Radhika Fox
Assistant Administrator
Office of Water
US Environmental Protection Agency
1200 Pennsylvania Avenue NW, Washington, DC 20460

Re: Docket ID No. EPA-HQ-OW-2022-0114: Per- and Polyfluoroalkyl Substances National Primary Drinking Water Regulation

Dear Assistant Administrator Fox:

We write to urge EPA to center environmental justice in the finalization of its Proposed Per- and Polyfluoroalkyl Substances National Primary Drinking Water Regulation[1]. The undersigned organizations represent a diverse set of stakeholders across the State of North Carolina, considered by many to be the 'ground zero' of polyfluoroalkyl substances (PFAS) contamination in the US, and their allies across the nation. The proposed regulation is an important fulfillment of some of the commitments EPA made to regulate this persistent class of toxic chemicals. With enforcement of National Primary Drinking Water Standards (NPDWS) for PFOS and PFOA, EPA can finally begin to "turn off the tap" of PFAS at the source based on health-protective toxicity assessments.

However, EPA was also petitioned in 2020 under Section 21 of TSCA by several nonprofit and community organizations representing residents in the Cape Fear region to require the chemical manufacturer, Chemours, to fund necessary testing for the health effects of 54 PFAS detected in the river, drinking water, and the blood of community members[2]- a request that was mostly denied. EPA denied the petitioners' request to order Chemours to conduct an epidemiological study of the exposed community, testing on mixtures of PFAS found in drinking water and blood, and certain other priority health tests on the 54 PFAS. Instead, EPA claimed that its previously announced TSCA PFAS Testing Strategy constitutes "granting" the petition. We reiterate that granting our petition will supply Cape Fear communities with the studies they and their doctors need in order to make decisions based on the risks of PFAS and mixtures detected in the surrounding environment *now*. Furthermore, EPA recognized significant data gaps with respect to PFAS chemicals in its toxicity assessments conducted under the SDWA. As the human health risks summarized in the NPDWS proposal are calculated from publicly sourced epidemiological human and animal data, the full granting of our petition would provide additional data and further strengthen the accuracy of maximum contaminant levels (MCLs) for the six PFAS and mixtures covered by the proposal and the additional 48 PFAS and mixtures described in our petition.

In its 2021 PFAS Strategic Roadmap, EPA committed to addressing PFAS contamination through "…getting upstream of the problem, holding polluters accountable, ensuring science-based decision making, and ensuring disadvantaged communities have equitable access to

[1] US EPA. "PFAS National Primary Drinking Water Regulation Rulemaking", 88 Fed. Reg. 18,638 (Mar. 29, 2023) (the "Proposal").
[2] Center for Environmental Health, et. al., *PETITION TO REQUIRE HEALTH AND ENVIRONMENTAL TESTING UNDER THE TOXIC SUBSTANCES CONTROL ACT ON CERTAIN PFAS MANUFACTURED BY CHEMOURS IN FAYETTEVILLE, NORTH CAROLINA*, (October 13, 2020), https://www.epa.gov/sites/default/files/2020-10/documents/chemours_pfas_testing_petition_final.pdf

solutions"[3]. The proposal is a significant step in the right direction, both in terms of setting health protective drinking water standards for PFOA and PFOS, and also in taking the first approach to addressing PFAS as a class, including GenX chemicals. We believe the MCLs for PFOA and PFOS are as close as feasible to the maximum contaminant level goal (MCLG) of zero for these stressors, in accordance with the mandate of the Safe Drinking Water Act. We also believe the proposal adequately reflects the MCLs for PFBS, PFHxS, PFNA, HFPO-DA and its ammonium salts. We urge the agency to quickly finalize these MCLs, and further refine its calculations of MCLs for PFBS, PFHxS, PFNA, HFPO-DA using additional data sources, such as the epidemiological data called for in our petition.

We agree with EPA's Hazard Index (HI) Approach to calculating MCLs for PFBS, PFHxS, PFNA, HFPO-DA and its ammonium salts. The hazard index, (HI) defined in the proposal as

$$HI = \sum_i HQ_i = \sum_i \frac{E_i}{RfV_i}$$

where the Hazard Quotient, HQ is the ratio of the PFAS occurrence concentration, E, in mg/L and the reference value, RfV, is consistent with the prevailing scientific view that the health risks of these four PFAS are additive in mixtures, and therefore the presence of any one in a mixture could present significant health risks in drinking water. In the absence of best available scientific data EPA should continue exercising precautions to protect the most vulnerable populations while also requiring responsible parties, like the chemical industry, to fully fund independent human epidemiological studies on already overexposed populations.

We support the MCLs of the proposed NPDWS as calculated using the HI approach and urge EPA to quickly finalize them. We further urge EPA to continue updating its HI calculations by sourcing data collected using its authority under Section 4 of TSCA in addition to calculating RfV_i from publicly available $UCMR_3$ and State-level water data in the issuance of future drinking water standards.

Administrator Regan acknowledged that Chemours' Fayetteville Works Plant on the banks of the Cape Fear River has "been polluting our air and our water with these 'forever' chemicals since the '70s."[4] To ensure science-based decision making, and hold polluters accountable, EPA must require Chemours to fund testing of substances or mixtures it manufactures, uses, or disposes of at its Fayetteville facility that may present a risk to human health and the environment. Such studies would help inform future Hazard Quotients and MCLs for PFAS as a chemical class.

Trump EPA Administrator Wheeler initially denied the TSCA Section 21 petition. Communities across the State could not wait for the health studies they needed. Thus, we brought a lawsuit. Administrator Regan then dubiously "granted" our petition by arguing that its previously announced TSCA PFAS Testing Strategy, under which EPA planned to only require Chemours to fund tiered testing of 7 of the 54 PFAS but not require the requested epidemiological study nor testing on the PFAS mixtures in the drinking water and blood of Cape Fear residents, and moved

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[3] US EPA, "PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2025", (Oct 18, 2021), https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf

[4] Michael F. Regan, *Prepared Remarks for PFAS Roadmap Announcement*, (October 18, 2021), https://www.epa.gov/speeches/administrator-michael-regan-remarks-pfas-roadmap-announcement-prepared-delivery.

to dismiss the lawsuit. The motion to dismiss was granted, and we are now appealing that decision.

A petition under Section 21 of TSCA is an example of the solutions EPA has made available to communities impacted by legacy contamination. Unfortunately, EPA developed its TSCA PFAS Testing Strategy without any input from the public, including from disproportionately impacted communities. Since purporting to "grant" the TSCA Section 21 petition from Cape Fear groups, EPA has not engaged with the petitioners and Cape Fear communities on what further health testing EPA should order Chemours to conduct under Section 4 of TSCA.

PFAS have been detected in drinking water supplies of nearly 200 million Americans, yet people of color and low-income Americans are particularly likely to have high levels of PFAS in their drinking water[5]. This is most likely due to the history of redlining and discriminatory zoning practices that incentivized companies to manufacture PFAS (and thousands of other toxic chemicals) near the most vulnerable communities. We urge the agency to quickly finalize the NPDWS proposal and improve its process of iteratively engaging these communities in its implementation and future enforcement actions. When PFAS is no longer detected in the drinking water of the most disadvantaged communities in North Carolina, it will surely confirm a reduction of these 'forever chemicals' in all of our bodies and the environment.

Sincerely,

Center for Environmental Health

Toxic Free North Carolina

Cape Fear River Watch

Clean Cape Fear

[5] J.M. Liddle, L. Schaider, and E.M. Sunderland. *Sociodemographic Factors Are Associated with the Abundance of PFAS Sources and Detection in U.S. Community Water Systems*. ACS Environmental Science and Technology, (May 15, 2023), DOI: 10.1021/acs.est.2c07255