October 8, 2009

Water Docket
U.S. Environmental Protection Agency
Mailcode: 2922T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Perchlorate Supplemental Request for Comments

(Docket ID No. EPA-HQ-OW-2009-0297)

Dir Sir/Madam:

The National Association of State Departments of Agriculture (NASDA) represents the commissioners, secretaries, and directors of the state departments of agriculture in all fifty states and four U.S. territories. NASDA’S members are responsible for a wide range of public health programs from food safety to combating the spread of disease. Moreover, as co-regulators with the Environmental Protection Agency (EPA), NASDA’s members are the lead state agencies responsible for administering, implementing and enforcing the laws regulating the production, labeling, distribution, sale, use and disposal of pesticides.

This broad range of responsibilities gives our members a significant basis of relevant expertise in responding to EPA’s August 19, 2009 request for comment on alternative approaches to interpreting data related to EPA’s earlier regulatory determination for perchlorate in drinking water. The comments NASDA is submitting today are intended to supplement comments submitted on September 18, 2009 in which NASDA requested additional time to review the approaches outlined by EPA.

We remain very concerned that the approaches EPA outlined in the August 19 Federal Register will significantly—and unnecessarily—impact American agricultural production and foreign trade. Because perchlorate is naturally occurring at low levels in a number of agricultural products, it is imperative that EPA’s regulatory determination be based upon a sound scientific approach that protects public health without unnecessarily creating concerns about the safety of agricultural products that are vital to a healthy diet. This is particularly important in light of the fact that the risks associated with perchlorate can be easily avoided by the consumption of sufficient iodine-rich foods or iodine supplements by a specific subset of the population.
As we detailed in previous comments, an overly conservative perchlorate standard that is not based on sound, peer-reviewed science and an appropriate risk-based assessment could unintentionally lead to unjustified food scares on a wide variety of fresh fruits, vegetables, and dairy products. Even though EPA’s current action is intended only to explore alternative approaches to analyzing data, the additional alternatives under consideration could result in health reference levels which are much lower than the level identified in the October 2008 notice. NASDA is concerned that this kind of standard would likely lead to inaccurate consumer perceptions and confusion about perchlorate in agricultural products. The ramifications of this kind of food scare would have devastating impacts on agricultural producers and rural communities. For example, a study by Arizona State University indicates that a prolonged food scare involving winter lettuce could result in a negative economic impact of over $5 billion.

Moreover, EPA’s actions could have significant impacts on American producers’ access to foreign markets. The agricultural products impacted by this issue represent nearly $70 billion in export opportunities. Because other countries frequently cite food safety concerns as justifications to erecting trade barriers to American agricultural products, an overly conservative perchlorate standard that is not based on sound, peer-reviewed science and an appropriate risk-based assessment would likely lead to the imposition of unfair and economically devastating trade restrictions by America’s trading partners.

It is key to this discussion that exposure to perchlorate is only potentially problematic for individuals with iodine deficiency. There is no evidence\(^1\) that iodine deficiency is a widespread problem in the United States, and that only individuals who are on restrictive diets or purposely avoid iodine consumption are at risk for such a deficiency. While there is no evidence that iodine deficiency is a widespread problem in the US, women of child-bearing age and pregnant women are theoretically more at risk for effects of perchlorate consumption. Because inadequate iodine consumption during pregnancy can lead to negative birth outcomes, any further reduction uptake by the thyroid from exposure to perchlorate could pose a risk. While there is no evidence of widespread iodine deficiency in women of child-bearing age or pregnant women, this subpopulation could be targeted with education about diet during pregnancy and appropriate prenatal care that stresses the importance of adequate iodine consumption during pregnancy.

In conclusion, we point to the EPA Office of Inspector General’s (OIG) draft review\(^2\) of EPA’s perchlorate assessment which emphasizes a number of important points that are relevant to

---

1 United States Food and Drug Administration. Perchlorate Questions and Answers. [http://www.fda.gov/Food/FoodSafety/FoodContaminantsAdulteration/ChemicalContaminants/Perchlorate/ucm077572.htm](http://www.fda.gov/Food/FoodSafety/FoodContaminantsAdulteration/ChemicalContaminants/Perchlorate/ucm077572.htm)

this discussion. Specifically, the review points to the fact that other naturally occurring compounds found in food behave in a way that is similar to perchlorate. According to this review, regulating perchlorate in drinking water is unlikely to have any material impact on public health. We agree with the conclusion in OIG’s draft that promoting adequate iodine intake is a superior approach than regulating perchlorate as a drinking water contaminant.

Because the public health concerns associated with potential perchlorate consumption can be addressed through education and dietary modifications in a small subset of the population, NASDA is very concerned that EPA not adopt an approach that would lead to consumer confusion, food scares, and potential financial devastation for American agricultural producers.

Sincerely,

Stephen Haterius
Executive Director