



July 20, 2026

VIA ELECTRONIC SUBMISSION

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
Washington, DC 20460

Re: Rescission of Regulatory Determinations and Removal of Related Provisions for Four PFAS Substances (PFHxS, PFNA, HFPO-DA (GenX), and the Mixture of These Three PFAS Plus PFBS); Docket No. EPA-HQ-OW-2025-0654; Extending the Compliance Deadline for the PFOA and PFOS Maximum Containment Levels; EPA-HQ-OW-2025-1742.

Dear Administrator Zeldin:

On May 20, 2026, the U.S. Environmental Protection Agency (EPA) published two proposed rules titled “Rescission of Regulatory Determinations and Removal of Related Provisions for Four PFAS Substances (PFHxS, PFNA, HFPO-DA (GenX), and the Mixture of These Three PFAS Plus PFBS)”¹ and “Extending the Compliance Deadline for the PFOA and PFOS Maximum Containment Levels.”² This letter constitutes the Office of Advocacy’s (Advocacy) public comments on both of the EPA’s proposed rules.

Advocacy supports both the EPA’s proposed decision to rescind regulations of four PFAS substances as well as the proposed compliance date extension for recently promulgated PFAS drinking water regulations. These measures reflect the best reading of the Safe Drinking Water Act (SDWA) and will reduce regulatory burdens for small water systems.

I. Background

A. The Office of Advocacy

Congress established the Office of Advocacy in 1976 under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is a voice within the government that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. The views expressed by Advocacy do

¹ 91 Fed. Reg. 29414 (May 20, 2026).

² 91 Fed. Reg. 29425 (May 20, 2026).

not necessarily reflect the views of the Small Business Administration (SBA) or the Administration.

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),³ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.⁴ If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis for such a determination that adequately supports its certification.⁵

Additionally, section 609 of the RFA requires the EPA to conduct special outreach efforts through a small business advocacy review (SBAR) panel.⁶ The panel must carefully consider the views of the impacted small entities, assess the impact of the proposed rule on small entities, and consider less burdensome alternatives for small entities.⁷ In 2022, the EPA convened a SBAR panel on the national drinking water standard for PFAS,⁸ the subject of both of the EPA's current proposed rules.

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."⁹

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.¹⁰ The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the *Federal Register*, unless the agency certifies that the public interest is not served by doing so.¹¹

B. Both EPA's Proposed Rules Reduce Regulatory Burdens for Small Water Systems.

The SDWA authorizes the EPA to regulate drinking water contaminants.¹² Before a contaminant may be regulated, it must be placed on a Contaminant Candidate List (CCL).¹³ The CCL is published by the EPA Administrator "after consultation with the scientific community, including

³ Pub. L. No. 104-121, tit. II, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C. §§601-612).

⁴ 5 U.S.C. § 603.

⁵ *Id.* § 605(b).

⁶ *Id.* § 609.

⁷ *Id.*

⁸ U.S. Env't Prot. Agency, *SBAR Panel: PFAS National Primary Drinking Water Regulation*, <https://www.epa.gov/reg-flex/sbar-panel-pfas-national-primary-drinking-water-regulation> (last updated June 2, 2026).

⁹ Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

¹⁰ Small Business Jobs Act of 2010, Pub. L. No. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).

¹¹ *Id.*

¹² 42 U.S.C. §300g-1.

¹³ *Id.* §300g-1(b)(1)(B)(i).

the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data.”¹⁴ Every five years, the EPA reviews the CCL and decides whether chemicals should be regulated based on statutory criteria.¹⁵ Before the EPA can regulate a contaminant, it must publish a preliminary determination and provide an opportunity for public comment.¹⁶ For each contaminant the EPA decides to regulate, the agency must propose a maximum contaminant level goal and a national primary drinking water regulation (NPDWR) through a second notice and comment rulemaking.¹⁷

The EPA has committed to regulating per- and polyfluoroalkyl substances (PFAS) in a manner which will, “follow the law, follow the science, and give water systems standards they can build their compliance programs around with confidence.”¹⁸ In 2009, the agency added two types of PFAS, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), to the CCL.¹⁹ A proposal to regulate PFOA and PFAS was issued for comment in 2020²⁰ and the decision to regulate was finalized in 2021.²¹ Once the decision to regulate PFOA and PFOS was made, the EPA proposed and took comments on a PFAS NPDWR in 2023,²² which was finalized in 2024.²³

As part of the 2023 proposed rule, the EPA included preliminary regulatory determinations on four additional types of PFAS:

1. Perfluorohexane sulfonic acid (PFHxS).
2. Hexafluoropropylene oxide dimer acid (HFPO-DA) and its ammonium salt (also known as a GenX chemicals).
3. Perfluorononanoic acid (PFNA).
4. Perfluorobutane sulfonic acid (PFBS).²⁴

In addition to PFOA and PFOS, the finalized NPDWR also regulated these four types of PFAS.²⁵ However, unlike PFOA and PFOS, the preliminary regulatory determination for these four PFAS was made simultaneously with the proposed NPDWR.

Instead of holding two separate comment periods, as required by the SDWA, for both the preliminary regulatory determination and the decision to regulate the four additional types of

¹⁴ *Id.* §300g-1(b)(1)(B)(i)(I).

¹⁵ *Id.* §300g-1(b)(1)(B)(ii).

¹⁶ *Id.* §300g-1(b)(1)(B)(iii).

¹⁷ *Id.* §300g-1(a)(3).

¹⁸ U.S. Env’t Prot. Agency, *EPA Advances Comprehensive PFAS Strategy with Legally Defensible, Practical, Scientifically Sound Drinking Water Protections*, <https://www.epa.gov/newsreleases/epa-advances-comprehensive-pfas-strategy-legally-defensible-practical-scientifically> (May 18, 2026).

¹⁹ 74 Fed. Reg. 51850 (Oct. 8, 2009).

²⁰ 85 Fed. Reg. 14908 (Mar. 10, 2020).

²¹ 86 Fed. Reg. 12272 (Mar. 3, 2021).

²² 88 Fed. Reg. 18638 (Mar. 29, 2023).

²³ 89 Fed. Reg. 32532 (Apr. 26, 2024).

²⁴ 88 Fed. Reg. 18638 (Mar. 29, 2023).

²⁵ 89 Fed. Reg. 32532 (Apr. 26, 2024).

PFAS, the EPA only allowed the regulated community one chance to comment when the proposed PFAS NPDWR was issued.

On May 24, 2022, the EPA convened a SBAR panel with Advocacy and the Office of Information and Regulatory Affairs to examine the possible impacts of the NPDWR on small entities, particularly small water systems.²⁶ The SBAR panel examined the NPDWR's regulation of PFOA and PFOS, but the other four types of PFAS were not specifically proposed for regulation at the time. On May 11, 2023, Advocacy held a small business environmental roundtable on the EPA's proposed NPDWR.²⁷

Advocacy submitted comments on the NPDWR on May 30, 2023.²⁸ In the comment letter, Advocacy raised multiple issues and was particularly concerned that the "EPA has underestimated the impact of the proposed rule on small water systems."²⁹

The EPA has proposed two rules to help alleviate the NPDWR's burdens on small water systems. The first proposal would offer water systems the opportunity to extend the NPDWR's compliance date for regulating PFOS and PFOA by two years.³⁰ The second proposal would rescind the provisions of the NPDWR regulating PFHxS, PFNA, HFPA-DA, and PFNA.³¹ Both of the EPA's proposals directly respond to issues raised in Advocacy's 2023 comment letter. As such, Advocacy enthusiastically supports both proposed rules.

II. An NPDWR Compliance Date Extension will Provide Small Water Systems with Needed Regulatory Flexibility

The EPA is proposing to allow water systems to request an extension of the compliance date of the NPDWR from April 26, 2029, to April 26, 2031.³² This is being done "to provide greater regulatory flexibility and support" for water systems that must comply with the rule, including those in "small, rural, and disadvantaged communities."³³

In our comment letter on the 2024 NPDWR, Advocacy warned that "[o]verwhelming feedback indicates that small water systems do not currently have, nor will they have access to the funding required to comply with this rule, either at all or to ensure timely compliance."³⁴ We also noted

²⁶ U.S. Env't Prot. Agency, *supra* note 8.

²⁷ U.S. Small Bus. Admin, Off. of Advocacy, *Small Business Environmental Roundtable – May 11, 2023*, <https://advocacy.sba.gov/2023/04/28/small-business-environmental-roundtable-may-11-2023/> (April 28, 2023).

²⁸ U.S. Small Bus. Admin, Off. of Advocacy, *Advocacy Provides Public Comment on EPA's Proposed PFAS National Primary Drinking Water Regulation Rulemaking*, <https://advocacy.sba.gov/2023/05/31/advocacy-provides-public-comment-on-epas-proposed-pfas-national-primary-drinking-water-regulation-rulemaking/> (May 31, 2023).

²⁹ *Id.* at 3.

³⁰ 91 Fed. Reg. 29425 (May 20, 2026).

³¹ 91 Fed. Reg. 29413 (May 20, 2026).

³² 91 Fed. Reg. 29425 (May 20, 2026).

³³ *Id.* at 29,427.

³⁴ U.S. Small Bus. Admin, Off. of Advocacy, *supra* note 28, at 3.

that “EPA did not adequately consider critical significant alternatives to reduce the significant economic burden on small entities.”³⁵

The RFA requires agencies to analyze alternatives to regulations, including the NPDWR, which have a significant economic impact on a substantial number of small entities.³⁶ One of the alternatives the RFA suggests analyzing is “the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities.”³⁷ Additionally, the SBAR panel reviewing the NPDWR recommended that the EPA “consider rule implementation delays” to address compliance challenges.³⁸

In its proposed rule, the EPA notes that the proposed two-year compliance extension:

would allow systems more time and flexibility to determine and comprehensively evaluate all of their financial assistance and funding options for capital improvements, making the most cost-effective decisions for their customers and water system financial sustainability. This time will be particularly beneficial for small, rural and disadvantaged systems with less expertise in undertaking these activities.³⁹

The EPA estimates the proposed rule will save small water systems \$15.7 million at the 3 percent discount rate and \$32.2 million at the 7 percent discount rate, in 2024 dollars.⁴⁰

The proposed compliance date directly responds to Advocacy’s 2023 concerns regarding a lack of flexibility and transparency for small water systems affected by the EPA’s 2024 PFAS drinking water regulation. Additionally, the proposed rule satisfies the RFA’s requirement to analyze alternatives which would relieve compliance burdens for small entities and responds directly to a recommendation made by the SBAR panel. Advocacy supports the compliance date extension and urges the EPA to finalize it as soon as possible.

III.A Partial Rescission of the 2024 NPDWR Regulating 4 Types of PFAS Complies with the Supreme Court’s *Loper Bright* Decision, the RFA, and President Trump’s Gold Standard Science Standards.

As previously mentioned, in addition to regulating PFOS and PFOA, the EPA’s 2024 NPDWR also regulated four additional types of PFAS (PFHxS, PFNA, HFPA-DA, and PFNA).⁴¹ The EPA published the preliminary determination to regulate these additional PFAS as part of the

³⁵ *Id.*

³⁶ 5 U.S.C. § 603.

³⁷ *Id.* § 603 (c)(1).

³⁸ U.S. Env’t Prot. Agency, *Executive Summary of the PFAS NPDWR SBAR Panel Report*, 5 (Aug. 1, 2022), https://www.epa.gov/system/files/documents/2024-04/pfas-npdwr-panel-report-executive-summary_508.pdf.

³⁹ 91 Fed. Reg. 29425, 29429 (May 20, 2026).

⁴⁰ *Id.* at 29,444.

⁴¹ 89 Fed. Reg. 32532 (Apr. 26, 2024).

proposed rule, resulting in only one comment period on both the preliminary determination and the proposed rule.⁴²

In *Loper Bright Enterprises v. Raimondo* the Supreme Court states, “[i]n the business of statutory interpretation, if it is not the best, it is not permissible.”⁴³ On April 9, 2025, President Trump issued a Presidential Memorandum titled *Directing the Repeal of Unlawful Regulations*.⁴⁴ The memorandum directs agencies to “immediately take steps to effectuate the repeal of any regulation, or the portion of any regulation, that clearly exceeds the agency’s statutory authority or is otherwise unlawful” and gives priority to rules in conflict with 10 listed Supreme Court decisions, including *Loper Bright*.⁴⁵

In this instance, the SDWA explicitly sets forth a two-step process where the EPA must allow comments on a preliminary determination to regulate a contaminant⁴⁶ as well as a proposed regulation for that contaminant.⁴⁷ The plain reading of the SDWA sets forth a two-step process with two separate comment periods. Further, the SDWA does not grant the EPA the authority to combine a preliminary determination to regulate with a proposed NPDWR. The EPA has reanalyzed the rulemaking process for the 2024 NPDWR and recognizes that in accordance with *Loper Bright*, “[u]nder the best reading of the statute, the EPA is not authorized to take such actions simultaneously.”⁴⁸

In 2025, President Donald Trump issued Executive Order (EO) 14303, *Restoring Gold Standard Science*.⁴⁹ The EO directs federal agencies to “practice data transparency, acknowledge relevant scientific uncertainties, are transparent about the assumptions and likelihood of scenarios used, approach scientific findings objectively, and communicate scientific data accurately.”⁵⁰

Unfortunately, in 2022-2023, the EPA denied the public a statutorily mandated opportunity to comment on the preliminary regulatory determination for PFHxS, PFNA, HFOA-DA, and PFNA and did not inform the SBAR panel about the decision to regulate these four PFAS. By forgoing a statutorily mandated comment process, the EPA prevented the public from offering data and information which could have impacted the agency’s decision to regulate these four PFAS substances. This is the exact opposite of transparency and the accurate communication of

⁴² 88 Fed. Reg. 18638 (Mar. 29, 2023).

⁴³ 603 U.S. 369 (2024).

⁴⁴ The White House, *Memorandum for the Heads of Executive Departments and Agencies, Directing the Repeal of Unlawful Regulations*, (April 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>.

⁴⁵ *Id.*

⁴⁶ 42 U.S.C. §300g-1(b)(1)(B)(iii).

⁴⁷ *Id.* §300g-1(a)(3).

⁴⁸ 91 Fed. Reg. 29413, 29414 (May 20, 2026).

⁴⁹ 90 Fed. Reg. 22601 (May 29, 2025).

⁵⁰ *Id.* at 22,602.

scientific data. By rescinding the regulation of PFHxS, PFNA, HFPA-DA, and PFNA, the EPA recognizes that the 2024 rule falls short of the Gold Star Science accuracy and transparency standards President Trump established in EO 14303.

The RFA requires the EPA to provide “the potential impacts of the proposed rule on small entities and the type of small entities that might be affected” to the Chief Counsel of Advocacy prior to convening a SBAR panel.⁵¹ Here, the EPA did not specifically discuss PFHxS, PFNA, HFPA-DA, or PFNA as part of the SBAR panel on the NPDWR. Rather, as Advocacy noted in 2023:

In advance of the proposed rule, EPA convened a small business advocacy review panel under SBREFA to consult with small entity representatives (SERs). EPA presented to the small entities some PFAS background, with only PFOA and PFOS specifically identified, and potential monitoring and reporting rule compliance considerations and treatment and feasibility considerations. EPA, however, did not provide the SERs with the identity of the other four PFAS, any MCL values, any MCLG values and the technical details and analyses supporting these additional elements.⁵²

By foregoing a separate comment period on the preliminary determination to regulate and failing to raise PFHxS, PFNA, HFPA-DA, or PFNA during the SBAR panel, the EPA denied small entities two separate opportunities to provide input on how they would be impacted by regulating these four additional types of PFAS.

The RFA requires the SBAR panel to consider specific information related to a proposed rule, including the number of small entities it applies to as well as reporting, recordkeeping, and compliance requirements.⁵³ For the 2024 NPDWR, neither of these RFA requirements could be fulfilled without information on the specific types of PFAS covered by the rule. Without knowing which PFAS the EPA intended to regulate in 2022, it was impossible for the SBAR panel to know which specific small entities would be covered by the 2024 final rule and what impacts they would be subject to. As a result, small entities were denied a chance to have the type of meaningful input into the development 2024 NPDWR required by the RFA.

Finally, the EPA estimates that rescinding the regulation of PFHxS, PFNA, HFPA-DA, and PFNA will result in an annualized savings of \$470,000 (at a 2 percent discount rate in 2022 dollars) for small water systems.⁵⁴

⁵¹ 5 U.S.C. § 609 (b)(1).

⁵² U.S. Small Bus. Admin, Off. of Advocacy, *supra* note 28, at 3.

⁵³ 5 U.S.C § 609 (b)(4) (referencing 5 U.S. C. § 603 (b)(3) and (4)).

⁵⁴ 91 Fed. Reg. 29413, 29422 (May 20, 2025).

Advocacy supports the EPA's proposed rescission of the PFHxS, PFNA, HFPA-DA, and PFNA regulations. This action, unlike the actions taken in 2022-2023, will ensure EPA is able to gather the appropriate information from the public necessary to determine what level of regulation, if any, is necessary. Should the EPA decide to regulate PFHxS, PFNA, HFPA-DA and PFNA, or any other types of PFAS, in the future, Advocacy urges the agency to convene a SBAR panel so that small water systems may have the opportunity, as required by the RFA, to meaningfully communicate on the impacts of such future regulations.

IV. Conclusion

Advocacy supports both the EPA's proposed extension of compliance dates for the 2024 NPDWR and the rescission of PFHxS, PFNA, HFPA-DA, and PFNA regulations. Both actions directly respond to issues raised by Advocacy in 2023 and allow the EPA to fulfill its obligations under *Loper Bright*, the RFA, and EO 14303.

If you have any questions or require additional information, please contact me or Senior Counsel Nick Goldstein at (202) 772-6948 or nick.goldstein@sba.gov.

Sincerely,

/s/

Everett M. Woodel, Jr.
Acting Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/

Nick Goldstein
Senior Counsel
Office of Advocacy
U.S. Small Business Administration

Copy to: Mr. Mark Paoletta, Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget