EPA Rejects Push To Allow Bottled Water To Meet Drinking Water Standards

EPA has rejected a request from rural drinking water officials to allow the use of bottled water to comply with the agency's arsenic and other drinking water rules.

The agency's rejection of the request is likely to prompt drinking water officials to lobby Congress to clarify provisions in the Safe Drinking Water Act (SDWA) that they say provide EPA with authority to add bottled water to a list of technologies that qualifies for special exemptions under the law. Drinking water officials say they will seek the clarifications in time for systems to use bottled water to comply with EPA's arsenic standard, which takes effect in 2006. Many rural systems say EPA's 10 parts-per-billion standard is unattainable.

The SDWA provides EPA authority to develop a list of technologies that drinking water systems can use as an alternative to traditional treatment technologies to meet EPA standards. While the alternative technologies are not expected to bring facilities into compliance, they would lower contaminants to a level the agency would not consider a threat to public health, EPA and water system sources say. Even though states decide which systems qualify for a variance, it is up to EPA to make available a list of alternative treatment technologies the agency would find acceptable for a particular contaminant. For years, rural water officials have been urging the agency to approve the use of bottled water to comply with a host of drinking water regulations, including arsenic, radium, uranium and other radionuclides.

But EPA has never released a list of alternative technologies for any drinking water standard, making it impossible for states to grant variances. In the absence of an EPA list, rural water systems believed they could use bottled water for compliance in extreme situations, a rural water official says, and that the 1996 amendments to the law support this view. The amendments changed the law to allow EPA to include point-of-use (POU) technologies on the list of variance technologies.

According to the amendments, "The [EPA] administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the administrator in consultation with the states, for small public water systems ... that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units."

But EPA's acting water chief, Ben Grumbles, said in a March 26 letter to a New Mexico rural water official that the agency's rules do not allow bottled water as a variance technology. "Federal regulations presently prohibit the use of bottled water by public water systems to achieve compliance with a [maximum contaminant level], except in emergency situations where the short-term use of bottled water is needed to avoid an unreasonable risk to health," the letter states.

One EPA official says POU technologies are limited to devices such as filters, and do not include bottled water. "The amendments don't say anything about bottled water, and federal regulations say it is not allowed on a long-term basis," the EPA official says. But rural water officials argue that bottled water should qualify for EPA's list."We think [bottled water] is authorized under the law because it is really the same at POU," the rural water official says. "Since Congress put POU in the law in 1996, we think the fact that Congress specifically authorized POU makes the case that bottled water is also to be allowed."
Mr. Ray E. Leverich
Board Member
Brazos Mutual Domestic Water Cooperative Assoc.
2709 Texas NE
Albuquerque, NM  87110

Dear Mr. Leverich:

Thank you for your letter of February 23, 2004, regarding the use of bottled water to meet the uranium drinking water standard. Your letter was forwarded to the Environmental Protection Agency (EPA) by Senator Bingaman for response.

Uranium is a naturally occurring heavy element which is toxic at certain concentrations. It is also radioactive. Because of these properties, it is capable of causing both cancer and damage to the kidneys. On December 7, 2003, EPA set a drinking water maximum contaminant level (MCL) for uranium at 30 micrograms per liter.

EPA recognizes the implementation challenges faced by small communities and is sensitive to the cost of compliance. EPA has provided several options to address small system issues.

Federal regulations presently prohibit the use of bottled water by public water systems to achieve compliance with an MCL, except in emergency situations where the short-term use of bottled water is needed to avoid an unreasonable risk to health. As part of the 1996 Safe Drinking Water Act, Congress authorized the use of point-of-use (POU) and point of entry (POE) devices as a strategy to address small system needs. POU devices can be cost effective treatment options for small systems. EPA has approved the use of two POU contaminant removal technologies to comply with the uranium MCL - ion exchange and reverse osmosis. If these technologies are used, the units must be supplied, maintained, and monitored by the water system.

Additionally, small systems may also choose to select an alternative to treatment. If available, systems may select an alternative source water, dilute a problem source by blending to meet the MCL, consolidate several smaller systems into a larger system to share treatment and administrative costs, or purchase water from another system.

To provide support in addressing the financial burden on communities, the 1996 SDWA established the Drinking Water State Revolving Fund (DWSRF) to make funds available to...
drinking water systems to finance infrastructure improvements. Information on this valuable program can be obtained from the following web address: http://www.epa.gov/safewater/dwrf.html. Since 1996, the DWSRF has made over 3,000 loans totaling over $6.4 billion to help water systems improve their infrastructure. EPA also provides funding to States that have primary enforcement responsibility for their drinking water programs through the Public Water Systems Supervision grants program. Other federal funds are available through Housing and Urban Development's Community Development Block Grant Program and through the Rural Utilities Service of the U.S. Department of Agriculture.

For additional information on the radionuclides rule, EPA prepared a booklet entitled: Radionuclides in Drinking Water: A Small Entity Compliance Guide. You can view and print this guide on the EPA internet site at: http://epa.gov/safewater/rads/pdfs/rad-smeescompguide.pdf.

I hope this information is useful to you. If you have any additional questions or comments please contact me, or your staff may call Cynthia Dougherty, Director, Office of Groundwater and Drinking Water, at 202-564-3750.

Sincerely,

Benjamin L. Grumbles
Acting Assistant Administrator

cc: Senator Bingaman
ATTN: Dan Alpern