

August 1, 2003

Honorable Marianne L. Horinko
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Acting Administrator Horinko:

On behalf of the National Drinking Water Advisory Council (NDWAC), I am pleased to forward to you their report that contains the recommendations regarding the issue how to address affordability issues confronting small drinking water systems. NDWAC convened an Affordability Working Group of eighteen members which met several times between December and April, both face to face and via conference calls.

The Working Group was specifically asked – based on six charge questions posed by EPA – to provide advice on EPA’s national-level affordability criteria, the methodology used to derive the criteria and EPA’s approach to applying these criteria to National Primary Drinking Water Regulations. After an initial meeting, the Working Group determined that, from their perspective, a discussion of EPA’s national-level affordability criteria alone would not sufficiently address the wider issue of affordability. Therefore the Working Group divided into three subcommittees on:

- Affordability Criteria - to focus on the charge questions from EPA;
- System Level Strategies - to investigate non-financial approaches that reduce the costs of small system compliance; and
- Financial Support Strategies - to explore means to make financial assistance more readily available to small systems.

Each subcommittee developed a series of recommendations that were discussed by the entire Working Group and subsequently consolidated into a full report that addresses the breadth of the affordability issue. The full Council discussed the report at its May meeting and held two additional conference calls in June and July. On July 10, 2003, the Council voted to forward the Working Group’s report to the Agency.

In its deliberations on the report, the Council had two primary concerns, which are addressed in two recommendations that were added to the report. The NDWAC fully recognizes the importance of affordable and safe drinking water, especially for small systems. The 1996 Amendments to the Safe Drinking Water Act (SDWA) established the principle that variances in water treatment technology could be used to address the issue of affordability. The efforts of the Affordability Working Group were predicated on the fact that the SDWA includes variances as regulatory construct. However, significant practical, logistical, and ethical issues mitigate against the use of variances. The Council recommends that EPA convey to Congress its logistical and ethical concerns with variances and the NDWAC's position that variances in the extent of water treatment, as a means to achieve affordable compliance, be reconsidered.

Second, the NDWAC recognizes that the incremental approach to the national affordability criteria recommended by the Working Group is designed to avoid "rate shock" and mitigate the excessive costs of any single rule. However, the NDWAC believes that the cumulative cost of drinking water regulations is also an important consideration in affordability determinations. The NDWAC is concerned that the incremental approach alone does not sufficiently address the cumulative costs of several rules and other operating cost burdens (e.g. infrastructure replacement) that collectively may be "unaffordable" for some systems. The Council recommends that EPA augment the incremental approach with reasonable cumulative affordability guidelines that could be used by the states to determine the eligibility for small system variances and/or financial support.

The NDWAC report to the Agency, with the full suite of recommendations, is enclosed. This report, along with minutes of the May, June and July meetings will be posted on the Office of Ground Water and Drinking Water's website at www.epa.gov/safewater/ndwac/council.html under Meeting Summaries. The Council thanks you for the opportunity to produce this report and sincerely hopes it will assist you in any further decisions concerning affordability issues.

Sincerely,

Brenda P. Johnson /s/
Designated Federal Officer
National Drinking Water Advisory Council

Enclosures

cc: Stephen L. Johnson, Acting Deputy Administrator
G. Tracy Mehan III, Assistant Administrator for Water
Cynthia C. Dougherty, Director, Office of Ground Water and Drinking Water
David Spath, Chair, NDWAC