



January 30, 2024

Ms. Victoria A. Arroyo  
Associate Administrator for Policy  
Office of Policy  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Re: Docket number EPA-HQ-OA-2013-0320 Revised Technical Guidance for Assessing Environmental Justice in Regulatory Analysis

Dear Associate Administrator Arroyo,

The Association of Metropolitan Water Agencies (AMWA) is pleased to have the opportunity to comment on EPA’s Revised *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* (Guidance). AMWA represents the largest metropolitan, publicly owned drinking water systems in the nation, and collectively, its members serve more than 160 million people. AMWA members serve communities of 100,000 or more people, and most utilities serve segments, some small and some large, that have historically faced social and environmental inequities. As representatives of publicly owned water systems, AMWA carefully considers EPA regulatory analysis on proposals for rulemakings under the Safe Drinking Water Act (SDWA) and gives significant weight to the projected costs of proposed rulemakings and their implications for ratepayers. The association appreciates EPA’s leadership in advancing environmental justice in regulatory analysis and is pleased to provide the following feedback on the revised technical guidance.

AMWA appreciates EPA’s efforts to address how to analytically consider environmental justice in regulatory analyses in its Guidance according to the latest state of science. There are many additions to the Guidance that AMWA welcomes, including assessments of population vulnerability to climate change and a discussion of how meaningful public involvement can better inform EPA’s regulatory analysis. AMWA further acknowledges EPA’s identification of research priorities to fill important data and methodological gaps and offers one essential data gap for EPA to consider. **Where applicable, AMWA recommends EPA research and develop methods to**

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**assess how the costs of proposed rulemakings under statutes like SDWA will affect all ratepayers of publicly owned, regulated water systems.**

When conducted in tandem with other EPA guidance documents, including human health risk assessments and the *Guidelines for Preparing Economic Analyses*<sup>1</sup>, the Guidance has immense value for directing EPA analysts through assessing the impacts of proposed rulemakings. However, AMWA is concerned that EPA's suite of regulatory analysis guidance documents, including this *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis*, in whole do not address the disparate impacts of costs of proposed rulemakings as they are passed onto ratepayers.

Public water systems are financed primarily through ratepayer funds, so the costs of new regulations are funded nearly entirely by charges to each water system's customer base. In some cases, public water systems may receive funding from a limited pool of federal financial support in the form of low-interest loans and grants. In rare cases, public water systems may receive funds from unique or limited state or local taxes or other programs. This limit on available funds outside of rates means that in nearly all cases, public water systems must pass off the costs of new rulemakings to their ratepayers. When a system must pass on new required costs to ratepayers to maintain an adequate level of service, low-income and other economically disadvantaged households face the highest disproportionate burden.

Costs from new rulemakings come in addition to greater concerns about water affordability in the United States. The nation's infrastructure requires several hundred billions of dollars to maintain adequate infrastructure, prepare for climate change resilience, and protect public health. EPA's 7<sup>th</sup> Drinking Water Infrastructure Needs Survey and Assessment<sup>2</sup> report to Congress estimated that drinking water systems alone will need \$625 billion to replace pipes, upgrade treatment plants, improve storage tanks, and enhance other critical assets to ensure the public health, safety, and economic well-being of communities. These costs, which do not include meeting any proposed rulemakings, will ultimately be passed on to all ratepayers and will be felt most severely by those with limited incomes. Furthermore, in April 2023, AMWA was one of five water sector organizations that released a report<sup>3</sup> including a first-of-its-kind needs assessment that found that many as 21.3 million household nationwide may have trouble paying their water and wastewater bills, demonstrating that the rising costs of water service present a problem for low-income communities now and into the future.

AMWA heavily considers the estimated costs of proposed rulemakings and their impacts on ratepayers when evaluating EPA proposals for SDWA rules and regulations, like the National

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<sup>1</sup> EPA. (December 17, 2010; updated May 2014). Guidelines for preparing economic analyses.

<https://www.epa.gov/sites/default/files/2017-08/documents/ee-0568-50.pdf>

<sup>2</sup> EPA. (September 2023). Drinking Water Infrastructure Needs Survey and Assessment 7<sup>th</sup> Report to Congress.

[https://www.epa.gov/system/files/documents/2023-09/Seventh%20DWINSAs\\_September2023\\_Final.pdf](https://www.epa.gov/system/files/documents/2023-09/Seventh%20DWINSAs_September2023_Final.pdf)

<sup>3</sup> Low-Income Water Customer Assistance Program Assessment. (April 20, 2023).

<https://www.amwa.net/publication/low-income-water-customer-assistance-program-assessment>

Primary Drinking Water Regulation (NPDWR) for Lead and Copper Rule Revisions/Improvements and Consumer Confidence Rule, among others. For example, in comments<sup>4</sup> on the proposed NPDWR of PFOA, PFOS, PFBS, HFPO-DA and its ammonium salts (known as GenX), PFNA, and PFHxS, AMWA emphasized that EPA failed to fully assess the real-world costs of the proposal. In the letter, AMWA reiterated multiple times that ratepayers of public drinking water systems would bear the costs and that the costs would disproportionately affect low-income and other economically disadvantaged households.

## Conclusion

AMWA is concerned that neither the *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* nor the *Guidelines for Preparing Economic Analyses*<sup>1</sup> chapters on analyzing costs and analyzing environmental justice and distributional considerations include methods to assess the costs of regulations that are passed onto the ratepayers of public utilities. The association believes that EPA's current suite of analytical guidance documents treats the issues of environmental justice and distributional economic impacts as distinct and separate. Realistically, for the ratepayers of publicly owned, regulated utilities, these issues are holistic and compounded. The association believes that available guidance does not include adequate methods to estimate how utilities may have to offset costs of regulations onto ratepayers. **AMWA therefore encourages EPA to think of distributional costs of regulations in an environmental justice context and to pursue research into methods that account for the distributional economic impacts of regulations on ratepayers of public water systems.**

AMWA thanks EPA for the opportunity to comment on its revised Guidance and for its continued support of advancing environmental equity considerations in its development, analysis, and enforcement of environmental statutes and programs. If you have questions, please contact Jessica Evans ([evans@amwa.net](mailto:evans@amwa.net)), AMWA's Manager of Government Affairs and Sustainability.

Sincerely,



Tom Dobbins  
Chief Executive Officer

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<sup>4</sup> AMWA. (May 30, 2023). AMWA comments on proposed PFAS National Primary Drinking Water Regulation. <https://www.amwa.net/testimonycomments/amwa-comments-proposed-pfas-national-primary-drinking-water-regulation>

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