



ASSOCIATION OF
METROPOLITAN
WATER AGENCIES



American Water Works
Association



CLEAN WATER ACTION
CLEAN WATER FUND



February 9, 2021

Ms. Radhika Fox
Acting Assistant Administrator
Office of Water
U. S. Environmental Protection Agency

Re: Request for EPA to Utilize Negotiated Rulemaking Procedures to Help Guide Agency's Process Considering Microbial and Disinfection Byproducts (M/DBPs) Rules Revisions

Dear Acting Assistant Administrator Fox,

The undersigned organizations believe the revisions of the Microbial and Disinfection Byproducts (M/DBPs) Rules are an appropriate time to again utilize the Negotiated Rulemaking Procedure under 5 U.S.C., §561 et seq. The U.S. Environmental Protection Agency (EPA) used these procedures when developing the initial suite of M/DBPs rules, a process in which the undersigned organizations took part. We believe that the effectiveness of the Stage 1 and Stage 2 M/DBPs rules shows the benefits of employing the same process for updating the suite of related regulations. We strongly feel that the outcome of this collaborative process was highly successful in the advancement of public health protection and negated the real potential for drawn-out litigation.

Although there may be concern that this process would be more time consuming than a normal rulemaking, we believe that this procedure would actually save the agency time. A negotiated rulemaking allows stakeholders and EPA to come to an agreement on risk-risk tradeoff considerations, practical constraints on implementation, and effective allocation of resources toward research, risk communication, and risk mitigation and will ensure a higher likelihood of success. Convening a group of this nature will help ensure that any modifications to the M/DBPs rules are attainable, equitable, and provide the maximum public health benefit in light of consideration of the risk tradeoffs.

We strongly feel that the outcome of this collaborative process will help the sector successfully advance public health protection by facilitating the promulgation of a science-based rule in which there is shared support from a broad cross-section of stakeholders. To achieve this, we urge the agency to ensure that the negotiated rulemaking process is adequately resourced, including again providing technical support for NGOs and robust investment in technical and research support for the decision-making process.

Executive Order 13992 recently revoked the previous administration's order (EO 13875), which significantly limited the creation of new federal advisory committees. As a result, EPA may create new committees as the agency sees fit to further advise EPA's actions. In summary, we believe there is no reason that EPA could not convene an advisory group for a rulemaking of this magnitude and that this investment would be more than justified by the outcomes in increased public health protection, elevated stakeholder participation, and innovative approaches to complex water quality challenges.

Acting Assistant Administrator Fox

February 9, 2021

Page 2

We appreciate EPA's proactive engagement with stakeholders regarding this effort, and we look forward to working with the agency as this process moves forward. Thank you for your consideration of this request. Please contact any of the undersigned organizations if we can be of any assistance.

Sincerely,

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