



August 12, 2016

VIA ELECTRONIC MAIL

watersupply@dep.state.nj.us

Drinking Water Quality Institute

RE: REQUEST FOR PUBLIC INPUT REGARDING 1,2,3-TRICHLOROPROPANE

To Whom It May Concern:

On behalf of our members, the Chemistry Council of New Jersey (CCNJ) appreciates the opportunity to provide comments to the Drinking Water Quality Institute (DWQI) pursuant to the Institute's request for public input regarding 1,2,3-Trichloropropane (1,2,3-TCP). The CCNJ has long advocated for greater transparency and public input with respect to DWQI's activities and we appreciate the steps taken to provide this opportunity.

Procedural and Practical Considerations for the Health Effects, Testing and Treatment Subcommittees

First, the CCNJ must point to the "Common Sense Principles" established by Governor Christie in Executive Order No. 2 (EO #2) issued on January 20, 2010. Among the principles outlined in the Order were the following:

- Engage in the "advance notice of rules" by soliciting the advice and views of knowledgeable persons from outside of New Jersey State government, including the private sector and academia, in advance of any rulemaking.
- Employ the use of cost/benefit analyses, as well as scientific and economic research from other jurisdictions, including but not limited to the federal government when conducting an economic impact analysis on a proposed rule.
- Detail and justify every instance where a proposed rule exceeds the requirements of federal law or regulation. State agencies shall, when promulgating proposed rules, not exceed the requirements of federal law except when required by State statute or in such circumstances where exceeding the requirements of federal law or regulation is necessary in order to achieve a New Jersey specific public policy goal.

The CCNJ believes strongly that DWQI, to date, has failed to give appropriate consideration to EO #2 with respect to its 1,2,3-TCP activity. DWQI must ensure that these principles are followed when reviewing scientific data and making a recommendation for a health-based maximum contaminant level (MCL) for 1,2,3-TCP or any other contaminant.



The United States Environmental Protection Agency (EPA) monitored dozens of contaminants, including 1,2,3-TCP, as part of its Unregulated Contaminant Monitoring Rule 3 (UCMR 3). In its monitoring process, EPA tested water systems across the country for the various unregulated contaminants, including large public water systems, those with more than 10,000 customers, as well as a subset of small public water systems to sample their finished water. To date, 1,2,3-TCP has not been found to be a widespread contaminant of concern in New Jersey.

As such, we believe DWQI must examine the long term costs, feasibility, and reproducibility of setting a Practical Quantitation Limit (PQL) and MCL for 1,2,3-TCP. It is incumbent upon DWQI to proceed in a manner that follows EO #2, as 1,2,3-TCP does not represent a concern that necessitates a specific public policy goal in New Jersey; the chemical is simply not a widespread contaminant in New Jersey that warrants a statewide regulation.

Moreover, the occurrence data raises another guiding principle in EO #2, which requires the employment of cost/benefit analyses, which should be considered with respect to any MCL recommendation. The drinking water monitoring and treatment options and associated costs need to be examined by DWQI's Treatment Subcommittee for the 165 large community water systems, 435 small community water systems, and 700 non-transient non-community systems, as well as the numerous private wells prior to making any new MCL recommendation. The current subcommittee recommendations will result in a significant financial cost for water purveyors, municipalities, businesses, home owners, and redevelopment projects. Such an analysis is not only prudent but would be required under the New Jersey Administrative Procedures Act (APA) if the NJDEP is to adopt the recommended MCL as a rule.

Scientific Considerations for the Health Effects and Testing Subcommittees

Prior to commencing its work with respect to 1,2,3-TCP, DWQI announced that it was reviewing its 2009 MCL recommendation for the contaminant. As part of this effort, DWQI requested submittal of post-2009 data and information related to the following three specific topics for 1,2,3-TCP:

- Health effects;
- PQLs; and
- Treatment Methods.

On October 16, 2015, Integral Consulting, Inc. (Integral) and Environmental Standards, Inc. (Environmental Standards) collaborated to provide new information in response to the September 16, 2015 announcement. We have attached that information as Addendum I to this comment for your reference.

The CCNJ is concerned that this information was not appropriately taken into account as part of the most recent DWQI MCL assessment for 1,2,3-TCP. That concern is based on our observation that this document was not entered into the DWQI public docket (as indicated by its absence on the DWQI website), nor was its content discussed in the June 30, 2016 DWQI public meeting during which regulation of 1,2,3-TCP and its treatment in drinking water was discussed. As of the date of this letter, Environmental Standards' submission has still not been posted on the DWQI website.

We refer DWQI to the Integral and Environmental Standards comment for a more complete analysis. In the interest of brevity, we summarize those comments below. The attached analysis, which provides post-2009 information as requested by DWQI, details that:

- New Jersey cannot promulgate an MCL for 1,2,3-TCP unless and until such time a reliable analytical method can be demonstrated by eligible laboratories and certified by the NJDEP.
- The NJDEP must not use a 1,2,3-TCP MCL, regardless of how derived, as a “standard” for non-drinking-water quality standards due to commonly encountered laboratory and uncontrollable field circumstances.
- A number of toxicology experts have published new (post-2009) studies and agency documents with a reevaluation of the key study upon which the recommended MCL is based and have identified extensive technical limitations in the key study work. This new information affirms that the recommended MCL is overly stringent. For example, comparing New Jersey to another state, the health-based standard that DWQI is proposing is over 1,000 times higher than the limit Hawaii’s Department of Health uses.
- The 1,2,3-TCP treatment report and the supplemental information provided in the brief June 30, 2016 PowerPoint presentation made by DWQI fails to provide the engineering technical evaluation required to support the recommended MCL. For example, there is an insufficient analysis of whether implementable and cost-effective treatment technologies can be installed, operated, and maintained by New Jersey water suppliers to meet the recommended MCL. Newly implemented water treatment technologies may not achieve the State’s desired result, but may result in higher rates for the consumer.

For these technical and procedural reasons, the CCNJ recommends that the proposed MCL be further evaluated using the data provided in the attached, as well as undertaking the economic analysis required by the New Jersey APA.

Thank you for your consideration of our comments on this very important issue. We look forward to continuing to work with DWQI in its efforts to recommend drinking water quality standards in New Jersey. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,



Samantha Jones
Director of Regulatory Affairs

Attachment

ADDENDUM I

Integral Consulting, Inc. and Environmental Standards, Inc. Response to
NJ DWQI September 16, 2015 Request for Information Post-2009 Data and Information
Related to 1,2,3-Trichloropropane