

EPA - Listening Session on Exploring Bottled Water as an  
Alternative Compliance Option in Limited Situations for  
Non-Transient Non-Community Water Systems

*Session conducted at RESOLVE, Inc. - Washington, DC  
December 12, 2006*

TO: US Environmental Protection Agency (EPA)  
Office of Ground Water and Drinking Water  
Drinking Water Protection Division

**COMMENT by Arthur Cohen, JD, MPH** - Convenor of SANIPLAN, an organization founded in 2001, which works to improve public water supply and sanitation.

Thank you for the opportunity to submit a comment on the viability of bottled water as an alternative compliance option for chronic water contaminants for non-transient non-community water systems (NTNCWS), which are regulated under the Safe Water Drinking Act (SDWA) and 40 CFR s.141.101. Currently, bottled water may not be used by public water systems to achieve compliance with a Maximum Contaminant Level (MCL). This has been the policy over the past eight years. However, bottled water may be used on a temporary basis to avoid unreasonable risk to health.

NTNCWS are public water systems. To put matters into perspective: According to the "Public Drinking Water Systems: Facts and Figures" page on the EPA web site, last updated on February 28, 2006, almost 284 million people in the US are served by public water systems. Of these, only 6.9 million, or just under 2.5%, are served by NTNCWS.

There are a total of 20,559 NTNCWS in the US.

Type of Water Source:

- 821 of these systems rely on surface water, and serve 932,000 people.
- 19,738 of these systems rely on ground water, and serve 6 million people.

Size of System:

- 99.4% of the systems are small or very small, and serve 76% of the total of almost 7 million people served.
- 0.6% of the these systems are medium, large, or very large, and they serve 24% of the 7 million.

What is a non-transient non-community water system? According to EPA's Facts and Figures, it is a public system which regularly supplies water to at least 25 of the same people at least 6 months per year, but not year round. Examples of such systems are schools, factories, office buildings, and hospitals which have and operate their own water systems. The New York State Health Department also includes colleges by way of example.

So there we have it: These are self-contained, often institutional water systems which are not part of a larger public community water system. All the same, people drinking water at these places have every reason to expect that the water meets EPA standards and does not differ markedly from water supplied by larger community water systems.

What would seem to be objectionable about permitting bottled water to become, in effect, the regular drinking water supply method for such generally small, self-contained water systems? Several points come to mind:

- 1) Bottled water is much more expensive than piped water.
- 2) Bottled water includes many inefficiencies, such as the need to transport millions of bottles to wherever the market is. This is a misuse of precious energy resources.
- 3) Bottled water usually uses plastic containers which create a disposal problem.
- 4) The plastic in these containers may leach chemicals dangerous to the drinker's health.
- 5) Inspection standards are generally much looser and tests are less frequent for bottled water than for publicly-supplied piped water. Bottled water is regulated federally as a food by FDA, not by EPA. (An exception takes place, of course, in those several instances where there has been private re-packaging of public water into bottles for re-sale as private water.)
- 6) Water bottlers are generally private entrepreneurs who are more concerned with turning a profit than ensuring water quality or the integrity of water supplies.
- 7) Water bottlers dislike being regulated, and many consider public health regulations as a nuisance to be avoided and opposed whenever and wherever possible. Their operations are seldom transparent, and they rarely consider themselves to be accountable.
- 8) Public ground water supplies may become depleted if private, proprietary water bottlers are permitted or encouraged to continue mining such water.
- 9) Because of convenience in carrying a bottle with you, and the massive advertising undertaken by the larger water bottlers (Nestlé, Pepsico, Coca Cola, and Danone) to promote privately-bottled over publicly-piped water all over the world, water bottling has grown astronomically in size and is now considered "big business." It has its own trade association - The International Bottled Water Association.
- 10) Last but certainly not least: Permitting privately-bottled water to substitute for publicly-piped water contributes to the erosion of public trust in public water systems, and paves the way for privatization of such systems - an effect many believe to be quietly but warmly supported by those in the private business of selling or delivering water.

If it is argued, by way of refutation, that this proposal, after all, is to use bottled water only for NTNCWS, and thus applies to just a tiny percentage of all US public water systems, there remains a strong argument against allowing this exception to the Safe Drinking Water Act standards. It is known variously as the “foot in the door,” “the opening wedge,” or “the slippery slope.”

If, as is being discussed at this listening session, bottled water were to be determined to be efficacious or viable as an alternative compliance option for NTNCWS, this would easily open the door for permitting bottled water to substitute for public piped water for the remaining two types of public water systems - community water systems (CWS) and transient non-community water systems (TNCWS). Why is this the case? Because, once the exception has been made permitting bottled water in any single type of public water system, it becomes logically difficult to deny the exception for all other types of public water systems. It seems that NTNCWS were picked as a good place to start with the bottled water exception because of the relatively small number of persons served by such systems. Surely, the reasoning may go, few persons would object to such a small change affecting so few people.

One might ask - even if this has the effect of putting a foot in the door, so what? What would be wrong about allowing bottled water to be substituted generally for piped drinking water, regardless of the type of public water system or number of persons it serves? What would be wrong has already been stated above under items 1) through 10). Furthermore, piped public water is vastly more efficient, less costly, freer from contamination, and imbued with the public interest. In the United States, over the past 200 years, the trend has been strongly away from private toward the public provision of water. Today In the US, 86% of water is supplied by public water companies. There are reasons for this shift. In private hands over the years, there have been problems with deteriorating water quality, excessively high water rates, financial problems leading to abrupt pull-outs or force-outs, failure to repair existing or build needed new infrastructure, cutbacks on essential operating staff, inability to meet demands for water, and loss of local control over supplying water (as companies go national and then international).

Water is a classic example of an essential substance that should remain publicly supplied, treated, and regulated. It is too important to the public's health and quality of life to be left to the uncertainties, secretiveness, and self-interest of the private commercial marketplace. Over the past two centuries, with some exceptions (most notably France), water has become a public utility. It should remain one. If there are problems being encountered with public water systems, then they should be confronted and solved without abandoning the concept of public utility.

Except as the stopgap currently permitted in emergencies (in which you use whatever you've got available), let's continue to keep the private enterprise of bottled water out of the public obligation to provide potable water to our population. **SANIPLAN strongly urges EPA not to repeal, modify, or weaken 40 CFR s.141.101.**

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