drinking water regulations that was published on March 29, 2010. As a result of this review, EPA

> stated that "The Agency does not believe a revision to the NPDWR for total chromium is appropriate at this time. A reassessment of the health risks associated with chromium exposure is being initiated, and the Agency does not believe that it is appropriate to revise the NPDWR while that effort is in process"
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> EPA has a clear process for reviewing existing MCLGs and MCLs in response to evolving science. Under the SDWA, the decision on whether or not an MCL should be revised includes a consideration of whether doing so provides a meaningful opportunity for health risk reduction. In its two six-year reviews, the agency has had opportunities to lower the MCL for chromium and elected not to do so. We believe this important fact should have been conveyed by the Agency, along with a simple statement that it would take the EWG information into consideration in its future decision making on chromium-6, without any more said or done at this time.

The decision-making process outlined in the Safe Drinking Water Act is consistent with both the Presidential Memorandum on Scientific Integrity and the more recent Executive Order on Improving Regulation and Regulatory Review. These two directives emphasize the importance of making smart decisions based on the best available science so that Agency actions result in a public health benefit.

AWWA believes EPA's recent activity related to chromium-6 falls short of the scientific rigor required by the SDWA and misses the spirit of the Presidential Memorandum and Executive Order. We respectfully request that future actions on chromium-6 and other contaminants use proven processes and be better informed by sound science.

Best regards,

Tom Curtis

Thomas W. Curtis
Deputy Executive Director

cc: Bob Perciasepe, EPA
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