



October 19, 2023

Elizabeth Corr
NDWAC Designated Federal Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: October 11, 2023 meeting of the National Drinking Water Advisory Council

Dear Ms. Corr,

The Association of Metropolitan Water Agencies (AMWA) appreciated the opportunity to provide oral comments at the recent meeting of the National Drinking Water Advisory Council (NDWAC). AMWA is an organization of the largest publicly owned drinking water systems in the United States. Our member utilities collectively provide clean drinking water to over 160 million people. Below are the comments from AMWA provided during oral remarks for the NDWAC’s reference as it reviews the working group report on MDBP rule revisions.

The association thanks the members of the NDWAC and EPA for allowing us the chance to speak today, and particularly wants to thank the MDBP Working group members for all the efforts they have put into this process over the past year and a half. While AMWA is supportive of the aims of the working group in general, there are some concerns and suggestions we would like to voice to you all today.

AMWA has been closely following the MDBP rule revision process from the start. AMWA, the American Water Works Association, Clean Water Action, and the National Resources Defense Council all joined together in a letter to request EPA conduct a negotiated rulemaking for the MDBP revisions. In the letter, our groups stated that a negotiated rulemaking is by design more collaborative and resulting agreements in principle bind those at the table to abide by the negotiation, negating the real potential for drawn-out litigation, which only serves to delay at great cost to EPA and the public, additional gains in public health protection. Unfortunately, EPA denied this request and instead elected to charge the NDWAC with developing recommendations for revisions, although in the charge EPA urged the workgroup to strive for

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consensus recommendations, which is a good thing, as consensus recommendations provide a clearer pathway for EPA to act upon in developing a proposed rule.

AMWA was hoping for more public participation in the process. Key stakeholders were not able to participate in the Working group meetings beyond watching and did not have access to the vast majority of the materials made available to working group members through the SharePoint site. Additionally, members of the public could not see important workgroup interactions, like who was raising their hands during consensus votes and what was being said in the zoom chat.

A lack of current and conclusive data has resulted in at least two draft recommendations addressing data gaps. AMWA believes that any future process for MDBP improvements would benefit from this data to generate robust science-based recommendations. It is difficult for EPA to propose a regulation based on individuals' assumptions, unsupported by data, that an intervention will have a positive effect on water quality. Individuals with the ability to help on this front, the technical analysts, voluntarily committed their time to assist with the process but were restricted in what they could or could not say to Working Group members.

During workgroup discussions, workgroup members remarked that better enforcement of the current MDBP rules would go a long way to further protecting public health. Therefore, AMWA urges NDWAC to encourage EPA to provide the states the tools and resources they need to enforce the current rules more effectively.

As these recommendations approach their final form, AMWA hopes that support for realistic interventions based on sound science will be unanimous, and urges working group members to include scientific reasonings and support as they work to finalize the recommendations.

Previous working groups on topics like the CCR have produced reports with consensus and non-consensus recommendations that make it difficult for EPA to act on. AMWA also urges the NDWAC to focus its efforts on the consensus recommendations that come from the working group. NDWAC can then provide EPA with actionable interventions that are based on the most up-to-date data and supported by all the stakeholders represented on the working group. Given the data gaps that still exist, EPA would still have to put in considerable analysis but there is at least agreement that those recommendations are a path forward to protect public health.

AMWA thanks the NDWAC for allowing it to provide these comments. If you have any additional questions, please reach out to Brian Redder (Redder@amwa.net), AMWA's Manager of Regulatory and Scientific Affairs.

Sincerely,



Tom Dobbins
Chief Executive Officer