

Affordability

Submitted by Pat Scalera, CEO,
New York Rural Water Association



Members of the New York Rural Water Association, I believe you will find the below article written by the Executive Director from New Mexico Rural Water Association interesting – please read on.

From the Director's Desk,
Matthew Holmes, Executive Director:

There is a historic debate being conducted right now in Washington, D.C. It involves the Environmental Protection Agency's proposal to evaluate the financial impact of new (future) drinking water regulations on small communities, and to issue a variance to those systems if the rule is deemed unaffordable. USEPA has already stated that the method it currently uses to determine affordability is not realistic. The agency has not granted a single small system variance since 1996, when federal law required it to begin evaluating the affordability of new regulations.

USEPA's proposal is the direct result of an educational campaign by the National Rural Water Association. NRWA produced a series of white papers, each focusing on a complex scientific or regulatory issue, such as affordability, benefit and cost analysis, regulation development, standards and risk, and specific contaminants. The papers were written by national authorities in their respective fields. After many presentations and meetings on these topics, Ben Grumbles, USEPA Assistant Administrator for Water, fundamentally agreed with NRWA's position and committed to address these issues.

With USEPA on our side, what could possibly go wrong? The agency proposed modifying the criteria used to determine the affordability of new regulations, and implementing variances on qualifying systems, allowing up to three times the proposed Maximum Contaminant Level (MCL). The system (or the state) would have to show that the new MCL would not pose an Unreasonable Risk to Health (URTH). Anyone who has applied for an exemption to the Arsenic rule (which doesn't appear to be too many of you - but that is another article) is familiar with the URTH.

This is the point where the debate begins. NRWA is the only national organization that has supported USEPA's proposal. Many other national organizations have openly opposed it, including the American Water Works Association, the Association of State Drinking Water Administrators, the National Resource Defense Council, and the Rural Community Assistance Program. The proposal has been criticized on many levels, as an anti-environmental initiative,

jeopardizing public health and the Safe Drinking Water Act, and an attempt to revoke the arsenic rule. A large part of this rhetoric is propaganda and either untrue or irrelevant. Leaving the misinformation aside, I'll try to present the heart of the debate.

Opponents of the affordability proposal argue that small (poor) communities deserve the same level of public health protection as urban (rich) areas. Even though Congress specifically directed USEPA to consider affordability for small systems in the 1996 reauthorization of the Safe Drinking Water Act, it has never really done so, because of this issue. Many people are uncomfortable letting small systems off the regulatory hook because they cannot afford to meet the MCL - it raises issues of environmental justice and discrimination. Allowing disadvantaged communities to provide "unsafe" water because they cannot pay for treatment technology doesn't sit well. The debate revolves around the reluctance to set the precedent that more affluent people will receive a higher level of public health protection than less affluent people.

Like many issues in our society today, this one is complex. Often our media simplifies these issues too much - there are too many details to present in a five minute report, or a two page newsletter article. Additionally, both proponents and opponents often sensationalize their commentary in support of their arguments, which only further distorts the real, baseline issues. I'd like to give you some additional information and encourage you to research the proposal yourself.

The central question of the debate really hasn't been presented accurately. What we are really talking about is: requiring small (poor) communities to pay to implement increasingly stringent regulations on their drinking water, regardless of their ability to do so. Federal or State funds cannot bail them out of this situation. The fact of life is that grant funding is decreasing and systems must be prepared to take on loans and raise their rates to be self-sustaining. New Mexico Rural Water Association has been involved in several initiatives to assist and prepare systems to accomplish this. However, is there a limit to what small systems can pay for? Regulations that are intended to protect the public health may do the opposite if small systems go bankrupt and folks return to private wells with less protection and visibility of the contaminants in the water. Studies have also shown that people in fixed incomes tend to trade off other important goods, such as nutrition and health care, when faced with rising monthly bills.

In New Mexico today, there are many drinking water systems that do not have a certified operator. These are all

small systems. Some of them cannot retain an operator despite their best efforts: the pay is not enough, the required level of technical expertise is too high, or operators simply have better opportunities somewhere else. Some systems are looking to raise their rates substantially to comply with the new arsenic or uranium standards. It is unclear how, or if, all systems will comply with these current regulations. Should we focus our efforts and resources on implementing our current regulations before imposing new ones?

Can water ever be too safe? Is there a limit to the level of protection we want to pay for? As an economist, I know that people make this kind of decision every day of their lives. Cigarette smoking and speeding are two good examples of risky behavior in which many people are willing to engage. If we are not willing to weigh the benefits versus the costs of the regulations we impose upon ourselves, it will never end. The federal government and the scientific community will continually identify potential risks, and industry will continually develop new technologies to mitigate these risks. A very great deal of money and resources will be spent on this ever-increasing regulatory burden.

A fundamental premise behind USEPA's proposal is that systems may be able to supply drinking water to their customers up to three times above the MCL for a chronic contaminant, and still be protective of public health. This is a point that also causes consternation among people: either a level of a certain contaminant is safe, or it's not, right? Again, the issue is not so simple. When setting the standards, many factors are taken into consideration, such as vulnerable populations, duration and quantity of exposure, and risk models. Not surprisingly, the most conservative assumption is applied to each of these areas, and then an overall safety factor of 10 or even greater is applied. As such, USEPA has long acknowledged that drinking water in excess of a particular contaminant may still be safe to drink, especially if it's for a limited time.

It comes down to a matter of choice. Rural Water is attempting to preserve the local communities' right to choose on these issues. Sometimes our organization is characterized as "anti-regulation" - this is not the case. NRWA was instrumental in reauthorizing the SDWA in 1996. It was our organization that supported Pete Domenici on the floor of the senate when he got the Act reauthorized 10 years ago. Our members - you - are committed to providing safe, clean drinking water to their customers, neighbors and family members. We are supporting USEPA's position. This is not an anti-environment or partisan proposal, but the result of many years of considered discussion about the challenges facing small systems.

These are big questions, and I don't pretend to have the answers. One information sheet I read recently stated "most drinking water providers are against this proposal." Is this really the case? Make your opinions known to regulators

and decision makers. Systems have an opportunity to influence the outcome of this national debate through our powerful senators and our members in the House. You may find sample letters in support of the proposal elsewhere in this issue.

You may access NRWA's white papers here: www.nrwa.org/whitepapers/TOC.htm, Information on affordability:

www.epa.gov/safewater/smallsys/affordability.html ♠