

Waterloo Watch



"People watching out for our community."

Who Is Responsible For Chemical Additives In Drinking Water ?

Who Is Responsible?

- National Sanitation Foundation (NSF), Dental Trade Associations (CDA), Medical Associations and Public Health Service (PHS) seem to **admit they have no authority** to instruct a city regarding fluoride chemical additives
- NSF, CDA and PHS believe they have **no liability** in this matter, under SDWA regulations
- Municipalities/Cities **are liable** for violations of the SDWA

Dental Associations are Trade Associations who do not accept liability for municipal choices of fluoridation chemicals.

California case of Tolhurst v. Johnson & Johnson, the American Dental Association argues to the Court, and is dismissed from liability for its omissions of material fact and its claims of safety, on the grounds that ADA is a trade association with no duty of care to the general public.

“We deny that we have any liability as alleged and note that the fluoridation of public water drinking supplies is a matter for the local council.” Robert Boyd-Boland, Chief Executive Officer, Australian Dental Association

Medical Associations

- “We are a private medico-political organisation with a voluntary membership base. While we issue statements of a general nature concerning health policy, we are not in a position to offer "assurances" or "undertakings" in relation to specific government programmes. Nor do we take upon ourselves a role of public advocacy in every matter relating to health.

While the AMA supports in a broad sense the health benefits which arise from a properly conducted fluoridisation programme, we have no involvement in or control over the implementation of these programmes in practice. We therefore reject your assertion that we could in any way be subject to liability.” Dr E Robyn Mason, Secretary General, Australian Medical Association

Public Health Service does not accept liability for municipal choices of fluoridation chemicals

In *Coshow v. City of Escondido and Department of Health Services*, the now-named Department of Public Health denied to the court that it had any responsibility for Escondido's selection of hydrofluorosilicic acid and its accompanying arsenic, and stated Department of Public Health had no authority to make such a selection or force Escondido to make that selection.

National Sanitation Foundation (NSF)

- NSF International is not a government agency, and has no duty of care to consumers.
- NSF Disclaimer: “NSF, in performing its functions in accordance with its objectives, does not assume or undertake to discharge any responsibility of the manufacturer or any other party.”

PUZZLING

YET!

- Ontario Ministry of the Environment cites it is OK to put “fluoride” into the drinking water.
- Public Health Services advocates putting “fluoride” into drinking water
- Fluoridation Act (Ontario) permits putting “fluoride ions” into drinking water

BUT!

- NO ONE OPENLY ENDORSES the use of *hydrofluorosilicic acid* except the industries producing and selling it – who also take no responsibility for its safety and efficacy.

Health Canada

- Federal Government is responsible for establishing general Health-Based Standards.
- But, there are no federal safety standards for direct water additives.
- “Although these products and materials are **not currently regulated at the national level**, Health Canada recognizes the importance that they be **effective and safe.**”

Province of Ontario

- The Ontario government wrote the Safe Drinking Water Act [SDWA] in 2002.
- The Ontario government determines which safe drinking water standards are to be used by the municipalities.
- Ontario has adopted ANSI/NSF Standard 60 and the AWWA standard.

Who wrote the safety standards for water additives ?

Standard 60 written by:

1. National Sanitation Foundation - NSF
2. American National Standards Institute – ANSI

Also a standard by:

American Water Works Association – AWWA

Municipalities are responsible for Chemical Additives

Municipalities must ensure that all chemicals and materials that come into contact with water within their drinking-water systems:

1. Meet the applicable safety standards - ANSI/NSF Standard 60
2. Adhere to all requirements of Safe Drinking Water Act
3. Are “safe and effective”

Congressional Testimony (2004) Mr. Stan Hazan General Manager, Drinking Water Additives Certification Program, National Sanitation Foundation

- QUESTION: So would it be fair so that I -- that if Standard 60 was not followed with respect to a particular substance, that would be a breach of that allegation to the stakeholders, I think you referred to them?
- MR HAZAN: Uh-huh. Yeah. If we didn't follow specific requirement under the standard, then -- then that would be a breach. P 22
- MR HAZAN: Well, I believe that one of the -- it was either a deposition or a record that indicated that no -- that NSF failed to follow its own Standard 60 procedures... P 67

Certificates of Approval

6.3 Chemical standards

All chemicals and materials used in the operation of the drinking-water system that come into contact with water within the system shall meet all applicable standards set by both the American Water Works Association ("AWWA") and the American National Standards Institute ("ANSI") safety criteria standards NSF/60 and NSF/61.

SDWA

Drinking Water Health Hazard

Section 2: Drinking Water Health Hazard "means, in respect of a drinking-water system:

- (a) a condition of the system or a condition associated with the system's waters, including any thing found in the waters,
 - (i) that adversely affects, or is likely to adversely affect, the health of the users of the system,
 - (ii) that deters or hinders, or is likely to deter or hinder, the prevention or suppression of disease, or that endangers or is likely to endanger public health,"

SDWA: Additions of Drinking Water Health Hazards Not Permitted; Dilution no Defence

Section 20 (1): (1) No person shall cause or permit any thing to enter a drinking-water system if it could result in,

- (a) a drinking-water health hazard;
- (b) a contravention of a prescribed standard;

Section 20 (2): Exception

Subsection (1) does not apply to prohibit activities that are carried out,

- (a) in the course of the proper operation, maintenance, repair or alteration of a drinking-water system; or
- (b) under a statutory authority or for the purposes of complying with a statutory requirement. 2002, c. 32, s. 20 (2).

Section 20 (3): Dilution no defence

For the purposes of prosecuting the offence of contravening subsection (1), it is not necessary to prove that the thing, if it was diluted when or after it entered the system, continued to result in or could have resulted in a drinking-water health hazard.

SDWA Speaks To The Fluoridation Act

Section 166 (1) Conflict

The provisions of this Act and the regulations prevail over the provisions of any other Act and any regulation made under any other Act, irrespective of when the other Act is enacted or the regulation is made under the other Act. [2002, c. 32, s. 166 (1)].

Are We Permitted To Filler' Up?

“Standards, objectives and guidelines are considered to be the minimum level of drinking-water quality and in no way should be regarded as implying that allowing the degradation of a high quality water supply to the specified level or range that is acceptable.”

Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines

Safe & Effective ???

- There are **NO safety studies** on hydrofluorosilicic acid. EPA, FDA, NSF letters 1999, 2000, 2001, 2002, 2004, US Congressional Hearings, Health Canada
- There are **NO efficacy studies** to demonstrate that hydrofluorosilicic acid is effective at reducing cavities, when swallowed, at the recommended doses.

Safe & Effective ???

- Any claims of safety for this product are without merit.
- Safety cannot be determined by rhetoric or endorsement.

Failure to Inform

Voters, legislators and health professionals are unaware of the specific nature of the actual product and its contaminants put into the drinking water:

- Leads to inappropriate employee protection from toxic substances.
- Leads to inappropriate consumer (public) protection from toxic substances.
- Leads to inappropriate environmental protection.

Conclusions

- Municipalities are legally responsible for chemicals (water additives) chosen.
- Municipalities are legally responsible for adverse health consequences and ecological impact of chemicals (water additives) chosen.