WESTERN URBAN WATER COALITION

April 17, 2025

**Submitted via Regulations.gov**

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Environmental Protection Agency
1301 Constitution Ave. NW
Washington, D.C. 20460

**RE: Comments on Draft National Recommended Ambient Water Quality Criteria for the Protection of Human Health for Perfluorooctanoic Acid, Perfluorooctane Sulfonic Acid, and Perfluorobutane Sulfonic Acid, Docket ID No. EPA-HQ-OW-2024-0454**

Ms. Echols:

The Western Urban Water Coalition (WUWC) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) notice of availability of draft Clean Water Act (CWA) national recommended ambient water quality criteria (AWQC) for the protection of human health for three per- and polyfluoroalkyl substances (PFAS): perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), and perfluorobutane sulfonic acid (PFBS).[1] As explained in the Federal Register notice, when these national recommended human health criteria (HHC) are finalized, they will provide information that states and authorized tribes may consider when adopting water quality standards.[2]

WUWC is a coalition of 21 of the largest western water utilities[3] formed more than 30 years ago to address the unique water issues facing the western United States. Its members serve over 40 million water consumers in major metropolitan areas in eight western states, whose operations and treatment facilities are affected by federal PFAS regulations.

[1] 89 Fed. Reg. 105,041 (Dec. 26, 2024).
[2] *Id*.
[3] WUWC was established in 1992 to address the West's unique water supply and water quality challenges, and consists of the following members: ***Arizona*** (Central Arizona Project, City of Phoenix and Salt River Project); ***California*** (Eastern Municipal Water District, East Bay Municipal Utility District, City of Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water District, and City and County of San Francisco Public Utilities Commission); ***Colorado*** (Aurora Water, Colorado Springs Utilities, and Denver Water); ***Idaho*** (City of Boise); ***Nevada*** (Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority); ***New Mexico*** (Albuquerque Bernalillo County Water Utility Authority); ***Utah*** (Salt Lake City Public Utilities and Washington County Water Conservancy District); and ***Washington*** (Seattle Public Utilities).

Regulation of PFAS is both appropriate and necessary in many cases to address human health impacts, and WUWC understands that the draft HHC represent just one piece of broader federal regulatory priority actions that EPA is taking. WUWC shares EPA's goal to ensure that western water agencies and their customers are assured a public water supply that is reliable, affordable, and safe. But the federal government must take all appropriate steps—within and outside of this action—to dampen the resulting and inequitable burdens on water utilities and their customers. Unlike manufacturers, processors, and other entities in the PFAS supply chain, water utilities did not introduce PFAS into commerce or profit from their widespread use. Water utilities instead operate treatment facilities at substantial capital and operational cost to treat source waters so that they are safe for human consumption and other uses.

WUWC is concerned that the proposed HHC may expose water utilities to additional potential liability and expenses that will ultimately be borne by customers who have no responsibility for PFAS pollution. WUWC respectfully submits the following comments in response to EPA's notice of draft recommended AWQC for the protection of human health for specific PFAS.

## I. EPA should carefully consider that the draft HHC will prompt regulatory activity from states and authorized tribes.

EPA emphasizes that the draft HHC for PFOA, PFOS, and PFBS are not regulations and do not impose legally binding requirements.[4] Rather, according to EPA, HHC are intended to provide information that states and authorized tribes may consider when adopting water quality standards, and states and authorized tribes may adopt, where appropriate, different water quality criteria.[5] Though HHC are not regulations and do not impose legally binding requirements, once finalized, WUWC is concerned that the draft HHC will prompt stringent regulatory activity from states and authorized tribes.

Under the CWA, states have primary responsibility for establishing water quality standards.[6] As EPA recognizes,[7] the CWA requires states and authorized tribes to adopt water quality criteria to protect designated uses.[8] Designated uses are the expressed goals for using the waterbody in question and may include protection of fish, shellfish, and wildlife. Uses also include recreation in the water, public water supply, agriculture, industry, or navigation.[9] HHC are designed to minimize the risk of adverse human health effects from lifetime exposure to substances through drinking water and eating fish and shellfish from inland and nearshore waters.[10] The recommended HHC provide scientific information to states and authorized tribes when they establish water quality standards that ultimately provide a basis for assessing water body health and controlling discharges of pollutants.[11] States and authorized tribes may adopt the recommended HHC or develop their

[4] 89 Fed. Reg. at 105,042 (Dec. 26, 2024).
[5] *Id*. at 105,041 and 105,042.
[6] 33 U.S.C. § 1313.
[7] 89 Fed. Reg. at 105,042.
[8] 40 C.F.R. § 131.11.
[9] Environmental Protection Agency, Designated Uses, https://www.epa.gov/wqs-tech/designated-uses#anchor-1.
[10] 89 Fed. Reg. at 105,042.
[11] *Id*.

own scientifically sound criteria for designated uses, including public drinking supply.[12] Once EPA finalizes the draft HHC, states and authorized tribes will consider them and develop their own water quality standards based, at least in part, on the HHC. Local authorities will then implement the new water quality standards through local water quality control plans. Thus, even though the HHC are non-binding, they ultimately have a trickle-down effect and directly influence the regulation of public water utilities.

Additionally, in the interim, the draft HHC may lead to regulatory uncertainty for public water utilities like WUWC members. The draft HHC are at odds with existing state public health goals, like those in California (compare Table 1 and Table 2 below). As shown in the tables below, the draft HHC are higher than some of California's existing public health goals, but lower than others. Regulated entities like public water utilities are put in a bind – trying to figure out whether regulations will become more stringent or less stringent as state and tribal regulators consider EPA's HHC in defining their own water quality criteria.

Table 1 – EPA Draft HHC for PFOA, PFOS, and PFBS

| *PFAS* | *Water.>.Organism. HHC.(ng/L)* | *Organism.Only. HHC.(ng/L)* |
|---|---|---|
| PFOA | 0.0009 | 0.0036 |
| PFOS | 0.06 | 0.07 |
| PFBS | 400 | 500 |

Table 2 – California Public Health Goals for PFOA, PFOS, and PFBS[13]

| *PFAS* | *Public.Health.Goal.(ng/L)* | *Comparison.of.California.PHG.to.EPA. Draft.HHC* |
|---|---|---|
| PFOA | 0.0007 | Lower than both Water + Organism and Organism Only |
| PFOS | 1 | Higher than Both Water + Organism and Organism Only |
| PFBS | Not Listed | Not Listed |

Additionally, the draft HHC for PFOA and PFOS have lower values than the Maximum Contaminant Levels for PFOS and PFAS (4 ppt or ng/L) announced by EPA in April 2024 under the National Primary Drinking Water Regulation.[14] This creates more uncertainty for regulations and public utilities.

[12] *Id*.

[13] California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, *Notice of Adoption of Public Health Goals for Perfluorooctanoic Acid and Perfluorooctane Sulfonic Acid* (April 05, 2024), https://oehha.ca.gov/media/downloads/water/public-health-goal/pfoapfosnotice040524.pdf.

[14] *See* 89 Fed. Reg. 32,532 (Apr. 26, 2024). The pooled MDL for PFOA is 0.54 ng/L. Draft Human Health Ambient Water Quality Criteria: Perfluorooctanoic Acid (PFOA) and Related Salts, EPA 822P24001 (2024), at 29. The pooled MDL for PFOS is 0.63 ng/L. Draft Human Health Ambient Water Quality Criteria: Perfluorooctane Sulfonic Acid (PFOS) and Related Salts, EPA 822P24002 (2024), at 31.

## II. EPA should fully consider the indirect costs that water utilities would incur as a result of future water quality standards based on the draft HHC.

WUWC members may face increased costs for monitoring and treatment to comply with future water quality standards that result from these draft HHC. Water utilities receive PFAS in their water from upstream industrial and other sources and do not themselves create or produce PFAS. PFAS are present in the environment in quantities and frequencies higher than previously anticipated. Because of the ubiquity of PFAS, it is unavoidable that public water systems will continue to passively receive and then must store, transport, and treat water containing PFAS that have been circulating in the environment for decades.

To the extent that water utilities may incur potential liability, transaction costs, capital costs, research and development costs, or other costs arising related to the final HHC, ratepayers will bear these costs. For example, when finalized, states and authorized tribes may consider EPA's recommended criteria when developing their own water quality standards, issuing permits that limit PFAS in wastewater discharges to water bodies, and developing restoration targets for water bodies impaired by PFAS. Since the proposed HHC are below the MDLs for PFOA and PFOS, public water systems may face increased costs to comply with regulations if discharge limits are set near the HHC. Public water systems may not be able to comply with limits based on the HHC as the MDL represents "the minimum measured concentration of a substance that can be reported with 99% confidence."[15] Such regulations could then pose expensive compliance costs and potentially infeasible requirements.

PFAS contamination is more likely to be found in water systems drawing from groundwater and surface water in proximity to industrial polluters.[16] If more stringent regulations are promulgated based on the final HHC, those standards will disproportionately affect ratepayers from environmentally disadvantaged communities, meaning that ratepayers in these same communities are more likely to bear the financial burden of passed-through costs from increased reporting, treatment, and capital upgrades by water utilities. Shifting cleanup costs on to these most vulnerable ratepayers would establish regressive policy that directly contradicts promoting environmental justice.

More stringent limits based on the HHC could lead to higher energy demands, contrary to this administration's agenda for Energy Dominance.[17] Technologies to treat PFAS can require a disproportionate amount of energy.[18]

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[15] Environmental Protection Agency, Method Detection Limit – Frequent Questions (Oct. 4, 2024), https://www.epa.gov/cwa-methods/method-detection-limit-frequent-questions.

[16] *See, e.g.*, Natural Resources Defense Council, *Dirty Water: Toxic "Forever" PFAS Chemicals are Prevalent in the Drinking Water of Environmental Justice Communities*, R: 21-07-C (Aug. 2021), https://www.nrdc.org/sites/default/files/dirty-water-PFAS-ej-communities-report.pdf.

[17] Establishing the National Energy Dominance Council, Exec. Or. (Feb. 14, 2025), https://www.whitehouse.gov/presidential-actions/2025/02/establishing-the-national-energy-dominance-council/.

[18] Jay Meegoda, *et al.*, *A Review of PFAS Destruction Technologies*, Int. J. Environ Res. Public Health at Table 1 (Dec. 7, 2022), https://pmc.ncbi.nlm.nih.gov/articles/PMC9778349/#abstract1; *see also* Moshiur Rahman Tushar *et al.*, *Balancing Sustainability Goals and Treatment Efficacy for PFAS Removal from Water*, npj Clean Water (2024), https://www.nature.com/articles/s41545-024-00427-1.

EPA should consider all these impacts when deciding whether to finalize the draft HHC or, at a minimum, provide protections to water and wastewater systems and operations that do not cause, create, or produce PFAS contamination for states and authorized tribes to consider by issuing guidance to states and authorized tribes for how to properly consider the HHC and provide potential suggested exemptions for public water utilities.

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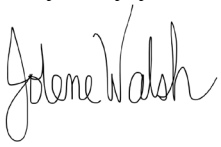
Our members are experienced, on-the-ground partners with EPA and the states in ensuring the safety and reliability of public water supplies. Based on this experience, WUWC wants to work with EPA, other federal and state regulatory agencies, and members of Congress to address this critical issue. We look forward to continued dialogue and collaboration on regulatory initiatives affecting PFAS and water quality.

Thank you for the opportunity to provide these comments. If you have any questions regarding these comments, please contact me at 951-203-2804 or walshj@emwd.org.

Very truly yours,



Jolene Walsh
WUWC Chair