ASSOCIATION OF METROPOLITAN WATER AGENCIES

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July 21, 2025

Mr. Steven Elmore
Chair, National Drinking Water Advisory Council
Office of Ground Water and Drinking Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: FRL-12882-01-OW July 28, 2025, Meeting of the NDWAC

Submitted electronically.

Dear Mr. Elmore:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to provide written and oral comments to the National Drinking Water Advisory Council (NDWAC) regarding proposed revisions to the National Primary Drinking Water Regulation (NPDWR) for six per- and polyfluoroalkyl substances (PFAS), including PFOA, PFOS, PFHxS, PFNA, HFPO-DA and its ammonium salt, and PFBS. AMWA is an organization representing the largest publicly owned drinking water systems in the United States. Our member utilities collectively provide clean drinking water to over 160 million people from coast to coast, with many utilities already in compliance with state regulations limiting PFAS and others developing plans, piloting treatment, and working to comply with this NPDWR. AMWA strongly supports regulations that follow the letter and spirit of the Safe Drinking Water Act (SDWA) and protect public health.

The Association appreciates the goals behind EPA's proposed revisions to the PFAS NPDWR, as outlined in EPA's May 14 press release.[1] These comments describe our support for EPA's proposed

[1] USEPA. (2025, May 14). EPA Announces It Will Keep Maximum Contaminant Levels for PFOA, PFOS [Press Release]. https://www.epa.gov/newsreleases/epa-announces-it-will-keep-maximum-contaminant-levels-pfoa-pfos.

timeline extension for compliance with the PFOA and PFOS standards, and for EPA's decision to rescind the regulations and reconsider the regulatory determinations for PFHxS, PFNA, HFPO-DA and its ammonium salt, and the Hazard Index mixture of these three plus PFBS (hereafter referred to as the "Hazard Index PFAS").

However, despite AMWA's support for these efforts to make the NPDWR more workable for water systems and their customers, and to adhere to the regulatory process mandated in SDWA, the Association would like to again register its concerns with the 4 part-per-trillion maximum contaminant levels (MCLs) for PFOA and PFOS that EPA has committed to maintain. AMWA continues to believe that these standards are not feasible and are based on a flawed cost-benefit analysis. AMWA has more fully explained its views on the overall NPDWR in the attached brief that was filed in litigation challenging the final rule.

But aside from these larger questions of the overall rule, AMWA believes that an extended timeline for compliance with the PFOA and PFOS standards, as announced by EPA in May, will provide water systems nationwide with a better ability to adequately prepare for compliance with the NPDWR should it remain in place. EPA's corresponding announcement to rescind the regulations and reconsider the regulatory determinations for the Hazard Index PFAS will provide the Agency with the opportunity to correct errors it made in establishing the NPDWR and will ensure that the determinations and any resulting NPDWR follow the required legal process established by SDWA. The Association furthermore iterates that this rescission does not violate the requirements of 42 U.S.C. § 300g-1(b)(9), as detailed in the latter half of this letter.

i. An extended compliance timeline for the PFOA and PFOS NPDWR more accurately reflects the time that water systems need to fully meet the standard while recognizing that additional compliance flexibility may still be necessary for some water systems.

EPA's initial deadline requiring compliance with the PFOA and PFOS NPDWR by 2029 failed to acknowledge the structured, multi-phase approach that water systems must often undergo to control for PFAS. AMWA therefore appreciates the additional two years that EPA is proposing to provide water systems before compliance with the new standard is required. However, even with this compliance extension until 2031, some public water systems may still face challenges meeting this timeline due to no fault of their own. These processes are often time-consuming and require complex coordination with various partnering organizations, regulatory approvals, and up to hundreds of millions of dollars in funding for new treatment and ongoing maintenance. Therefore, AMWA also appreciates EPA's stated intention to establish a federal exemption framework that we understand will offer additional compliance flexibility – beyond the extended 2031 deadline – to individual water systems, on a case-by-case basis.

While we are eager to learn the details of how this federal exemption framework will operate, AMWA believes that it is prudent to provide reasonable compliance flexibility to water systems that are truly making good-faith efforts to comply with the PFOA and PFAS standards by the deadline, but which are encountering logistical or practical challenges that prevent them from doing so. In that case, EPA and states should work with local water systems to develop workable solutions and alternate timelines, rather than punishing them for being unable to meet an impossible goal. We are confident that providing water systems with an extended timeline will save communities money in the long run by allowing water systems more time to thoughtfully plan and implement necessary projects, and avoid the potential outcome of water systems being out of compliance due only to unrealistic timelines.

These extended compliance timelines will also allow water systems the ability to comprehensively take necessary steps to achieve PFAS removal. Utilities must start by determining whether their system will exceed the MCL, identifying sources, and considering non-treatment alternatives, such as blending or abandoning contaminated sources. If installation of treatment is necessary, utilities must work closely with engineering consultants and technical experts to identify the most effective and feasible treatment technologies. Common options include granular activated carbon (GAC), ion exchange resins, and membrane filtration, all of which are costly in installation, training, and maintenance. Many water systems, including AMWA's members, must undergo pilot testing to verify the appropriateness of different treatment technologies performance under site-specific and different seasonal conditions. At the same time, internal coordination is essential to assess staff capacity and training needs for operating new infrastructure.

Regulatory approvals, including state plan reviews and construction permits, also contribute to overall project timelines. Many utilities are required to navigate local land use or zoning approvals prior to constructing new facilities. This zoning process typically requires six to eighteen months and is often preceded by a minimum of six months dedicated to preliminary engineering and the preparation of application materials, including an alternatives analysis. The zoning approval is distinct from and must be secured before advancing to site plan approvals and building permits, which themselves can take an additional six to twelve months. Between the zoning and site permitting stages, detailed engineering design and the development of bidding documents take place, a phase that may extend twelve to eighteen months depending on the complexity of the chosen treatment technology.

When new treatment facility construction is necessary, water systems must carefully balance different considerations that take time. Foremost, phasing construction at a time that maintains plant operations and ensures an adequate supply of drinking water to the public is critical. Tie-ins to existing infrastructure will be necessary and must occur during low-demand periods (often wintertime or other low-use time based on location) to ensure sufficient water production capacity is

available to meet community needs. These construction staging intricacies further lengthen the time to construct PFAS treatment improvements. Construction and commissioning timeframes will be project and site-specific, but in some cases could in some cases take three years.

Additionally, public water systems are required to comply with established public procurement regulations, which add considerable time to the overall design and construction timeline. The preparation of a request for proposals (RFP) for project design services, followed by the receipt and evaluation of proposals, consultant selection, negotiation, and contract award, typically requires six months or longer. Subsequently, the process of soliciting bids for construction and awarding construction contracts generally takes an additional three to six months. While certain public water systems may have the option to utilize alternative procurement methods, such alternatives are not universally available and, even when employed, tend to reduce the duration of the design and construction phases only modestly.

Finally, planning for capital investment is a critical component of the process, and a longer timeline will allow water systems the time that is necessary to evaluate funding mechanisms, distribute those costs, and thoughtfully communicate any changes to customers. Utilities may explore funding options such as State Revolving Fund and WIFIA loans, grants, municipal bonds, or rate increases to cover the significant costs associated with PFAS treatment. Developing a long-term financial strategy may require approval from governing bodies, community engagement, and financial modeling to ensure the solution is both affordable and sustainable. Because each step involves coordination among stakeholders, technical professionals, and regulatory agencies, it is common for these projects to take several years to reach full implementation.

Establishing a realistic and achievable compliance timeline is essential to the successful implementation of this rulemaking. Widespread noncompliance would also place undue strain on state primacy agencies and EPA, while eroding public confidence in the safety of drinking water. It is in the public's best interest to have assurance that compliance with new standards is attainable, rather than being repeatedly told that their water system fails to meet regulatory requirements. Persistent notifications of noncompliance are likely to increase reliance on bottled water, which is not subject to the same PFAS monitoring and treatment standards as public water systems.

For these reasons, AMWA supports EPA's proposed two-year delay in the compliance deadline for PFOA and PFOS, and its intention to provide individual water systems with additional compliance flexibility as needed. Together, this approach represents a much more practical option for many water systems than the original 2029 compliance deadline.

ii. EPA is acting in accordance with the requirements of SDWA in rescinding the regulations for the Hazard Index PFAS.

As stated previously, and in the attached legal filing, AMWA believes that EPA's 2024 rulemaking to establish MCLs for the Hazard Index PFAS failed to comply with key procedural requirements of SDWA. The Association therefore supports the decision to rescind these MCLs and revisit the regulatory determinations for these contaminants. Specifically, the agency failed to meet the key statutory requirements of using mandatory scientific standards, procedural safeguards, and public participation requirements under 42 U.S.C. § 300g-1(b)(1) and (3). By not adhering to the SDWA's carefully designed framework, EPA undermined both the integrity of the regulatory process and the ability of water systems to reliably protect public health through enforceable and technically achievable standards.

First, EPA did not provide an adequate scientific basis when making regulatory determinations in its April 2024 proposed NPDWR. Under 42 U.S.C. § 300g-1(b)(3)(A), EPA must base its MCLs on "the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices." The Agency departed from its own established toxicological methods without adequately disclosing or justifying those deviations. For example, EPA introduced reference doses and risk values for the Hazard Index PFAS that had not been subject to full peer review or robust scientific validation. Furthermore, EPA developed the Hazard Index, a composite risk tool not traditionally used for regulatory enforcement under SDWA, based on assumptions that lack transparency and reproducibility. These actions disregard the statutory obligation to use sound science and inhibit meaningful review by regulated entities and the public.

Importantly, EPA next did not provide the required opportunities for public comment at different points in the regulatory process, as required in 42 U.S.C. § 300g-1(b)(1)(B) and (E). By issuing the preliminary regulatory determination for the Hazard Index PFAS concurrently with the proposed rule, the Agency improperly limited the ability of stakeholders, including public water systems, to evaluate or comment on the data and methodologies used to support its MCLs and Hazard Index. Key analytical components, including relative source contribution estimates, interspecies extrapolation models, and cumulative risk approaches, were introduced late in the regulatory process or without full disclosure. The lack of transparent public engagement directly contradicts SDWA's requirement that regulatory development be subject to stakeholder scrutiny and reasoned analysis.

Additionally, in establishing MCLs for the Hazard Index PFAS, EPA bypassed the required regulatory determination process outlined in 42 U.S.C. § 300g-1(b)(1)(A). This process requires EPA to make a formal finding, based on public health and occurrence data, that regulation of a contaminant presents "a meaningful opportunity for health risk reduction for persons served by public water systems." EPA did not issue such determinations for the Hazard Index PFAS. Instead, the Agency improperly included them in the Hazard Index and then imposed enforceable requirements based on this index. By doing so, EPA circumvented a critical step to ensuring that

new drinking water standards are grounded in demonstrable risk and properly subject to scientific and stakeholder evaluation.

Furthermore, the use of a Hazard Index as an enforceable regulatory instrument is not supported by SDWA. The Hazard Index methodology is typically a screening tool used in environmental assessments and not designed for enforceable MCLs. EPA's use of this tool to impose legal obligations on water systems conflates distinct statutory purposes. Under 42 U.S.C. § 300g-1(b)(4), EPA is required to consider the feasibility of compliance and conduct cost-benefit analyses when proposing MCLs. The Hazard Index, by its nature, does not lend itself to this type of analysis, and EPA has not demonstrated that the index is capable of being implemented consistently by water systems of all sizes. This lack of clarity creates significant uncertainty for public water systems and undermines the enforceability of EPA's final rule.

A final critical procedural failure involves EPA's noncompliance with 42 U.S.C. § 300g-1(b)(3)(C), which requires the Agency to set MCLs at levels that are as close as feasible to the health-based goals, considering the costs and the availability of treatment technologies. EPA did not adequately evaluate whether water systems across the country could feasibly implement treatment for all four PFAS included in the Hazard Index, especially when required to remove them simultaneously. The rule imposes potentially unattainable treatment and monitoring demands without a full accounting of economic impact. The absence of this analysis represents a significant procedural deficiency under the SDWA. Compliance with SDWA's requirements is not only a matter of legal obligation but is essential to preserving public trust, safeguarding public health, and ensuring that drinking water regulations are scientifically justified, technically feasible, and economically sound.

Because of these numerous shortcomings in the development of the rule, it is the Association's belief that EPA's proposal to rescind and reconsider the regulatory determination and MCLs for the Hazard Index PFAS is consistent with 42 U.S.C. § 300g-1(b)(9), commonly known as the "anti-backsliding provision" of SDWA. This section of law specifies that a revised drinking water standard "shall maintain, or provide for greater, protection of the health of persons." In this case, AMWA maintains that because the MCLs for the Hazard Index PFAS were not lawfully promulgated in the first instance, revisiting these determinations and resulting drinking water standards will not constitute a violation of 42 U.S.C. § 300g-1(b)(9).

AMWA would like to reiterate that the Association is not necessarily opposed to the regulation of any of the Hazard Index PFAS under SDWA, but that EPA's process to reach that decision in the 2024 rule was faulty. AMWA understands that EPA intends to issue new preliminary determinations for the Hazard Index PFAS, which will provide required opportunities for public comment and will allow the agency to properly evaluate the possible regulation of these contaminants in the context of statutory requirements. It is fully plausible that the agency may again determine to regulate some or

all of the Hazard Index PFAS in drinking water, and AMWA may support such a decision if it is made in accordance with all requirements of SDWA.

iii. Conclusion

AMWA appreciates EPA's decision to extend the compliance timeline for the PFOA and PFOS NPDWR, and to rescind and revisit the MCLs for the Hazard Index PFAS. While still falling short of addressing all stakeholder concerns with the regulations, at minimum the proposed revisions will provide public water systems more time to comply with a costly mandate, and will avoid setting a worrying precedent that could encourage EPA to similarly cut procedural corners when developing other drinking water standards in the future. Setting more realistic compliance timelines will allow more public water systems to plan, fund, and implement treatment solutions effectively, while revisiting the Hazard Index offers an opportunity to align the rule with the scientific rigor and public transparency required under SDWA. Most importantly, honoring SDWA's stepwise regulatory process strengthens the credibility, legality, and sustainability of drinking water standards for the long term.

AMWA welcomes the opportunity to engage in continued dialogue regarding the effective implementation of this proposed rulemaking. If you have any additional questions, please contact Jessica Evans, AMWA's Director of Regulatory Affairs.

Sincerely,

Tom Dobbins
Chief Executive Officer

cc: Tracey Ward, NDWAC Designated Federal Officer
Jessica Kramer, Senior Advisor, Office of Water
Jennifer McLain, Director, Office of Ground Water and Drinking Water

Attachment: *American Water Works Association, et al. vs. U.S. EPA* opening brief, October 7. 2024.