



ASSOCIATION OF
METROPOLITAN
WATER AGENCIES

May 2, 2011

Water Docket
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Mail Code 282211T
Washington, DC 20460

Re: Docket ID No. OW-2009-0090, Unregulated Contaminant Monitoring Regulation (UCMR 3) Proposed Rule, 76 FR 11715

Dear Water Docket:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to comment on the proposed Unregulated Contaminant Monitoring Regulation (UCMR-3). AMWA is an organization of the CEOs and directors of the largest publicly owned drinking water providers in the United States. Collectively, AMWA member utilities serve the drinking water needs of more than 130 million people. AMWA is committed to working with EPA to ensure safe and cost-effective federal drinking water regulations.

In general AMWA supports EPA's proposed list of contaminants, but has several recommendations to offer regarding analytical methods, revised data elements to be reported and the use of these data elements for additional occurrence and exposure analyses. AMWA also recommends that EPA include hexavalent chromium (Cr(VI)) in UCMR-3 if the agency can clearly state that Cr(VI) poses a significant public health risk at the low levels likely to be found in finished drinking water.

The attached comments provide responses to 16 specific issues and requests for comment raised in EPA's proposal. AMWA also provides an additional recommendation regarding how EPA should consider the UCMR in light of its drinking water strategy.

If there are any questions about AMWA's comments, please contact me or Erica Brown, AMWA's Director of Regulatory Affairs and Scientific Program Development and 202-331-2820.

Sincerely,

Diane VanDe Hei
Executive Director

Attachment

Cc: Cynthia Dougherty, OGWDW
Pam Barr, OGWDW

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Executive Director

Association of Metropolitan Water Agencies
Comments on the Unregulated Contaminant Monitoring Regulation (UCMR -3)
Proposed Rule, 76 FR 11715
May 2, 2011

AMWA's comments provide responses to 16 specific issues and requests for comment raised in EPA's proposal. AMWA also provides an additional recommendation about how EPA should consider the UCMR in light of its drinking water strategy.

Responses to EPA Request for Comment

1. Proposed List of Contaminants

In general, AMWA supports EPA's proposed list of contaminants with the following observations and recommendations:

- Compounds that are not included on the Contaminant Candidate List (CCL) should not be moved to the UCMR without sufficient justification, such as posing a significant risk to public health.
- In general, contaminants covered by existing or proposed regulations should not be included on the UCMR; there are existing protocols (e.g., ICR) for updating source and occurrence information on contaminants that are already covered by existing or proposed regulations.
- In the event EPA believes the potential health effects surrounding low-level exposure to hexavalent chromium (Cr-VI) warrant its addition to the list, then the agency should add Cr-VI to UCMR-3 (See Comment 2, Hexavalent Chromium).
- If EPA adds Cr-VI to the UCMR-3 list, then it should remove testosterone and also consider removing the other hormones not on CCL 3 from the list for the following reasons:
 - Hormones in general were not captured in the initial screening process for CCL 3. Based on the research to date, the occurrence of hormones in water appears to be more a concern to aquatic life than human health.
 - AMWA has additional concerns about EPA Method 539. Specifically, with such a low minimum reporting level (MRL) for this method, there is a potential for samples to be contaminated due to external factors or improper QA/QC techniques.
- AMWA recommends that the analytes to be measured for EPA Method 539 be included under List 2, Screening Survey. As noted in our detailed comments about the analytical methods, below, there are many potential issues associated with the sampling protocols and analytical method associated with this new method and therefore, AMWA believes it is more appropriate to include the five hormones on CCL-3 (17alpha-estradiol, 17-beta estradiol, estriol, estrone and ethinyl estradiol) as List 2 analytes. AMWA recommends that EPA select the same utilities to sample for List 2 analytes as in previous UCMR rulemakings (i.e., systems serving more than 100,000 persons).
- EPA's drinking water guideline for strontium over a lifetime (http://water.epa.gov/action/advisories/drinking/drinking_index.cfm) and the 2001 Hazardous Substances Database (Hazardous Substances Data Base. National Library of Medicine [<http://toxnet.nlm.nih.gov>]) cite a Health Reference Level (HRL) of 4 mg/L (4000 ug/L). Therefore it seems that the MRL of 0.03 µg/L for this contaminant is too low to be relevant to either the occurrence or health reference level.

AMWA has additional detailed comments about the analytical methods for the proposed UCMR-3 list as well as the sampling locations, as described below.

2. Hexavalent Chromium

Should EPA include Cr-VI and if Cr-VI is added, what should be removed from list?

AMWA recommends that EPA include Cr-VI in UCMR-3 if the agency can clearly state that Cr-VI poses a significant public health risk at the low levels likely to be found in finished drinking water. Including Cr-VI in UCMR-3 will result in a reliable, nationally consistent dataset not currently available. The Cr-VI data obtained from the UCMR monitoring will be appropriate for informing the decision about whether to regulate Cr-VI on its own, rather than as total chromium. As Cr-VI is not currently regulated with its own MCL under the SDWA, AMWA believes that it is appropriate and allowable for inclusion in the UCMR.

If Cr-VI is added to the list, AMWA recommends that EPA remove testosterone and also consider removing the other hormones from UCMR because:

- hormones in general were not captured in the screening process for CCL 3. Based on the research to date, the occurrence of hormones in water appears to be more a concern to aquatic life than human health;
- there is a likelihood at the proposed reporting levels to find testosterone and some of the other hormones occurring at very low levels; and
- due to the low levels of occurrence likely to be found and lack of field blanks identified in the analytical method, there may well be false positive measurements.

Cr-VI analytical method and reporting level

There are many outstanding questions about the Cr-VI method identified in EPA's January 2011 guidance. Several AMWA members have been unable to find a laboratory in their state capable of performing the analyses recommended in EPA's guidance, indicating that the method is not commonly used in drinking water laboratories.

Including Cr-VI on UCMR will require EPA to standardize the method and definitively answer outstanding questions about the method, including sample holding time and MRL and sample preservation. It will also require the agency to accredit laboratories to perform the analyses and ensure a more regional laboratory capacity for Cr-VI monitoring.

Therefore if EPA elects to include Cr-VI on the UCMR-3 list, the agency must ensure that the method selected is sufficiently re-evaluated and revised and that the laboratory capacity is adequate. If laboratory capacity is expected to be limited then EPA should include Cr-VI as a List 2 contaminant.

3. (76 FR 11723) Addition of zip code, optional zip+4 and zip codes served for each sampling point identification

While AMWA supports EPA's proposal to have utilities include a zip code to more easily identify a sampling location point, this identifier would only be appropriate for generally identifying the sampling location. The use of the sample point zip code for determining population served is a crude and

inaccurate approximation of the population served for many reasons:

- population served is determined by pressure zone not zip code;
- a sampling point could serve water to multiple zip codes or only a small portion of one zip code;
- water from multiple sources (particularly in ground water systems) could serve a single zip code;
- a sampling point at a specific geographic location (zip code) may not be the ultimate delivery point (zip code) for that distributed water;
- in utilities with seasonal variation in the community's population, the population could change; and
- a sampling point might only serve a fraction of the population in that zip code with the balance served by another utility.

Distribution system sample points are suppose to be representative of max residence time, pressure zones, etc. They are not representative of the population within or served in a zip code area.

Therefore, AMWA does not support EPA's intention to use the sampling point zip code identifier to assist with future vulnerability assessments and occurrence and exposure analyses.

For similar reasons, AMWA does not support adding zip+4. The risk of error in transcribing all of these numbers far outweighs any potential benefit.

In addition, AMWA does not support the use of zip codes for identifying environmental justice communities in which to assess UCMR monitoring results, for reasons described under Comment 16, below.

4. (76FR11723 and 11733) Revised data element #6 (Clarify and update the disinfectant in use at the time of UCMR monitoring.)

In its proposal, EPA says that including additional disinfection types is to "accommodate recent advances and changes to disinfectant technologies being used by water systems." While including disinfectant type with regard to chlorate fate and transport could be useful information to collect to inform rule development, AMWA urges EPA to thoroughly explain the purpose for including this information in the UCMR reporting. It is unclear how this information would inform future rulemaking for contaminants other than chlorate.

EPA's proposal for including disinfectant type at a DSMRT is oversimplified and is unlikely to support any DBP analysis, such as for chlorate. Therefore AMWA recommends that EPA's proposal for revising data element #6 should be revised to consider and identify:

- all possible disinfection options (including booster disinfectants), including identifying BOTH the primary and secondary disinfectants; and
- ozone and UV as primary disinfectant options, rather than including these as "other."

In addition, EPA must consider that the disinfectant type at sampling locations for utilities that purchase water could be a mixture of several disinfectants. For example, one of AMWA's member utilities in California uses ozone as its primary disinfectant and sodium hypochlorite for secondary disinfection. The system purchases water from a wholesaler that uses ozone and monochloramine. These two waters

are not isolated and can mix in the distribution system. EPA needs to provide a means to allow multiple disinfectant entries to characterize the DSMRT.

Another option to consider is to not sample any distribution sites where there is a high probability of having water disinfected by different methods on different days and thus producing results that are not comparable.

If EPA decides to move forward with revising the requirements for data element #6, then the agency should clearly describe in its final rule what is being asked and for what purpose. AMWA also recommends that EPA consider working with utility and primacy agency associations and entities in order to ensure that the final requirement is sufficient and appropriate to supports the analyses that EPA envisions and identifies in the final rule.

5. Demonstrating representative ground water sampling locations

AMWA recommends that EPA provide guidance in the preamble of the final rule about the criteria for determining what constitutes a sampling site "more consistently active in a representative array" in ground water systems. AMWA recommends that EPA consider allowing a utility to propose a representative source – i.e., a well from its approved Ground Water Rule wells. AMWA also recommends that the final rule specify that if EPA does not respond to the utility's proposed site within 60 days that the source will be considered to be accepted.

6. Reporting schedule

AMWA urges EPA to retain the 120-day timeframe for labs to electronically report results to the utility. AMWA also urges EPA to retain the 60-day timeframe for utilities to review and approve the data. Glitches can occur in communication between laboratories and utilities. For example, in the past some utilities were not notified that the laboratory had uploaded data to the UCMR data system until a few weeks later. UCMR sampling is not a task that utilities perform during the normal course of business. Particularly for large systems, where several staff members must coordinate schedules to review the data, it is important to have this amount of time for review. Especially for those utilities (i.e. consecutive systems) that have not been previously covered by the UCMR, having sufficient time to communicate with the laboratory to verify and approve the data is very important, and 60 days is the preferred timeframe.

7. Reporting monitoring results - all elements in Table 1 with each sample (previously only a subset was reported w/each)

AMWA tentatively supports EPA's rationale that the additional information will help the agency assess chlorate results, as long as the recommendations expressed under Comment 4, above, are included in the final rule. AMWA does not support EPA's proposal for taking metals samples in the distribution samples for reasons detailed later in these comments. Please see also AMWA's comments under Comments 12 and 13, below.

8. Monitoring based on retail population, consecutive system (purchaser) proposes one representative connection for sampling, even if water is received from more than one wholesaler

Addressing consecutive systems under the UCMR is an example of how one-size-fits-all regulations may not be the best fit for every circumstance. While some consecutive systems may purchase water and then add additional treatment, other regional water utilities may be the sole provider of all water and treatment for their wholesale customers. Therefore, AMWA recommends that the final UCMR clearly and explicitly provide for flexibility to accommodate specific circumstances where treating a regional system as a single entity makes more sense.

9. Revised data elements (sampling point ID code established by state or at state discretion, provided by PWS)

AMWA supports including an additional sampling point ID code as provided by the PWS. Many large utilities are likely to already have state approved sampling point ID codes and it is critical that EPA and the states allow the use of these codes rather than add additional data points that need to be checked by requiring a new code.

10. Analytical methods

AMWA has three specific comments regarding the proposed analytical methods and one comment related to sample collection.

First, these methods are very specialized and expensive. EPA must ensure sufficient laboratory capacity as most large utilities will send their samples to outside labs rather than upgrade their laboratory equipment and expertise for a limited program.

Second, the proposed MRLs are very low – are these numbers truly achievable or even necessary? And, at these very low MRLs, some contaminants could be ubiquitous – what will the data mean? AMWA notes that EPA has determined MRLs by starting with the analytical capability (i.e., from a baseline, lower MRL) and using the lowest concentration minimum reporting level (LCMRL) approach to estimate the MRL up to what appears to be the lowest level feasible. AMWA recommends instead that EPA start with the end in mind. Specifically, the purpose of the UCMR is to inform the regulatory process by gathering occurrence data. Therefore, EPA should set the MRLs for UCMR3 contaminants based on a fraction of the health reference level (HRL) for an analyte (such as 1/10 of the HRL) that has been identified for the contaminant (if available) and if the method is capable of meeting that level (and the LCMRL provides guidance on this capability).

EPA determined feasibility of achieving the proposed MRLs by checking with a very small number of the best laboratories in the country to see whether these LCMRLs could be achieved; AMWA asks EPA to consider whether many laboratories will be able to achieve these levels. By setting the MRL as a fraction of the HRL, EPA will help ensure that far more laboratories will be able to reliably achieve the MRL and also that the data collected will be higher quality data because it will not be as close to method

limitations.

Third, with regard to the methods proposed, AMWA recommends that EPA clearly describe in the final rule how the rule will address positive field blank samples. In the case where the method has not specified a field blank, MRLs are extremely low and field contamination has been reported as an issue in the literature (i.e., method 539), AMWA recommends that EPA include this in the final rule. This is especially important for the hormone samples where there is a high potential for contamination of the sample in the field, particularly in light of the low MRL.

Finally, if hormones are measured, AMWA has additional concerns about EPA Method 539. Specifically, with such a low Minimum Reporting Level (MRL) for this method there is a potential for samples to be contaminated due to external factors or improper QA/QC techniques.

11. Sampling points based on location availability – sampling points within a system may have different schedules

AMWA supports the ability for systems to notify EPA to reschedule sampling in the event that the sampling location is not available.

12. Metals samples at distribution system maximum residence time location

AMWA disagrees with EPA's proposal for utilities to sample for metals at the maximum distribution system residence time (DSMRT) for two reasons:

- There is neither enough data nor research to support the additional cost to utilities for sampling for metals in the distribution system.
- Following the recommendation of the Total Coliform Rule Agreement in Principle, the Research and Information Collection Partnership has identified the issue of metals accumulation and release from distribution system scales and sediments as a lower research priority. AMWA suggests that if EPA wants to further research this issue, additional funding should be provided to conduct a separate research project outside the UCMR.

13. Chlorate samples at distribution system max residence time location

AMWA tentatively supports EPA's proposal to monitor for chlorate at the EPDS as well as DSMRT. AMWA agrees with EPA's rationale that the additional information will help the agency assess chlorate results, as long as the recommendations expressed in these comments under Comment 4 are incorporated. EPA states its purpose for including chlorate DSMRT locations is to determine whether chlorate increases in the distribution system and AMWA agrees that having the data about disinfectant type is needed in order to make an informed study of the results. However, as noted in our comments under Comment 4, the collection of the disinfection data must be done in a manner more detailed and specific than EPA has proposed.

14. MRL definition

As noted in Comment 10, above, AMWA urges EPA to reconsider the proposed MRL definition.

15. Sample set costs, labor costs and total burden for large systems

EPA's proposal estimates the costs at \$1320 per sample set, labor costs at \$295/hour and 7.7 hours (for a total labor cost of \$2271.50) and a total burden for very large systems at \$5640 for analytical costs. This cost assumes only one sample site per utility. Many large utilities have more than one treatment plant, therefore the cost will often be much higher.

EPA consistently underestimates the time burden and costs to utilities. AMWA requests that EPA better quantify the costs and provide supporting information for the cost estimates in the final rule with a hyperlink or detailed information as to where to find the final cost estimates for the rule.

Two issues that EPA has not adequately accounted for in the cost estimates are the higher costs for laboratory QA/QC for these advanced methods and the cost of a field blank method for methods with low quantification levels, such as EPA Method 537. As these are specialized methods at very low reporting levels, most water systems will be dependent on commercial laboratories that receive EPA approval for the various methods.

16. Environmental Justice

AMWA agrees with EPA's determination that the proposed UCMR will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations for systems serving more than 10,000 persons in particular because by "seeking to identify unregulated contaminants that may pose health risks via drinking water from all PWSs" [that serve more than 10,000], "UCMR furthers the protection of public health for all citizens, including minority and low-income populations using public water supplies."

For similar reasons as described under Comment 3, above, AMWA does not agree that including zip codes to help inform a population demographic is an appropriate way to determine impacts of future drinking water regulations that may be proposed as a result of the UCMR regulation. In general, it is the water systems that serve a targeted, smaller population (i.e., less than 10,000) in economically disadvantaged communities that may require additional assessment for environmental justice concerns rather than the larger systems that are covered by this regulation.

Additional Recommendation: Watershed Protection – leveraging other statutes

EPA's Drinking Water and Clean Water Strategies support preventing the entry of contaminants into drinking water sources as being a more effective and economical means of improving or maintaining source water quality than trying to remove contaminants through drinking water treatment. Furthermore, it helps insure that the burden of reducing contaminants falls on those introducing the contaminants to the environment rather than drinking water consumers. Therefore AMWA encourages

EPA to use the data gathered under the UCMR and its other programs to leverage other statutes – such as TSCA and FIFRA – to protect drinking water.

May 2, 2011

Water Docket
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC 20460
Attn: Docket ID No. OW-2009-0090

Clean Water Action Comments on the Unregulated Contaminant Monitoring Rule (UCMR 3)

Re: Proposed Rule, Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR #) for Public Water Systems (Docket ID No. EPA-HW-OW-2009-0090)

We appreciate the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) **Proposed Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 3)**.

Clean Water Action is a national citizens' organization of 1.2 million members and is active in over a dozen states. Clean Water Action works for strong public health and environmental protections with an emphasis on those that impact water resources. Clean Water Action has a long history of work on drinking water and on Safe Drinking Water Act implementation.

Should EPA Include Chromium-6 in Assessment Monitoring?

In the *Proposed Revisions* published March 3, 2011 in the Federal Register, EPA asked for public comment on whether chromium-6 should be included in UCMR Assessment Monitoring and whether total chromium should be measured concurrently. We support this proposal given growing concern about hexavalent chromium in drinking water and increased evidence of public health threats which are greater than previously understood. Understanding occurrence of hexavalent chromium offers an opportunity to reduce public health risk for those served by Public Water Systems.

While we recognize that EPA has initiated a voluntary program in which many Public Water Systems are monitoring for this contaminant, the UCMR data can provide a more robust data set and assist in understanding the actual occurrence of chromium-6 nationwide in different types of source water and in different sizes of systems. Concurrent monitoring for total chromium makes sense in light of the need to understand both relative occurrence and whether total chromium is an appropriate surrogate.

We also recognize that EPA's *Toxicological Review of Hexavalent Chromium* will be completed this year and will prompt a review of the current MCL for Total Chromium. We urge EPA not to delay any regulatory determination indicated by the *Toxicological Review*.

Which Contaminants Should Be Removed?

We recognize that the UCMR program can only include 30 contaminants and that additions to the list require that other contaminants be removed. We recommend that EPA devise a process to reevaluate priorities. Because a majority of contaminants on the proposed UCMR 3 list are on the most recent Contaminant Candidate List (CCL3), the process could include reviewing those contaminants in the proposed UCMR that are NOT on CCL 3 and weighing the value to be gained in terms of near-term regulatory determination should these remain on the list as compared to those that ARE on CCL3. The process could also include reviewing contaminants that were not on EPA's February 2008 Draft CCL 3 list and yet did appear on the final October 2009 CCL3 list. Review of data and considerations that informed decisions about CCL3 and even the Preliminary Contaminant Candidate List (PCCL 3) can help EPA determine where UCMR data will most effectively support regulatory determinations and thus be helpful in determining how to revise the proposed UCMR3 list.

Thank you for considering these comments on the Proposed Revisions to the Unregulated Contaminant Monitoring Rule (UCMR3).

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