



November 3, 2025

The Honorable Lee Zeldin  
Administrator  
U.S. Environmental Protection Agency  
Office of Water, Office of Science and Technology  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

*Submitted electronically*

**Re: Docket ID No. EPA-HQ-OW-2009-0819; Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category - Initial Notification Date Extension; Opposition to Direct Final Rule**

Dear Administrator Zeldin:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to comment on the Environmental Protection Agency’s (EPA) direct final rule to extend the date for steam electric power plants to opt into the permanent cessation of coal combustion subcategory in the 2024 Supplemental Steam Electric Reconsideration Rule (2024 rule).<sup>1</sup> AMWA opposes EPA’s Direct Final Rule for the reasons set forth below.

AMWA is an organization of the largest publicly owned water systems in the United States. Drinking water systems are challenged to produce safe drinking water at an affordable rate. The most effective way to avoid treatment costs is by improving source water quality. By addressing water quality impairment at the source through appropriate technology limits on discharges, EPA can safeguard drinking water sources prior to treatment avoiding costs and related downstream impacts.

AMWA understands that EPA intends to reconsider, in a separate rulemaking, the 2024 rule’s zero-discharge limitations for three electric utility waste streams. While AMWA takes no position on the

<sup>1</sup> 90 Fed. Reg. 47617 (Oct. 2, 2025).

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technology choices, we have outlined considerations and potential impacts to drinking water systems downstream of steam electric power plants in response to deadline extensions. However, AMWA disagrees with any extension of the permanent cessation of coal combustion subcategory in the 2024 rule. We disagree with EPA's Direct final rule and justification that extension of the deadline for utilities to decide to opt into the voluntary cessation of coal subcategory is noncontroversial.<sup>2</sup> By invoking the Administrative Procedures Act (APA) good cause exemption (5 U.S.C. §553(b)) EPA avoids important notice and comment and impact analyses, the hallmark of good government and the rulemaking process.

Of key importance, AMWA has significant concerns with any delays in limiting discharges of bromide and other harmful chemicals into drinking water sources from electric power plants. Treatment of surface water containing bromide significantly increases the formation of disinfection by-products (DBPs) in finished drinking water, increasing exposure to the by-products and the cost of managing DBPs.<sup>3</sup> EPA must analyze the additional cost and health impacts that will be imposed on these systems, and ultimately on ratepayers, prior to extending any 2024 rule deadlines, including the deadline for opting into the cessation of coal subcategory.

### **EPA's Direct Final Rule is Not Justified**

The APA requires that interested parties be given notice and an opportunity to comment on proposed rulemaking, except where the agency, for good cause, finds that these procedures are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. § 553 (b)(B). Exceptions to APA rulemaking procedure are disfavored and narrowly construed and courts have denied such claims where the criteria are lacking.<sup>4</sup> Short of a statement about industry needing more time to decide, EPA has not made any attempt to explain how the agency's extension of the deadline for utilities to delay compliance with the 2024 technology standards by opting into the cessation of coal subcategory meets any of these criteria.

As public drinking water systems, AMWA members rely on EPA to establish technology-based standards when setting effluent guidelines that can be applied to an entire category of dischargers. While CWA emphasizes uniformity, courts have upheld EPA's discretion to tailor these requirements by creating subcategories where the agency determines that fundamental differences from other plants within the same industry makes compliance with identical effluent limitations unattainable.<sup>5</sup> EPA's cessation of coal subcategory allows any electric utility generator to avoid complying with the 2024 discharge limits while continuing to operate for almost an entire decade. Whether the subcategory, as originally promulgated, is

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<sup>2</sup> *Id.* at 47618.

<sup>3</sup> See AMWA comment to EPA: insert fn 1-3, May 30, 2023 letter to Michael Regan.

<sup>4</sup> *Five Flags Pipe Line Co. v. U.S. DOT*, 1992 U.S. Dist. LEXIS 3881(D.D.C. 1992)(citing *Air Transport Ass'n of America v. Department of Transportation*, 900 F.2d 369, 375 (D.C. Cir. 1990) "the well-established principle that exceptions to the rulemaking procedures in the APA are disfavored and are to be narrowly construed."); *Util. Solid Waste Activities Grp. V. EPA*, 236 F.3d 749, 754 (D.C. Cir. 2001); *Am. Fed. Of Gov't Emps. V. Block*, 655 F.2d 1153, 1157 (D.C. Cir. 1981)(denying emergency constitutes "impracticable" where an entire industry and its customers were imperiled, determining businesses should have made different choices).

<sup>5</sup> *Chem. Mfrs. Ass'n v. Nat. Res. Def. Council, Inc.* 470 U.S. at 130; *Chem. Mfrs. Ass'n v. EPA*, 870 F.2d 177, 214-15 (5<sup>th</sup> Cir. 1989).

consistent with CWA remains questionable. EPA's proposal to expand the subcategory requires close scrutiny, including consideration of the downstream impacts of allowing the discharge of pollutants at relaxed standards for an additional period of time.

We appreciate the opportunity to comment on the direct final rule action to extend the deadline for coal-fired utilities to opt into the permanent cessation of coal combustion subcategory and continue operating at pre-2024 rule limitations. If you have any questions about the contents of this letter, please contact AMWA's Direct of Regulatory Affairs, Jessica Evans, at [evans@amwa.net](mailto:evans@amwa.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Dobbins". The signature is fluid and cursive, with a large initial "T" and "D".

Tom Dobbins  
Chief Executive Officer

cc: Jennifer McLain, OGWDW  
Eric Burneson, OGWDW  
Richard Benware, OST