



**American Water Works
Association**

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November 21, 2023

Lisa D. Daniels
Chair
National Drinking Water Advisory Council
Office of Ground Water and Drinking Water (Mail Code 4601)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Transmitted electronically via NDWAC@epa.gov

RE: Report of the Microbial and Disinfection Byproducts Rule Revisions Working Group

Dear Ms. Daniels and NDWAC members,

On Thursday, November 16 the U.S. Environmental Protection Agency (EPA) released the National Drinking Water Advisory Council (NDWAC) Working Group report with recommendations for revision of the suite of existing microbial and disinfection byproducts (DBPs) rules (M/DBP rules). These comments were due by noon November 21, three business days later, so as a matter of necessity the following comments are brief.¹

First, the American Water Works Association (AWWA) would like to express its appreciation to the members of the NDWAC working group and water sector members who volunteered countless hours to participate in web-enabled meetings and associated preparatory work. We are especially appreciative of the efforts by the working group members with a strong grasp of the current Safe Drinking Water Act (SDWA) regulations and the practical aspects of reliably providing safe drinking water to the communities they serve. Disinfection is a linchpin of drinking water treatment and, as a consequence, existing practice and associated regulatory controls are interwoven and not easily conveyed to those who are not immersed in implementation on a day-to-day basis.

The M/DBP regulations are central to water system design and operation. The risk-risk trade-offs are both discrete (e.g., disinfection to inactivate pathogens vs formation of DBPs) and more global (e.g., will a new regulatory requirement for more total organic carbon removal improve system operation or harm consumers by further delaying more critical investments in environmental justice communities). Because of the importance of these rules to protecting public health and centrality of these rules to water system

¹ 88 Federal Register 75281

operation, AWWA has asked repeatedly for EPA to support relevant research and information collection as well as engage knowledgeable stakeholders in developing technically sound solutions. EPA is now faced with an imminent deadline for publishing a proposed rule(s) but still lacks the underlying data to craft implementable regulatory requirements that effectively protect public health.² Currently, there are four EPA research projects that have just been initiated to inform the questions before the working group. EPA did not engage in *a priori* planning with the sector. The research objectives were not coordinated in a deliberate manner and most importantly, the research results will not be available until EPA is past the point-of-no-return in the substance of the upcoming rulemakings. AWWA urges the NDWAC to bolster Recommendation 12 to strongly encourage Administrator Regan to direct the relevant offices in EPA to engage drinking water associations and research organizations in crafting a strategic research and information collection program for M/DBP data gaps. Ideally this would be a more holistic research agenda, but the working group report provides a clear demonstration of knowledge gaps facing EPA with respect to disinfection and DBPs.

The working group recommendations are, in part, a reflection of expert dialogue within the water sector. That dialogue includes concepts readily found in AWWA's manuals of practice, conference proceedings, and committee of practice discussions. AWWA's recommendations for best practice include basic concepts such as:

1. Ensuring disinfectant residual reaches throughout the distribution system
2. Managing chloramination so as to not have unwanted biofilm growth and DBP formation
3. Appropriately engaging in asset management including inspection and maintenance of finished water storage facilities
4. Effectively managing water quality deterioration associated with increasing water age including such deterioration as water is conveyed through multiple water systems

Good practice is what water systems do daily to provide an adequate supply of water that is safe to use 365 days a year, 24 hours a day on a sustainable basis; it is not the substance of regulation. Regulations provide a check on ongoing system operations to make sure that drinking water is indeed safe. Water quality challenges are site-specific; extrapolating from anecdotes and broad generalizations oversimplifies the diverse range of water systems across the U.S. Such generalizations may help us identify how to triage technical assistance to systems that are encountering difficulties, but the matrix of challenges facing any one system is unique and requires solutions that are place-based.

EPA's task is to identify specific public health challenges that need to be addressed and can be addressed through regulation, and then determine which specific regulatory criteria will address the challenge being targeted (without doing more harm than good). Historically finding that balancing point has been difficult for the M/DBP rules, hence the prior use of negotiated rulemakings and the associated detailed analyses to make data-driven recommendations.³ As just one example of the scientific research gaps that will need

² Waterkeeper Alliance v EPA

³ 2021 AMWA, AWWA, NRDC, and CWA correspondence to Radhika Fox.

to be overcome in any rule revision, quantitative data are lacking to link a specific numeric secondary disinfectant residual level to a reduced incidence of waterborne disease while balancing increased exposure to DBPs and associated health risks.

In determining if the NDWAC should accept the working group report and forward it on to the EPA Administrator, it is important that the Council recognize and convey the following points to the Administrator:

1. The NDWAC working group was working under resource constrained conditions and as a consequence their recommendations are qualitative, largely resting on personal experiences rather than substantive quantitative analysis.
2. For EPA to effectively translate the NDWAC working group report into action, the EPA drinking water program will need adequate resources to overcome the gaps in knowledge that the working group faced. EPA will need to:
 - a. Distinguish which of the working group recommendations can be supported with sound science as required by SDWA.
 - b. Discern what the practical effects of specific regulatory changes are likely to be (e.g., would requirements intended to enhance water quality through consecutive system – wholesale system collaboration create a barrier to water transfers to less sophisticated consecutive systems? What increase in DBPs can be expected from increasing disinfectant residuals, and what are the health implications of this increase?).
 - c. Understand what steps are entailed in regulatory compliance reporting and oversight (e.g., are administrative burdens appropriate to the objective of the requirement).
3. The NDWAC working group recommendations will require substantial additional technical discussion with the drinking water community to realize viable and defensible regulatory revisions. EPA's past SDWA rulemakings have demonstrated that engaging with informed stakeholders is essential to crafting sound, detailed regulatory requirements.
4. The NDWAC working group's recommendation that building owners / operators need to appreciate that water quality must be managed within buildings and building owners / operators are responsible for acting to assure adequate water quality within their premises is very important.
5. EPA needs to engage drinking water associations and research organizations in preparing a strategic research and information collection program for M/DBP data gaps and adequately fund that research agenda.

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AWWA hopes that these comments will assist NDWAC as it supports EPA formulate the agency's review and revision of the drinking water M/DBP regulations. If you have any questions regarding this correspondence, please contact me at 202.326.6130 or svia@awwa.org.

Best regards,
ON BEHALF OF THE AMERICAN WATER WORKS ASSOCIATION

Signed 11/21/2023

Steve Via
Director – Federal Relations
American Water Works Association

cc: Elizabeth Corr
Docket ID: EPA-HQ-OW-2020-0486
M/DBP Revisions (MDBPRevisions@epa.gov)
Kenneth Rotert
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Who is AWWA

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,000 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.