



May 12, 2025

The Honorable Russell Vought
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Submitted electronically

Re: Docket ID#: OMB-2025-0003; Request for Information, Deregulation

Dear Director Vought,

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to provide comments on OMB’s *Request for Information, Deregulation* related to federal rules that should be considered for rescission. AMWA members consist of the largest drinking water systems in the United States, collectively providing safe and affordable drinking water to over 160 million people.

AMWA’s member community water systems are responsible for providing safe and affordable drinking water to millions of Americans from coast to coast. This involves complying with more than 90 National Primary Drinking Water Regulations, which limit the concentration of various contaminants in finished water supplies, as well as additional state-level regulations. These drinking water standards are essential for protecting public health, but often carry significant compliance costs that are directly passed on to the public in the form of higher water rates.

It is therefore critical that federal regulators limit new drinking water regulations to those that appropriately balance public health benefit with the cost of compliance. The Safe Drinking Water Act reflects this approach, as the statute directs EPA to promulgate a drinking water regulation after determining that a given contaminant (1) may have an adverse effect on the health of persons, (2) is known to occur or there is a substantial likelihood that it will occur in public water systems with a frequency and at levels of human health concern, and (3) for which regulation of

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such contaminant presents a meaningful opportunity for health risk reduction for persons served by the water system.

While AMWA's member utilities will ultimately take whatever actions necessary to comply with any National Primary Drinking Water Standard promulgated by EPA, the pace of new regulations in recent years has expanded significantly, and that will bring corresponding effects on ratepayers across the income scale. Later this year EPA is expected to propose a drinking water standard for perchlorate, and that will follow the promulgation of two regulations in 2024: "National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)," 89 Fed. Reg. 86,418 (October 30, 2024), and "PFAS National Primary Drinking Water Regulation," 89 Fed. Reg. 32,532 (April 26, 2024). Together, these will represent the most expensive rules ever promulgated under the Safe Drinking Water Act.

In the context of this *Request for Information, Deregulation* on rules that should be considered for rescission, AMWA encourages you to consider all available options that could be utilized to provide relief from the onerous requirements of the PFAS National Primary Drinking Water Regulation.

PFAS National Primary Drinking Water Regulation

Per- and polyfluoroalkyl substances (PFAS) are a class of roughly 15,000 man-made chemical compounds. EPA's National Primary Drinking Water Regulation for PFAS applies to six distinct chemicals in the PFAS family: PFOA, PFOS, PFBS, HFPO-DA and its ammonium salts (known as GenX), PFNA, and PFHxS. While AMWA supports regulating PFOA and PFOS in drinking water, the effect of this regulation will place the vast majority of the financial burden of PFAS removal from drinking water on the American public, rather than the entities producing, manufacturing, and placing these chemicals into the environment.

In addition, EPA undertook a legally questionable process in its rush to promulgate the PFAS regulations before the end of the Biden Administration. First, the agency utilized a novel "hazard index" to regulate four of these PFAS (PFBS, GenX, PFNA, and PFHxS) rather than setting a separate maximum contaminant level for each contaminant. This has never before been done under the Safe Drinking Water Act, and the convoluted formula that public water systems will have to follow to determine compliance will lead to increased testing and monitoring burdens on water systems that may have only one of the four "hazard index" PFAS contaminants present in their source water. As AMWA noted in its 2023 comments on the proposed PFAS rule,¹ EPA should have proposed separate regulations for each of the PFAS it intended to regulate.

¹ AMWA Comments on proposed PFAS National Primary Drinking Water Regulation, May 30, 2023.
<https://www.amwa.net/testimonycomments/amwa-comments-proposed-pfas-national-primary-drinking-water-regulation>

EPA further acted to finalize the regulation of the “hazard index” PFAS, even as the national occurrence data for these individual contaminants was less than robust. However, rather than holding off on proposing a regulation until that additional data was available through Unregulated Contaminant Monitoring Rule 5 (UCMR 5) – which would have included occurrence data from all systems serving more than 3,300 people, and 800 representative public water systems serving fewer than that figure – instead EPA pursued a broad regulation for all four chemicals that might not have been justified with the UCMR 5 data.

Of additional concern is the portion of the regulation targeting PFOA and PFOS. Under President Biden EPA set the maximum contaminant level for these substances at 4 parts-per-trillion, or the equivalent of one drop of water in five Olympic-sized swimming pools. In so doing, the agency ignored clear and convincing arguments, made by AMWA and other commenters, showing that a 10 parts-per-trillion standard for PFOA and PFOS would be sufficient to achieve the public health protection required by the Safe Drinking Water Act in communities where that protection is most needed. Instead, EPA chose to set the standard for at 4 parts-per-trillion – a level that approaches the bounds of modern detection technology – at a cost that will far exceed the compliance costs of a 10 parts-per-trillion standard. EPA estimated that the cost of this regulation at the level finalized by the agency would be roughly \$1.5 billion per year, but AMWA’s own estimates detailed in our comments on the PFAS rule suggest the actual annual cost could reach \$7.5 billion.

Recommended Action

Last year, AMWA and the American Water Works Association challenged the PFAS National Primary Drinking Water Regulation in court, detailing a variety of procedural and analytical shortcomings that occurred during development of the rule. This litigation, *AWWA, et. al vs. EPA*,² is pending before the U.S. Court of Appeals for the District of Columbia, and currently in an abeyance requested by the Administration as it evaluates its options related to the case.

Given the serious legal infirmities in the rule, AMWA urges the administration to confess error and seek vacatur in the case of *AWWA, et. al vs. EPA*. AMWA believes this is the best means to advance the administration’s deregulatory priorities while also giving EPA the best opportunity to reasonably consider all appropriate revisions to the PFAS National Primary Drinking Water Regulation. This would not preclude EPA from promulgating a new drinking water regulation for PFAS, and in fact AMWA has a long track record of supporting a national standard for PFOA and PFOS. Such a move would simply vacate the legally deficient regulation promulgated under President Biden, and give EPA a clean slate to productively engage with the public and the stakeholder community to develop drinking water rules that are both protective of public health and appropriately balanced with the cost and affordability challenges faced by community water systems and their ratepayers. It would also help to ensure EPA follows the correct legal process when promulgating regulations in the future.

² <https://www.amwa.net/download/opening-brief-filed-us-court-appeals-dc-circuit>

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AMWA thanks OMB for the opportunity to provide comments on this *Request for Information, Deregulation*, and for considering our recommended options to ensure that EPA's National Primary Drinking Water Regulations are workable and effective. If you have any questions or need additional information about these comments, please contact Dan Hartnett, AMWA's Chief Policy Officer, at hartnett@amwa.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Dobbins". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Tom Dobbins
Chief Executive Officer

cc: The Honorable Lee Zeldin, Administrator, U.S. EPA
Jessica Kramer, Senior Advisor, Office of Water, U.S. EPA
Eric Ueland, Acting Chief of Staff, Office of Management and Budget
Jeffery Clark, Acting Administrator, Office of Information and Regulatory Affairs,
Office of Management and Budget