



**American Water Works
Association**

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October 14, 2021

Ms. Radhika Fox
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, N. W.
Mail Code: 4303T
Washington, DC 20460

SUBMITTED ELECTRONICALLY

RE: Comments on Preliminary Effluent Limit Guidelines Plan 15. (Docket ID No: [EPA-HQ-OW-2012-0547](#))

Dear Ms. Fox,

The American Water Works Association (AWWA) appreciates the opportunity provided to comment on the Environmental Protection Agency's (EPA's) "Preliminary Effluent Limit Guidelines Program Plan 15." With members that are responsible for both drinking water supplies and publicly operated treatment works (POTWs), AWWA has a continuing interest in the EPA's Clean Water Act (CWA) Program and its capacity to protect drinking water sources and public health. Program Plan 15 presents several key advances under the program that are anticipated to address critical needs for drinking water systems and POTWs. We hope that these comments will assist EPA in crafting their research and regulatory program under CWA.

Improving the ELG Revision Process

Well-crafted ELGs can set technology standards that are applied to industrial sectors effectively preventing discharges with the potential to impair drinking water sources from occurring. As AWWA noted to the Agency earlier this year, management of pollutants by polluters at the source is more targeted, cost-effective, and properly place the fiscal and technical responsibility for pollution control on generators of the pollution.¹ ELGs not only protect receiving waters and downstream water supplies, but they also reduce burdens on POTWs that receive industrial discharges, with respect to both wastewater treatment and biosolids management.

¹ AWWA, 2021. Comments on EPA's Proposed Reporting and Recordkeeping Rule for PFAS under TSCA. <https://www.regulations.gov/comment/EPA-HQ-OW-2020-0582-0179>

Timely data collection is needed for timely action. Since 1974, the CWA ELG Program has established 59 ELGs and 24 of these have never been updated. Eight of those that have been revised stood unchanged for more than 20 years. The average “age” of an ELG is more than 30 years.^{1,2} Well-constructed regulations, including ELGs, require adequate data and stakeholder engagement and thus adequate time and resources to prepare. Previous ELGs have taken several years

EPA has neglected to apply available authorities to collect valuable data, while simultaneously citing a lack of data to advance revisions for ELGs. Additionally, potential regulatory efforts to revise ELGs are set to fail based on the Agency’s lack of data that can be considered representative of the potential rule’s impacts.

Program Plan 15 also discusses the Agency’s current approach to reviewing existing ELGs for potential updates and requests input on potential improvements to this analysis. In addition to more frequently exercising the use of data collection requirements under CWA, AWWA supports the proposed refinements to the cross-category concentration analysis discussed by Section 5.1.4 of Program Plan 15. Each of these refinements are anticipated to provide benefits to the EPA’s ability to review ELGs and are welcome additions. Specifically, Program Plan 15 notes that a limitation of the Analysis is that it does not consider the toxicity of the pollutants being discharged. This exclusion renders the analysis ineffective in the perspective of addressing public health risks and is not sound risk assessment practice. AWWA recommends that the EPA incorporate the consideration for the potential toxicity of the contaminants.

AWWA also recommends that the Agency consider conducting a review of the EPA’s Contaminant Candidate List (CCL). The CCL is updated on a five-year cycle and lists priority contaminants identified by the Office of Water that pose a public health risk. The draft CCL 5 was recently published, and the final should be utilized by the EPA’s CWA Program to consider identify priority contaminants for ELG revisions and additions that will provide public health protection.³ Specifically, such an approach could reduce contamination of drinking water supplies rather than rely on drinking water treatment plants regulated under SDWA to remove man-made contaminants.

Per- and Polyfluoroalkyl Substances (PFAS)

Following decades of unregulated discharge to the environment, PFAS have become a growing management and communication challenge for communities across the nation. While the EPA has taken several steps under the Safe Drinking Water Act (SDWA) to address PFAS health concerns, the chemicals have been left largely unaddressed by other statutes, with exception of

² Environmental Integrity Project, 2021. EPA’s Annual Review of Effluent Limitation Guidelines Under the Clean Water Act. Transmitted September 22, 2021.

³ EPA, 2021. Drinking Water Contaminant Candidate List 5 – Draft. [86 FR 37948](#).

the Toxic Substances Control Act (TSCA) Significant New Use Rule. The need for a cross-cutting, holistic approach was first presented by the EPA's PFAS Action Plan, which provided a framework for establishing manufacturing and source water protection regulations and for advancing supporting research activities.

In March 2021 the EPA published an advanced notice to develop ELGs for PFAS for the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) point source category. The Program Plan 15's announcement to initiate new rulemaking for ELGs for PFAS, which will cover facilities in the metal finishing category. AWWA appreciates this announcement and agrees that the development of this ELG is warranted based on demonstrated occurrence of PFAS in wastewater streams

Program Plan 15 provides an update on data that is available, and findings, for various facility categories associated with PFAS covered by the Multi-Industry PFAS Study. AWWA offers the following recommendations with respect to each of these industries:

- *Pulp, Paper, and Paperboard Facilities* – The EPA notes that, based on the results of the Multi-Industry PFAS Study, the need for an ELG for the Pulp, Paper, and Paperboard facility category for PFAS is not yet clear based on the data available. Program Plan 15 also notes that the Food and Drug Administration (FDA) has worked with the industry to phase-out legacy compounds and others, which is expected to reduce the industry's overall discharge of PFAS. AWWA agrees with the Agency's intent to continue to study the use and discharge of PFAS for subsequent ELG program plans.
- *Textile and Carpet Manufacturing Facilities* – As summarized in Program Plan 15 and presented in the Multi-Industry PFAS Study, PFAS are expected to be present in wastewater discharges from these facilities. This finding is consistent with research previously conducted at select sites and with the known extent of use of PFAS by these facilities. However, Program Plan 15 charts a path forward for EPA that does not commit to considering and/or revising the ELG for these facilities nor advancing more proactive data collection efforts. This approach is not consistent with the findings discussed in the program plan and would fail to advance timely data collection in support of managing PFAS sources to the environment. AWWA strongly recommends that the EPA exercise data collection authorities under Section 308, especially given that voluntary participation has been requested and declined. Given that the industry has not shown an interest in supporting the Agency's evaluation in a collaborative manner to protect public health, the Agency should take action to by issuing Section 308 letters to require data collection activities for PFAS.
- *Commercial Airports* – Airports, and the use of aqueous film-forming foam (AFFF) largely, have played a significant role in the inadvertent spread of PFAS into the environment. In response, the Federal Aviation Administration has revised existing requirements for the

use of PFAS-based AFFF to allow alternatives. Additionally, an increasing number of states have passed legislative bans of PFAS-based AFFF, which is expected to further reduce the use of PFAS by airports. AWWA supports the Agency's decision to continue studying commercial airport use of PFAS-based AFFF and encourages the Agency's to conduct research aimed at better understanding the use of PFAS-based AFFF as states and FAA restrictions take effect.

Study of Meat and Poultry Products Point Source Category

Program Plan 15 includes an announcement that ELGs will be revised for the Meat and Poultry Products Category. Nutrient pollution continues to be a challenge for protecting drinking water sources, especially for its role in the formation of harmful algal blooms (HABs). As noted by the plan, 120 of the 300 facilities discharge to waters listed as impaired under Section 303(d) of the CWA for algal growth, ammonia, nutrients, and/or oxygen depletion. AWWA supports the Agency's recognition of this as an opportunity to mitigate these impairments and prevent HABs.

Ongoing ELG Rulemaking for Steam Electric Power Generating Point Source Category

The 2015 ELG for the Steam Electric Generating Point Source Category acknowledged the existence of challenges related to discharges of bromide (primarily but not exclusively from coal power plant flue desulfurization, intentional addition of bromide to coal, and bromide-based cleaning activities), which can cause increased brominated disinfection byproducts at downstream drinking water facilities, with both associated health risks and challenges to regulatory compliance. Unfortunately, the 2015 ELG declined to take action beyond acknowledging the issue and instead encouraging already overburdened state agencies to investigate it ([80 FR 67866](#)). Partially in response to AWWA comments and tools developed^{4,5,6,7,8}, the 2020 Steam Electric Reconsideration Rule further acknowledged the challenge of downstream disinfection byproducts from bromide discharges yet placed requirements on bromide discharge only for those facilities opting to use the Voluntary Incentives Program. EPA had proposed or considered several other options, including

⁴ September 20, 2013 AWWA comments on "Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category" ([EPA-HQ-OW-2009-0819-4478](#))

⁵ June 6, 2017 AWWA and National Association of Water Companies comments on "Postponement of Certain Compliance Dates for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category" ([EPA-HQ-OW-2009-0819-6624](#))

⁶ April 17, 2019 AWWA comments on the "National Emission Standards for Hazardous Air Pollutants: Coal and Oil-Fired Electric Utility Steam Generating Units – Reconsideration of Supplemental Finding and Residual Risk and Technology Review" ([EPA-HQ-OAR-2018-0794-1152](#))

⁷ AWWA. December 2019. Methods to Assess Anthropogenic Bromide Loads from Coal-fired Power Plant and Their Potential Effect on Downstream Drinking Water Utilities. <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/17861ManagingBromideREPORT.pdf>

⁸ January 21, 2020 AWWA comments on "Effluent Limitations Guidelines and Standard for the Steam Electric Power Generating Point Source Category" ([EPA-HQ-OW-2009-8312](#))

monitoring requirements (to aid states in determining which permits may require additional attention) and the creation of bromide minimization plans ([84 FR 64642](#)). However, EPA chose not to include those in the final 2020 rule. While EPA reconsiders this rule, it should reconsider these options, as well as treatment options that would place limits on bromide discharges to help protect sources of drinking water. These could include treatment technologies such as zero liquid discharge of FGD wastewater, as well as a combination of activities including monitoring and management that prevent or highly reduce the introduction of bromide from these discharges into drinking water sources.

If you have any questions regarding this correspondence or if AWWA can be of assistance in some other way, please contact me or Chris Moody at (202) 326-6127 or cmoody@awwa.org.

Best regards,



G. Tracy Mehan, III

Executive Director – Government Affairs

cc: Andrew Sawyers EPA / OWM
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Who is AWWA

The American Water Works Association 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 4,500 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.