



## American Water Works Association

*Dedicated to the World's Most Important Resource™*

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The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
Mail Code: 4607M  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

### SENT VIA EMAIL

Dear Administrator Regan,

The American Water Works Association (AWWA) congratulates you on your recent confirmation as the Administrator of the Environmental Protection Agency (EPA). AWWA looks forward to working with you and the Agency to improve public health protection. AWWA has a continuing interest in EPA's drinking water program. AWWA supports technical dialogues, collects and submits data, and prepares comments to inform Agency efforts. As a 501c(3) technical and education organization, AWWA communicates federal water policy direction to the sector to speed its effective implementation. Our members are the workforce that advances water research and practice. AWWA conferences, virtual events, and publications are avenues for communicating directly to the professionals leading the sector and that are available to you.

As an active stakeholder in water policy activities, AWWA offers the following perspectives on how the Agency can take proactive steps towards making effective progress on the following seven priority topics. AWWA seeks to be an involved stakeholder working with the Agency on each of these topics and a participant in the recommended stakeholder processes.

#### *Microbials and Disinfection Byproducts*

**Utilize a negotiated rulemaking process to determine the content and approach that EPA will take in revising its Safe Drinking Water Act regulations governing microbial and disinfection byproduct risks.<sup>1</sup>**

In October 2020, EPA held a public meeting on risks and risk management considerations associated with M/DBPs. Potential revisions will entail decision-making with incomplete information while weighing complex risk-tradeoffs. These policy decisions would best be accomplished through a negotiated rulemaking. Executive Order 13992 makes clear that the current Administration values guidance gathered through such processes. The current M/DBP regulatory framework rests on a negotiated rulemaking process that has stood the test of time. Such processes can lead to rules with a higher degree of transparency, higher probability of success, and lower likelihood of litigation. In recognition of these

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<sup>1</sup> 5 USC §561 et seq.

benefits AWWA, and numerous other stakeholders, have requested that the EPA initiate a negotiated rulemaking process.<sup>2</sup>

#### Preventing Drinking Water Contamination with Statutes including the Toxic Substances Control Act (TSCA)

##### **EPA should consider potential risks of chemical exposure through drinking water and utilize statutory authorities to manage chemical risks from manufacturing, use, and disposal.**

Per- and poly-fluoroalkyl substances (PFAS) are a timely example where the challenge posed to public water systems, as well as other public infrastructure (e.g., publicly owned treatment works, municipal solid waste disposal) could be significantly reduced through a well-functioning TSCA program and other environmental statutes.<sup>3</sup> AWWA appreciates your intent “to understand the multiple avenues I believe we have at our fingertips to address PFAS.”<sup>4</sup> EPA and the public expects the Agency to utilize the SDWA to safeguard the public. EPA is currently not applying the full breadth of statutory authorities (e.g., as discussed in the EPA PFAS Action Plan), particularly TSCA. Consequently, the Agency is shifting the cost of pollution onto local communities, and specifically onto water system ratepayers – many of which are already financially stressed. To date, statutory authorities under TSCA have not been exercised to protect of drinking water sources from PFAS nor other chemicals that enter commerce by way of required TSCA review processes.<sup>5</sup>

#### Addressing PFAS in Drinking Water

##### **Utilize a negotiated rulemaking process to develop a sustainable regulatory framework for PFAS drinking water standards.**

As with M/DBP policy decisions, setting drinking water standards for PFAS is complex given the available occurrence data, current understanding of treatment options, and state of PFAS toxicology. Perspectives on how to best manage potential risks posed by PFAS in drinking water are wide ranging. Regulation under SDWA will be subject to significant public and legislative scrutiny. In this policy environment the transparency and balancing of multiple perspectives through a negotiated rulemaking afford EPA the best opportunity to craft a regulatory framework.

#### Effective Source Water Protection

##### **EPA should use its authorities under all environmental laws to help protect sources of drinking water.**

Existing authorities provide EPA considerable leeway to help prevent the introduction of contaminants into drinking water supplies, which is usually more effective and efficient than removing them at the drinking water facility. For example, EPA should consider alternatives that meaningfully address the impacts of bromide discharges from coal power plants impacting downstream drinking water utilities. An opportunity to take this step is available if EPA revisits the Steam Electric Reconsideration Rule.<sup>6</sup>

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<sup>2</sup> AWWA. “Recommendations on EPA Process Considering Microbial and Disinfection Byproducts Rule Revisions.” January 14, 2020. Attached.

<sup>3</sup> AWWA. Multiple filings to dockets EPA-HQ-TRI-2019-0375-0001, EPA-HQ-OPPT-2013-0225, and EPA-HQ-OW-2018-0618.

<sup>4</sup> U.S. Senate. “[Hearing on the Nomination of Michael S. Regan to be Administrator of the Environmental Protection Agency.](#)” February 3, 2021.

<sup>5</sup> AWWA. Multiple filings to dockets EPA-HQ-OPPT-2019-0238-0066 and EPA-HQ-OPPT-2019-0502.

<sup>6</sup> EPA. “[Steam Electric Reconsideration Rule.](#)” October 13, 2020.

EPA should also continue and enhance its coordination with and support for the U.S. Department of Agriculture’s conservation programs, as the Agency does through its existing programmatic support for the National Water Quality initiative. These programs offer a viable pathway to both addressing many challenged source water areas and protecting pristine ones in a cooperative manner using the tools that the agricultural community knows and trusts.

#### Addressing Affordability in the Water Sector

**The affordability of water service to low-income households should be a priority that informs EPA risk management and regulatory decision-making.**

EPA has several opportunities to enhance affordability in the water sector using its authorities under the Safe Drinking Water Act and the Clean Water Act. These include the following:

- Better assessing the impacts of its rules on customers in the lowest income quintile (low income) consistent with the multi-association publication “Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector”<sup>7</sup>
- Assuring that regulation under SDWA, CWA, and other statutes both protect public health and does not create excessive burdens on low-income households served by local water systems<sup>8</sup>
- Finalizing its proposed financial capability assessment guidance for CWA obligations in a manner consistent with AWWA’s comments<sup>9</sup>
- Utilizing the State Revolving Loan Fund capitalization and the Water Infrastructure Finance and Innovation Act (WIFIA) loans, and capacity development programs to assist water systems in meeting regulatory requirements (such as the Lead and Copper Rule) for which water systems face significant fiscal barriers to compliance

#### Advancing Cybersecurity Protections

**We encourage the EPA to work collaboratively with the sector to implement a shared strategy for building capacity in the sector for cybersecurity best practices.**

AWWA’s guidance and self-assessment tool can provide a basis for a water sector cybersecurity strategy. Such a strategy will require a forward-looking approach that recognizes the diversity in the sector’s deployment of multiple enterprise and process control systems while meeting risk management objectives. AWWA welcomes the opportunity to partner with EPA on efforts to enhance cybersecurity in the water sector.

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<sup>7</sup> AWWA. “[Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector](#)”. April 18, 2020.

<sup>8</sup> An expert panel report providing more detailed suggestions on pathways that EPA could incorporate affordability into rulemakings and related topics is in preparation (coordinated by AWWA) and is expected during first quarter of 2021.

<sup>9</sup> AWWA. “[Comments on Financial Capacity Assessment for Clean Water Act Obligations](#)”. October 19, 2020.

Restoring and Expanding EPA's Resources to Adequately Fulfill Statutory Duties

**Adequate financial resources are critical for EPA to protect public health and appropriately perform statutory duties, provide technical support, and advance research to inform these efforts.**

In light of the aforementioned priorities for advancing public health through drinking water protection, it is apparent that EPA must be adequately funded. Budgetary challenges hinder transparency. The lack of transparency has clear consequences, like those evident in the above recommendations. With a strong commitment to science-based decisions there is a need to assure adequate funding for research that supports Agency decision-making processes.<sup>10</sup> Program funding should be commiserate with the tasks they have been given.

If you have any questions regarding this correspondence or if AWWA can be of assistance in some other way, please contact me or Chris Moody at (202) 326-6127 or [cmoody@awwa.org](mailto:cmoody@awwa.org).

FOR THE AMERICAN WATER WORKS ASSOCIATION

  
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cc: Radhika Fox, EPA/OW  
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***Who is AWWA***

*The American Water Works Association is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,000 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.*

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<sup>10</sup> AWWA. "[Letter to the Honorable Joe Biden](#)." November 23, 2020.