

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 149

Date Signed: December 5, 2001

MEMORANDUM

Subject: Sensitive Data in Consumer Confidence Reports and Source Water Assessments

From: Cynthia C. Dougherty, Director,
Office of Ground Water and Drinking Water OW (4601M)

To: Water Management Division Directors
Regions I - X

The Office of Ground Water and Drinking Water encourages States and public water systems to protect drinking water supplies through all appropriate means. While the 1996 Amendments to the Safe Drinking Water Act (SDWA) require significant new efforts to fully inform citizens about the source, quality and potential threats to their drinking water, events since September 11 require that we ensure such disclosures of public information to provide for the security of those same citizens. Some people have suggested that the statutory and regulatory provisions for Consumer Confidence Reports (CCR) and Source Water Assessments may require the unnecessary release of information that could increase the vulnerability of drinking water supplies. We believe this is not the case and that existing requirements provide adequate flexibility to address the security needs of water systems. This memorandum clarifies how to strike the appropriate balance between providing near-term safeguards in the current emergency and long-term public understanding for participation in source water protection.

Consumer Confidence Reports

Water systems of all sizes currently have the flexibility to address security concerns. The CCR Rule at 40 CFR 141.55 requires only that a water system list the source and general location of its water supply. In guidance to States, EPA said that for surface waters, listing the water body where the intake was located “would be appropriate.” For ground water, “the name of the principal aquifer would be appropriate.” In addition, the need to provide a general location can be addressed in a broad way within the CCR, without disclosing exact locations of water sources. Therefore, we do not need a regulatory or policy change to address the issue of information that water systems believe may be sensitive at this time.

While the CCR regulation requires that systems serving 100,000 or more persons maintain a current CCR on a website, water systems may modify their CCR to remove information that may be considered sensitive, or information that the system believes will increase their vulnerability. (This may apply to all systems, regardless of size, that post their CCRs on a website.) Detailed locational and water source information (such as specific location or latitude and longitude of intakes, wells, treatment plants, booster stations, and other important public drinking water related facilities, and information on treatment processes) is not required to be reported. However, these systems which remove their CCRs from their websites to make changes must re-post the modified CCR on the website once the information that they have determined to be sensitive has been replaced with more generalized information, as suggested above. EPA believes that the posting of the modified CCR will meet the system's obligation to maintain the "current year's report" on the Internet. EPA expects that systems will continue to comply with these requirements in the future to keep the public informed about its water source. Since this more detailed information is not required to be reported in the CCR but may be of broad public interest, systems may choose to make it available to the public through alternate means.

Source Water

A major tenet of Source Water Protection is the importance of increasing public understanding of potential risks to drinking water as a motivating force for effective local actions. Therefore, Section 1453 of the SDWA requires States to make source water assessment information "available" to the public. The August 6, 1997, national guidance for source water assessment programs provided States with many options for how and what information would be released to the public, with the clear intent that all information collected would support public understanding, planning and implementation of local protection measures.

Source water assessments can serve a broad purpose of protecting sources of drinking water from all or many different types of threats and should be used by government entities, water suppliers and stakeholders to help protect sources of drinking water. Therefore, it is prudent at this time to provide assessment information to the public in a format that ensures that it is available yet secure. As noted above, the name of the water body or aquifer serving as a community's supply and the general source water protection area boundaries could be made widely available. Other more specific information could be made available using a process which meets the dual goals of public disclosure and public safety. The statute permits procedures which would ensure that information being released was going only to those governmental agencies, water suppliers and stakeholders working to secure and protect water supplies.

Latitude/Longitude Data Submission

In your discussion with the States, please reaffirm their response to the continuing requirement to report public water system latitude and longitude data as part of their inventory and compliance data reporting to EPA. You can let them know that since 1999, we have implemented a process to protect latitude and longitude data from misuse and will continue to do so. The Federal Government role in ensuring the security of public water systems also demands that we have ready access to accurate and complete public water system intake, well (or wellfield) and treatment plant locational data.

Conclusion

It is fully possible to serve the dual purposes of adequately informing the public and ensuring the security of public water systems. EPA will continue to work closely with States and public water systems to coordinate how best to achieve these important public health protection objectives. I ask that you share this memorandum with your State Drinking Water, Watershed and Ground Water Program Administrators so that they understand our intent to protect public water systems and in the long-term continue to provide information to the public necessary to support their participation in water supply protection.

I appreciate your continued efforts in protecting the drinking water of the United States during these times of stress and look forward to your suggestions of further steps that we can take to do so. If you have further questions, please contact Clive Davies, Acting Chief, Protection Branch, concerning CCR at 202-260-1421/202-564-3938 or Joan Farrelly, Chief Prevention Branch, concerning Source Water Assessments at 202-260-6672/202-564-3867.