



August 23, 2019

The Honorable David P. Ross  
Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Docket ID: EPA-HQ-OW-2018-0780, *National Primary Drinking Water Regulation for Perchlorate*

Dear Assistant Administrator Ross,

The Association of Metropolitan Agencies (AMWA) appreciates the opportunity to comment on the Environmental Protection Agency’s proposed rule, *National Primary Drinking Water Regulation for Perchlorate*. AMWA is an organization representing the largest publicly owned drinking water utilities in the United States. Any changes in the development of National Primary Drinking Water Regulations (NPDWR), health advisories, or guidance significantly impact our members.

AMWA supports the regulatory approach of the Safe Drinking Water Act Amendments of 1996 (SDWA). The statute takes into account lessons learned from past drinking water laws and focuses on contaminants that actually occur in drinking water at levels of public health concern as understood by the best available information. The law provides a sound scientific basis for regulations and appropriately considers the benefits the public may receive from regulatory efforts against the costs they will be asked to bear to achieve those benefits. AMWA believes EPA must faithfully follow the contaminant regulatory process as established by the 1996 amendments for the establishment of NPDWRs.

The association supports the agency’s use of data from the Unregulated Contaminant Monitoring Rule (UCMR) to determine the occurrence of contaminants being considered for regulation as is laid out in SDWA. However, the data from UCMR 1, which EPA has used to inform this proposal, is well over a decade old and it is plausible that this data may no longer be representative of nationwide occurrence. There may now be less contamination at the levels of health concern laid out by EPA due to activities such as Superfund site cleanup and removing contaminated wells from drinking water supplies.

Within the proposal, EPA states “perchlorate occurrence information suggests that at an MCL of 56 µg/L only 2 systems (0.004% of all water systems in the U.S.) would exceed the regulatory threshold. Even at an MCL of 18 µg/L, there would only be 15 systems (0.03% of all water systems in the U.S.) that would exceed the regulatory threshold. Only one system would exceed the alternative MCL of 90 µg/L.” Though SDWA delegates the determination of what constitutes a “meaningful opportunity for health risk reduction” solely to the Administrator, AMWA agrees that such a low number of impacted systems makes this conclusion

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difficult. Complicating this determination, the agency gives multiple examples within the proposal regarding similar contaminants from both the first and second Candidate Contaminant List (CCL), where each contaminant had higher occurrence levels within drinking water than perchlorate but were given negative regulatory determinations by the agency based on this lack of occurrence.

In conclusion, based on the occurrence of perchlorate in drinking water systems at the three possible MCLs – which correspond with EPA’s chosen neurodevelopmental endpoints – AMWA agrees with EPA’s determination that this particular proposal does not present a meaningful opportunity for health risk reduction as is laid out in SDWA. Therefore, AMWA supports the agency’s proposed alternative to withdraw its 2011 determination to regulate perchlorate. However, AMWA also supports EPA’s conclusion that, if withdrawn, it does not preclude the agency from re-listing perchlorate on any forthcoming CCLs and potentially regulating it in the future based on new available science and data.

With this in mind, AMWA supports EPA’s ability to use new peer-reviewed data when presented, even if the regulatory determination process has already begun, and encourages the agency to pursue this pathway when available. New, reliable scientific data can better inform the agency on occurrence, health effects, feasibility, and costs as EPA works through the development of a NPDWR. Similarly, AMWA supports the agency’s use of the Science Advisory Board (SAB) for developing the agency’s models which help inform the NPDWR process and the association. AMWA encourages EPA to continue utilizing the SAB to inform regulatory processes in the future.

Finally, in considering EPA’s economic analysis, using the chosen neurodevelopmental endpoints laid out by EPA, and following the process for determining costs and benefits for a proposed rule under Section 1412 (b)(3)(C)(i) of the Safe Drinking Water Act, AMWA understands the agency’s findings that the benefits do not justify the costs. However, it should be noted that this conclusion does not preclude the agency from setting an MCL under SDWA.

AMWA thanks EPA for the opportunity to comment and looks forward to working with the agency to protect drinking water in the future. If you would like to further discuss our concerns, please call Stephanie Hayes Schlea, Regulatory and Scientific Affairs Manager, at 202-331-2820.

Sincerely,



Diane VanDe Hei  
Chief Executive Officer

cc: Eric Burneson, OGWDW  
Jennifer McLain, OGWDW  
Samuel Hernandez, OGWDW