



THE UNITED STATES
CONFERENCE OF MAYORS



March 17, 2025

Dr. Jennifer McLain
Director
Office of Ground Water and Drinking Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Federalism Consultation: Proposed National Primary Drinking Water Regulation for Perchlorate

Dear Dr. McLain,

On behalf of the nation's mayors, cities and counties, we appreciate the opportunity to submit comments on the U.S. Environmental Protection Agency's (EPA) forthcoming proposed rulemaking, the National Primary Drinking Water Regulation (NPDWR) for Perchlorate. We appreciate the Federalism Consultation EPA held for state and local government organizations on January 16, 2025 and provide these comments pursuant to Executive Order 13132: Federalism.

Collectively, our organizations represent the nation's 3,069 counties, more than 19,000 cities, towns and villages and the mayors of the 1,400 largest cities throughout the United States. The health, well-being and safety of our residents and communities are top priorities for us. Local governments serve as co-regulators in implementing and enforcing many federal laws with states, including Safe Drinking Water Act (SDWA) programs, and our members take these responsibilities seriously.

In general, our organizations support the provisions in the 1996 Amendments to the Safe Drinking Water Act that require that drinking water standards be based on sound science, public health protection and occurrence of contaminants in drinking water supplies at levels of public health concern to reduce risk to the public while also balancing costs. Any federal mandate on local governments should be accompanied by additional federal resources and also offer municipal water systems flexibility in implementation and compliance options. It is important that federal, state and local governments work together to craft reasonable and practicable rules and regulations. As partners in protecting our residents' public health, it is essential that local governments have a clear understanding regarding our responsibilities in implementing this rule.

At this time, we offer the following pre-proposal comments to be considered by the Agency:

Regulating Perchlorate as a National Issue of Concern

This proposed rulemaking would establish a NPDWR for perchlorate, which would require public water systems to conduct initial and ongoing monitoring and implement treatment solutions. As EPA considers its next steps, we emphasize that any new NPDWR should be established when the estimated risk reaches a level where the risk to human health is both substantial and widespread and when the benefits outweigh the costs.

It's important to note that EPA's current actions to promulgate a standard stems from a 2023 legal decision to vacate the Agency's former determination (2020) that the health risk of perchlorate in drinking water would not be best addressed by promulgating a national drinking water standard. For instance, in its 2020 decision, the Agency stated that the small number of systems with reported perchlorate levels greater than identified thresholds, and the correspondingly small population served, did not present an opportunity to achieve a meaningful reduction in health risk. The decision to now regulate the contaminant in drinking water at the federal level is not being charged by the Agency, nor its health/science experts, but rather from judicial directive.

Therefore, questions now remain regarding what new health-based science, occurrence monitoring, or other relevant information became available, or was revisited, to warrant the reversal of the Agency's most recent determination. If the Agency moves forward with this rulemaking, we urge the EPA to be transparent with local leaders and other stakeholders on providing evidence that supports the conclusion that the public health benefits associated with this rulemaking outweigh the costs. If the Agency cannot provide this information, we urge the EPA to instead consider how addressing this issue at the regional or local level may present more public health benefits rather than a one-size-fits-all national drinking water standard for all 60,000+ water systems.

Cost Concerns

A. Affordability

Local governments fund 98 percent of all capital, operations and maintenance investment in drinking water and wastewater infrastructure, primarily through user fees, loans and bonds. The most recent U.S. Census data shows that local governments spent over \$150.9 billion on water and wastewater in 2022 alone, and since 2000 have spent over \$2.46 trillion on these utilities, including \$892 billion in capital investment. Even with this significant investment by local governments, many communities struggle to maintain and upgrade their drinking water systems and simultaneously raise rates in order to comply with a continuous stream of new federal mandates.

EPA's own Water Affordability Needs Assessment Report, released December 2024, noted unaffordable water bills in the United States as a "widespread and growing issue," with up to 19.2 million households lacking access to affordable water services and a

national annual needs gap ranging between \$5.1 and \$8.8 billion. Notably, these estimates do not consider the Agency's recent finalizations for a host of new drinking water and wastewater regulations impacting local governments, including new PFAS drinking water standards (2024), new Lead and Copper Rule Improvements (2024), and new designations for PFOS and PFOA as hazardous substances (2024). On top of these rules, new regulatory proposals targeting water system restructuring, long term control plans for combined sewer systems, and new drinking water standards for microbial byproducts, are also underway.

A new NPDWR for perchlorate will result in new compliance costs for local governments primarily associated with monitoring, sample collection, and treatment actions, if necessary. To be clear, a NPDWR will impose some costs on ALL public water systems, not just those whose levels are reported above the federal standard. For example, all water systems will need to account for new administrative costs, any associated planning and design activities, and any necessary modifications or upgrades needed to comply with the new rulemaking. We urge the EPA to provide evidence that the associated new costs will not have substantial impacts on ratepayers across the country, or that the benefits that result from these costs represent significant public health benefits.

As such, we strongly urge EPA to conduct a cost-benefit analysis assessing the annualized cumulative impact for compliance and implementation of this rulemaking, along with concurrent drinking water and wastewater regulations, will have on low-income ratepayers. The Agency should report on these findings and take appropriate measures to reduce the financial burden on customer ratepayers. We further reiterate our long-standing recommendation that the Financial Capability Assessment Guidance include both wastewater *and* drinking water considerations, the latter of which has not been considered by the Agency.

B. Funding

Public water systems will be required to make monitoring, treatment, and operational changes to meet any new NPDWR for perchlorate. Ultimately, these costs will be passed on to community ratepayers in the form of higher water bills. This may include costs associated with meeting new monitoring and sampling requirements, equipment and installation of new sampling infrastructure, and necessary capital upgrade or replacement of treatment facilities.

At this time, it is difficult to estimate the total costs of the forthcoming proposed rule on local governments. However, it can be reasonably assumed that systems forced to make any technical or operational changes will likely face a host of challenges. At a time when local ratepayers are continually being put in the unsustainable position of financing public operations, we urge **EPA to consider including additional and direct funding to support any unfunded mandates created by this rulemaking.**

Finally, the Agency notes the Drinking Water State Revolving Loan Fund as a potential funding source for compliance activities associated with perchlorate. While local leaders appreciate the historic investments made into the state revolving loan funds through the Infrastructure Investment and Jobs Act, local governments are also using this same pool of money for financial assistance in meeting all the other rules mentioned above. Because many of the compliance timelines for these rules overlap, the overall costs of these rules will be staggering and simultaneous. As such, we urge the Agency to take a holistic and integrated approach and consider the cumulative impacts that the rules and regulations will have on local governments in terms of cost and compliance.

Rule Compliance and Implementation

As EPA is aware, water systems are concurrently working to comply with other SDWA regulations, including the recently finalized Lead and Copper Rule Improvements. In developing this proposal, the Agency should carefully consider the potential conflicts between new NPDWR for perchlorate and the ongoing efforts of local governments to comply with other water regulations.

We urge the Agency to allow for maximum flexibility for local governments and public water systems in the form of extended compliance deadlines and additional financial assistance for systems who will need to make technical or operational changes to meet new requirements.

Consider Impact on Small Systems

EPA should especially consider the impact that this forthcoming proposed rule will have on small water systems. We urge EPA to consider how necessary technical and operational changes associated with this rulemaking will impact smaller systems, especially in terms of challenges associated with staffing limits, funding, capital improvements and technical expertise. As the Agency moves forward in developing this proposal, we urge EPA to provide local governments, particularly small communities, with maximum flexibility for compliance options to reduce the cost burden and achieve maximum risk reduction benefits.

Continue meaningful, timely and frequent engagement with local governments

As EPA moves forward with a forthcoming NPDWR for perchlorate, we urge EPA to continue to adhere to Executive Order 13132: Federalism, as well as EPA's own implementing guidance. Specifically, we request EPA continue to engage with state and local government organizations to provide opportunities for input into the development process to ensure that the rule is effective, implementable and cost efficient.

On behalf of the nation's mayors, cities and counties, thank you for considering the local government perspective on this important issue. If you have any questions, please contact us: Judy Sheahan (USCM) at 202-355-8540 or jsheahan@usmayors.org; Carolyn Berndt (NLC) at 202-626-3101 or Berndt@nlc.org; or Charlotte Mitchell Duyshart (NACo) at 202-661-8826 or cmitchell@naco.org.

Sincerely,



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