

National Drinking Water Advisory Council

Recommendations Resulting From A Meeting Held May 5 And 6, 1999

CUSTER STATE PARK, CUSTER, SOUTH DAKOTA

The National Drinking Water Advisory Council (NDWAC) held its Spring 1999 meeting at the State Game Lodge, Custer State Park, Custer, South Dakota. The major focus of the meeting was to discuss small and Tribal systems, take action on the Underground Injection Control (UIC)/Source Water and Right To Know Working Groups' reports, and to update the Council on the Environmental Protection Agency's (EPA) upcoming regulations. Council recommendations were made on the following:

Right-To-Know Working Group Report

The Council discussed and made recommendations to EPA as follows:

Recommendation 1: Information Dissemination

NDWAC recommends that EPA should make information about Consumer Confidence Reports (CCRs) available to Health Care Providers.

A. 1. Given the October 19, 1999, deadline for the distribution of CCRs by drinking water suppliers (and the fact that some water suppliers are already releasing CCRs), NDWAC strongly recommends that the EPA prepare and disseminate the following information to Health Care providers prior to the CCR release date:

- General health effects questions and answers
- General CCR one-pager (why this is important to Health Care Providers)
- Questions specifically addressing health impacts for vulnerable populations including recommendations for prevention, information for pregnant and nursing women, immunocompromised persons, etc. (See Note 1 below for example)
- Contaminant fact sheets

Note 1: Examples of questions and answers for persons with special needs:

Q. What if I have special health needs?

A. People whose immune system is weakened are likely to get infections from bacteria or viruses that may be in your drinking water. Your immune system can be weakened if you:

- are HIV positive or have AIDS;
- are an organ transplant recipient;
- are on chemotherapy for cancer treatment
- are taking steroids for a medical condition (some medical conditions for which steroids may be prescribed include arthritis, lupus, colitis, and some skin disorders).

2. This information when developed, should go onto its own place on the web site.

3. Therefore, the Right to Know Working Group should be given materials to review and comment on in a timely fashion to ensure adhering to the October 19, 1999, deadline.

B. NDWAC recommends that EPA quickly:

1.
 - a. Inventory upcoming meetings of major health care provider (HCP) organizations and state and local health departments.
 - b. The Agency should then partner with key members of the NDWAC Right to Know Working Group and the NDWAC Health Care Provider Outreach and Education Working Group to make presentations on the CCR at the meetings and to distribute HCP "tool kits."
2. Work with partner HCP groups and others (CDC, ASTDR) to place very brief notes/updates in journals and newsletters (e.g. JAMA, Pediatrics, MMWR, Harvard and Tufts newsletters, etc.)
3. Work with partner organizations who can reach vulnerable populations and the general public (HCPs, vulnerable subpopulation groups, conservation, community groups, etc.) To do active public education on CCRs through national/regional meetings before the October 1999, deadline for CCRs and thereafter.

Recommendation 2: Working with NDWAC's Health Care Provider Outreach and Education Working Group

NDWAC recommends that the Right to Know Working Group seek comments and advice from the NDWAC Health Care Provider Outreach and Education Working Group

- A. NDWAC recommends that messages and materials developed on Consumer Confidence Reports and health effects for the general public, pursuant to recommendations from the NDWAC Right to Know Working Group, be reviewed by the NDWAC Health Care Provider Outreach and Education Working Group.
- B. NDWAC recommends that materials prepared for the general public on CCRs be distributed by EPA and its partners to health care providers (to whom the public will be directed with questions). Distribution channels and strategy should be coordinated between the Right to Know Working Group and the Health Care Provider Working Group; therefore, there should be an opportunity for representatives of the two working groups to meet together as soon as possible.

Recommendation 3: Need for Other Than English Materials

NDWAC recommends that EPA should, as quickly as possible, translate basic materials on the CCR into languages such as Spanish, Russian, and Chinese (e.g. languages spoken by sizable numbers of new immigrants and other non-English speakers.)

Recommendation 4: Listing of Non-EPA Sources for Additional Drinking Water Information

NDWAC recommends EPA collect and provide a list of sources for CCR Information, as identified by the NDWAC Right to Know Working Group members. EPA should maintain this bibliography in the Water Resource Center.

Recommendation 5: Completion and Distribution of Recommended Materials

NDWAC recommends that products drafted pursuant to recommendations forwarded after the November 1998 Council meeting be edited in accordance with the Right to Know Working Groups' comments and

made available to the public as soon as possible. Products include: "Where To Go For More Information About Your CCR," "It's Your Drinking Water- Get to Know It and Protect It," and "Public Drinking Water Information."

UIC/Source Water Working Group Report

After much discussion the Council made the following recommendations:

ISSUE: The proposed regulation would regulate motor vehicle wells in Source Water Protection Areas for Community Water Systems and NonTransient-NonCommunity Water Systems that use ground water. EPA sought comment in the preamble as to whether or not limiting the rule to the Source Water Protection Areas (SWAPs) was appropriate.

Recommendation 1: The Council recommends that new motor vehicle wells would be regulated on a statewide basis immediately. Regulate existing motor vehicle wells according to a State specific plan which would phase in additional priority areas over time. A State's plan would follow the outline below:

- Apply rule in SWPAs by May 2003
- Add other sensitive areas, as designated by the State, according to a plan and schedule developed by the State.

ISSUE: The proposed regulation provides 90 days for owners and operators of existing wells to comply with the rule. The 90 days would begin after a State has completed the local source water assessment. States could grant a one year extension under certain circumstances.

Recommendation 2: The Council recommends that owners and operators of existing wells should have one year to comply and States should have the authority to grant a one year extension.

ISSUE: If a State does not complete its local assessments by May 2003, the proposal would require that the rule be applied statewide.

Recommendation 3: The Council recommends that the rule apply statewide by January 1, 2004 or 42 months after SWPA approval. If the State completes SWPA, it reverts back to implementation set forth in Recommendation 1.

ISSUE: EPA co-proposed two alternatives for the regulation of motor vehicle wells and the working group proposed a third option.

Recommendation 4: The Council recommends the following:

- Ban new motor vehicle wells
- Ban existing motor vehicle wells in SWPAs
- Ban existing motor vehicle wells in sensitive areas
- Existing wells in other areas, ban with waiver

ISSUE: The proposed use delineates minimum conditions for motor vehicle owners and operators to receive a permit under the waiver option: (1) The permit must include a sampling plan for liquid and sludge; (2) The permit must include operation and maintenance requirements; and (3) To receive a permit, injected fluids must meet MCLs or other health-based standards.

Recommendation 5: The Council recommends that permits must include the following additional provisions:

1. The owner or operator must sample to determine the baseline quality of ground water.
2. The permit must specify that injection of waste must not degrade the current quality of the water, or must meet MCLs, whichever is most stringent.
3. To ensure non-degradation of ground water, the permit must include continued ground water sampling.
4. The permit must specify, based on the baseline quality of ground water, that no new substances can be introduced.
5. The permit must specify that MCLs, other health-based standards, or Best Available Technologies (BATs) are utilized, whichever is most stringent.

ISSUE: Regulated entities indicated a need to dispose of snow and ice melt from cars, as well as carwash wastewater, into injection wells. They wanted to know how they can continue this practice without having the well designated as a motor vehicle well.

Recommendation 6: The Council recommends that a well inside a motor vehicle facility could be reclassified if:

1. The owners and operators follow steps required for well closure prior to well conversion, including:
 2.
 - o Cleaning all flow lines leading from the sump/dry well discharge point.
 - o Testing sludge to determine whether it is hazardous
 - o Disposing of sludge properly
3. Recycling of waste materials (such as oil, solvents & antifreeze) is documented.
4. Maintenance bays and chemical storage are physically separated from the converted well by a curb or berm
5. No maintenance activities are conducted in the area of the converted floor drain
6. No chemicals are stored in the area
7. Permanent signs are posted indicating well conversion
8. If contamination is known to have occurred, remediation will be needed.
9. It is further recommended that the well can receive rainwater, snowmelt and/or carwash waste water.

ISSUE: The proposed regulation required industrial wells in SWPAs to meet MCLs at the point of injection. Industrial wells as defined in the proposed rule as "wells used to inject non-hazardous waste waters generated by industrial, commercial, and service establishments."

Recommendation 7: The Council recommends the rule be implemented as follows:

- o Phase-in the rule to areas beyond the SWPAs using the same approach as with motor vehicle wells in Recommendation 1.

ISSUE: Should exceedences of MCLs and other health-based standards be allowed for motor vehicle and industrial wells?

Recommendations 8: The Council recommends that industrial wells be handled the same as motor vehicle wells as stated in Recommendation #4:

- Ban new industrial wells statewide
- Ban existing industrial wells in SWPA
- Ban existing industrial wells in sensitive areas
- Meet MCLs at the point of injection in all other areas

ISSUE: Should large capacity cesspools be banned in SWPAs?

Recommendation 9: The Council recommends a ban on new and existing large-capacity cesspools statewide.

ISSUE: The proposed rule requires owners and operators in Direct Implementation (Primacy) States to (1) Notify the UIC Program Director of their intent to close their well at least 30 days prior to closure, and (2) submit new inventory information to EPA if they convert their well in a SWPA (new conversions to cesspools and motor vehicle wells would be prohibited).

Recommendation 10: The Council recommends that pre-closure notification and inventory requirements for Primacy States be required.

ISSUE: The proposed rule seeks to differentiate wells at industrial and motor vehicle facilities that accept industrial waste from wells that receive primarily storm water runoff. Storm water wells are not subject to this regulation.

Recommendation 11: The Council recommends that storm water wells at industrial sites be separate from industrial wells. Use a list similar to the no-exposure checklist to identify which wells are storm water wells and would not be subject to this rule. The list should be in guidance.

ISSUE: The proposed rule did not identify the point of injection, the place compliance would be measured. For septic systems, the point of injection is currently considered to be before the waste enters the tank.

Recommendation 12: The Council recommends that the point of injection be defined by the UIC Director.

ISSUE: Funeral homes are currently included in the industrial well category. In March 1998, the National Funeral Directors' Association submitted a report requesting that these wells be placed in the "other industrial" category currently included in the Class V Study and not subject to the proposed rule. Should funeral homes be kept within the industrial well category?

Recommendation 13: The Council recommends that funeral homes should be kept within the industrial well category, as currently proposed.

ISSUE: What topics should be addressed and how should the membership change in future meetings of the working group?

Recommendation 14: The Council recommends that in addition to the general Class V and Source Water issues in the mission, the working group continue to assist the Council in advising EPA on:

1. Making recommendations concerning technical/programmatic guidance to implement the final Class V Underground Injection Control program regulation.

2. Establishing a strategy for assisting States and communities with the completion of their drinking water source assessments and their transition to prevention programs. Elements of the strategy would include: "alignment" with other PWSS policies, regulations and programs; determination of technical needs including economical, yet effective, methods for identifying sources of contaminants found by PWSs at the treatment facility; means for institutionalizing stakeholder partnerships, particularly between upstream water users and downstream drinking water consumers; support from other water and environmental protection program to address point and nonpoint sources of drinking water contaminants; incorporation into smart growth initiatives, etc.
3. Publishing a manual on the necessary elements of drinking water source protection programs to assist States and communities in developing and implementing such programs, particularly including public involvement, land-use management and contingency planning approaches.
4. Creating technical methods that will facilitate inclusion of drinking water source assessment findings into the updating of the unified watershed assessments.

Furthermore, the Council recommends that the revised working group expand membership to include farmers and other up-stream businesses along with local watershed-based environmental organizations.

Attachment:

CHECKLIST FOR NO-EXPOSURE CERTIFICATION FOR NPDES STORM WATER PERMITTING

Instructions - EPA Form XXX-X

Who May File a No-Exposure Certification

In accordance with the Clean Water Act, all industrial facilities that discharge storm water meeting the definition of storm water associated with industrial activity must apply for coverage under a National Pollutant Discharge Elimination System (NPDES) permit. However, permit coverage is not required at facilities that can certify a "no-exposure" condition exists. This document may be used to certify that at the facility described herein, a condition of no-exposure exists. This certification is under the auspices of the EPA only and must be made at least once every five years. Should the industrial activity change such that a condition of no-exposure no longer exists, this certification is no longer valid and coverage under an NPDES storm water permit must be sought.

Definition of No-Exposure

No-exposure exists at an industrial facility when all industrial materials or activities, including, but not limited to, material handling equipment, industrial machinery, raw materials, intermediate products, by-products or waste products, however packaged, are protected by a storm-resistant shelter so as not to be exposed to rain, snow, snowmelt, or runoff. Adequately maintained mobile equipment (trucks, automobiles, trailers or other such general purpose vehicles found at the industrial site which themselves are not industrial machinery or material handling equipment and which are not leaking contaminants or are not otherwise a source of industrial pollutants) may be exposed to precipitation or runoff.

Completing The Form

You must type or print in the spaces provided only. One form must be completed for each facility or site for which you are seeking to certify no-exposure.

Section I. Facility Operator Information

Provide the legal name (no colloquial names) of the person, firm, public organization, or any other entity that operates the facility or site described in this certification. The name of the operator may or may not be the same as the name of the facility. The operator is the legal entity that controls the facility's operation, rather than the plant or site manager. Enter the complete address (P.O. Box numbers OK) and telephone number of the operator.

Section II. Facility/Site Location Information

Enter the facility's or site's official or legal name and complete street address (directional address OK if no street address exists). Do not provide a P.O. Box number as the street address. In addition, provide the latitude and longitude of the facility to the nearest 15 seconds of the approximate center of the site (if you do not know your site's latitude and longitude, call 1-800-USA-MAPS).

Section III. Exposure Checklist

Circle "Yes" or "No" as appropriate to describe conditions at your facility. For the purposes of this document, "material" is defined as any raw material, intermediate product, finished product, by-product or waste product, however packaged. "Material handling activities", by definition, include storage, loading and/or unloading, transportation or conveyance of a raw material, intermediate product, finished product, by-product or waste product.

Interpretation of Results

If you answer "Yes" to **ANY** of questions a. through r. in Section III, a potential for exposure exists at your site and you cannot certify a no-exposure condition exists. You must obtain (or already have) coverage under an NPDES Storm Water permit. After obtaining permit coverage, you can institute modifications to eliminate the potential for a discharge of storm water exposed to industrial activity, and then claim no-exposure and terminate coverage under the existing permit.

Section IV. Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures [**note, wording subject to change as a result of NPDES streamlining, rnd. II**];

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Where To File This Form

Mail the completed form to:

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
U.S. Environmental Protection Agency (4203)
401 M St. SW
Washington, DC 20460

CHECKLIST FOR NO-EXPOSURE CERTIFICATION (Continued)

I. Facility Operator Information

Name: _____ Phone: _____
Address: _____
City: _____ State: _____ Zip Code: _____

II. Facility/Site Location Information

Facility Name: _____
Facility Address: _____
City: _____ State: _____ Zip Code: _____
County Name: _____ Latitude: _____ Longitude: _____

III. Exposure Checklist

Are any of the following items exposed to precipitation, now or in the foreseeable future, AND is the drainage from these areas discharged from the site to surface waters of the US or to a municipal separate storm sewer system?

- a. vehicles used in material handling (excepting adequately maintained mobile equipment) Yes No
- b. industrial machinery or equipment Yes No
- c. residue from the cleaning of machinery or equipment Yes No
- d. materials associated with vehicular maintenance, cleaning or fueling Yes No
- e. materials or products during loading/unloading or transporting activities Yes No
- f. materials or products at uncovered loading docks Yes No
- g. materials or products stored outdoors (excepting products intended for outside use, e.g., cars) Yes No
- h. materials or products handled/stored on roads or railways owned or maintained by the certifier Yes No
- i. materials or spill/leak residues accumulated in storm water inlets Yes No
- j. residuals on the ground from spills/leaks (including subsurface residuals from percolation) Yes No
- k. materials contained in open or deteriorated storage tanks/drums/containers Yes No
- l. industrial activities conducted outdoors Yes No
- m. materials or products from past outdoor industrial activity Yes No

- | | |
|---|--------|
| n. waste material | Yes No |
| o. process wastewater disposed of outdoors (unless otherwise permitted) | Yes No |
| p. particulate matter from roof stacks/vents not otherwise regulated (i.e., under an air quality control permit) and in quantities detectable in the storm water outflow. | Yes No |
| q. visible deposits of residuals near roof or side vents | Yes No |
| r. spills/leaks resulting from maintenance of stacks or air exhaust systems | Yes No |

Have you paved or roofed over a large, formerly exposed, pervious area in order to qualify for no-exposure? Please indicate approximately how much area was paved or roofed over from the choices below. **(Completing this question does not influence your qualifying for the no exposure exemption and is for informational purposes.)**

___ none ___ less than one acre ___ one to five acres ___ more than five acres

CHECKLIST FOR NO-EXPOSURE CERTIFICATION (Continued)

IV. Certification

I certify that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the facility identified in this document.

I understand that I am obligated to make this certification once every five years to the NPDES permitting authority and, if requested, to the municipality (or other local government) in which this facility is located providing the facility discharges storm water into the local municipal separate storm sewer system (MS4). I understand that I must seek coverage under an NPDES storm water permit prior to any point-source discharge of exposed storm water from the facility. I understand that I must allow the permitting authority, or municipality where the discharge is into the MS4, to perform inspections to confirm the condition of no-exposure and to make such inspection reports publicly available upon request.

Additionally, I certify under penalty of law this document was prepared under my direction and that qualified personnel gathered and evaluated the information submitted. Based upon my knowledge of the personnel directly involved in gathering the information, the information is true, accurate and complete. I am aware there are significant penalties for providing false information, including the possibility of fine and imprisonment.

Signed:

Date:

Print Name and Title: