

National Drinking Water Advisory Council
Microbial and Disinfection Byproducts Rule Revisions Charge to the Council
and
Working Group Formation
November 2021

BACKGROUND

In January 2017, the Environmental Protection Agency (EPA) identified eight contaminants covered by the Microbial and Disinfection Byproducts (MDBP) rules as candidates for revision in the agency's third Six-Year Review (Six-Year Review 3) of National Primary Drinking Water Regulations (NPDWRs): Chlorite, *Cryptosporidium*, Haloacetic acids, Heterotrophic bacteria, *Giardia lamblia*, *Legionella*, Total Trihalomethanes, and viruses. The eight contaminants are included in the following MDBP rules: Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rules, Surface Water Treatment Rule, Interim Enhanced Surface Water Treatment Rule, and Long-Term 1 Enhanced Surface Water Treatment Rule. The purpose of the Surface Water Treatment Rules (SWTRs) identified as candidates for revision is to reduce disease incidence associated with pathogens and viruses in drinking water. The SWTRs require public water systems to filter and disinfect surface water sources to provide protection from microbial pathogens. The purpose of the Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rules is to reduce drinking water exposure to disinfection byproducts which can form in water when disinfectants used to control microbial pathogens react with natural organic matter found in source water. If consumed in excess of EPA's standard over many years, disinfection byproducts may increase health risks. The MDBP regulations are linked together because of the need to balance these risks.

Consistent with the [2020 Waterkeepers Alliance v. EPA settlement agreement](#), the Administrator shall sign for publication in the *Federal Register* a proposal to revise the NPDWRs for the MDBP contaminants, and then publish notice of final action on that proposal by September 30, 2027, unless EPA determines that the existing NPDWRs for the MDBP rules are no longer appropriate for revision and EPA announces that decision. The deadline may be extended under certain circumstances.

EPA is charging the National Drinking Water Advisory Council (NDWAC or Council), a Federal Advisory Committee (FAC) established under the Safe Drinking Water Act of 1974, to provide the agency with advice and recommendations as described below. In addition, to support the work of the Council, EPA is asking the NDWAC to form a working group to explore specific issues and identify potential MDBP rule revision options for the Council to consider in making recommendations to EPA. Utilizing this existing FAC structure should ensure the agency has meaningful input from diverse stakeholders on key MDBP topic areas.

Since the Fall of 2020, EPA has also provided opportunities for the public to provide input and information related to EPA's potential MDBP rule revisions, including a series of public meetings and a public docket. EPA has received a significant amount of valuable information during this time, all of which will be available and could inform both the NDWAC and any subsequent rulemaking.

For more information about the MDBP rule revisions visit: www.epa.gov/dwsixyearreview/revisions-microbial-and-disinfection-byproducts-rules.

MISSION STATEMENT

EPA's Charge to the NDWAC

EPA is seeking consensus recommendations from the NDWAC that will be used to inform the development of potential MDBP rule revisions. To support the work of the Council, EPA is asking the NDWAC to form a working group, to be called the Microbial and Disinfection Byproducts Rule Revisions Working Group or MDBP Rule Revisions WG, that includes stakeholders with a variety of backgrounds and expertise, with balanced membership including individuals from states and tribes, drinking water utilities of all sizes, and environmental and public interest groups. EPA anticipates the working group will be active approximately from Spring 2022 through mid-2023.

In particular, EPA seeks consensus recommendations on:

- Advancing public health protection while balancing the risks of microbial control with managing disinfection byproduct formation.
- Addressing public health concerns caused by opportunistic pathogens (e.g., *Legionella*), disinfection byproducts (e.g., unregulated haloacetic acids), and possibly other emerging contaminants.
- Addressing implementation challenges to reduce the burden of existing MDBP regulations while maintaining or enhancing public health protection.
- Ensuring efficient simultaneous compliance with other drinking water regulations when implementing any proposed revisions to the MDBP rules.
- Additional potential non-regulatory approaches that may improve public health protection from the contaminants under consideration.
- Opportunities to advance environmental justice in regulatory revisions to equitably protect consumers' health, particularly disadvantaged and historically underserved consumers.

These consensus recommendations are anticipated to cover the following topics:

- Disinfectant residuals and opportunistic pathogens
- Regulated and unregulated DBPs
- Finished water storage facilities
- Distribution system water quality management
- Source water approach, including DBP precursor removal
- Mischaracterized ground water under the direct influence of surface water (GWUDI) systems
- Sanitary Surveys
- Water Safety Plans
- Consecutive and small systems

The NDWAC should strive to reach consensus, where possible. EPA recognizes the complex nature of the subject matter that will be discussed by the NDWAC and that the Council may not reach consensus on all issues. Where consensus cannot be reached, the NDWAC would be expected to present to EPA alternatives and the range of associated ideas expressed, along with a discussion of the potential pros and cons associated with the various alternative approaches.

Formation of the Microbial and Disinfection Byproducts Rule Revisions Working Group

EPA is requesting that the NDWAC establish a working group—the MDBP Rule Revisions WG—that will develop recommendations for the Council's consideration. Within the topics noted in the charge to the

NDWAC above, the MDBP Rule Revisions WG should explore specific issues concerning how to implement the goals for MDBP rule revisions, provide information, conduct relevant analyses, suggest options for the Council to consider in making its recommendations to EPA, and provide group recommendations to the NDWAC where consensus is reached and alternatives where consensus is not reached in the time available.

The MDBP Rule Revisions WG should make its report to the NDWAC, which in turn should provide recommendations on these issues to EPA. EPA would consider the NDWAC's recommendations in developing a proposed rule for public comment and would report back to the NDWAC on its response to the recommendations. The proposed rule may include elements not discussed by the MDBP Rule Revisions WG and NDWAC.

Working group members should be selected by EPA in consultation with the NDWAC chair based on the expertise, experience, and perspectives needed to provide balanced recommendations to the NDWAC on issues related to MDBP rule revisions. Experts and representatives of states, tribes, public water systems of all sizes, environmental and public interest groups, and other interested parties should be included in the MDBP Rule Revisions WG.