



ASSISTANT ADMINISTRATOR FOR WATER

WASHINGTON, D.C. 20460

August 11, 2026

MEMORANDUM

SUBJECT: Initial Review of EPA Office of Water Guidance Documents

FROM: Jessica L. Kramer **Jessica Kramer** Digitally signed by Jessica Kramer
Date: 2026.08.11
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TO: Office of Water Program Directors

The U.S. Environmental Protection Agency is committed to ensuring its regulations, guidance documents, and other agency materials are easily accessible and transparently communicated to the public. While not legally binding, guidance documents and other agency materials can inform the decisions and actions of states, Tribes, landowners, businesses, and the public at large.¹ The agency therefore has a responsibility to ensure that its guidance reflects existing law, regulations, Executive Orders, and current policies, and that such guidance is informed by stakeholder engagement and public comment, as appropriate.

On August 13, 2025, the agency announced the relaunch of the EPA's Guidance Portal, a streamlined website for accessing important guidance documents.² Launched during President Trump's first term to promote transparency, it was abruptly shuttered and removed from public view during the previous administration. Members of the public deserve easy and transparent access to these materials, and the EPA is committed to ensuring this tool is updated and always available to the public.

As part of the agency's renewed commitment to accessibility, transparency, and fair notice, the Office of Water has initiated a systematic review of its guidance documents to ensure its materials comply and align with current laws, regulations, and policies, and were appropriately informed by public input, as appropriate. The Office of Water's review was also informed in part by stakeholder recommendations submitted in response to the Office of Management and Budget's *Request for Information: Deregulation*.³

¹ The EPA is also aware that guidance documents have been inappropriately relied upon in litigation.

² EPA Announces Relaunch of Comprehensive Guidance Document Website, Advances Total Transparency of Trump Administration, <https://www.epa.gov/newsreleases/epa-announces-relaunch-comprehensive-guidance-document-website-advances-total>.

³ 90 Fed. Reg. 15,481 (April 11, 2025).

During this initial phase of review, the Office of Water has identified the following agency guidance documents or materials that are appropriate for rescission.

- Guidance entitled “Climate Change Considerations When Prioritizing, Developing, and Implementing Total Maximum Daily Loads” (November 2024). This guidance document identifies a non-exhaustive selection of potential approaches for incorporating global climate change concerns into the development of total maximum daily loads. Rescission is appropriate as this guidance document does not align with recent Executive Orders and Administration priorities on global climate change concerns.⁴
- Policy memorandum to Regional Water Division Directors, Regions 1-10, entitled, “Environmental Justice Guidance for UIC Class VI Permitting and Primacy” (August 17, 2023). This memorandum strongly encourages states to consider environmental justice and climate resiliency in a range of UIC Class VI permitting considerations, including siting decisions, evaluating applications for primacy, and implementation. It also notes that EPA regional staff “are expected to immediately apply” these practices for Class VI permitting and encourages UIC well owners/operators to consider this guidance when developing permit applications. Rescission is appropriate as this memorandum relies on Executive Orders that have been rescinded⁵ and are no longer in effect and does not align with recent Executive Orders and Administration priorities regarding environmental justice and energy dominance.⁶
- Policy memorandum to EPA Regional Water Division Directors, Regions 1-10, entitled, “Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs” (December 5, 2022).⁷ Rescission is appropriate as this memorandum has caused confusion for states and permittees and resulted in inconsistent application across the country. The agency is also aware that some states have inappropriately conflated maximum contaminant levels under the Safe Drinking Water Act with separate Clean Water Act permitting requirements related to water quality standards, resulting in the inappropriate direct incorporation of MCLs in issued CWA permits. Given the important issues raised in this document and considering the agency’s priorities to appropriately address PFAS contamination, any guidance documents involving these issues should also be properly vetted through a public notice and comment process.
- Fact Sheet entitled, “Implementing Case-by-Case Technology-Based Effluent Limitations in NPDES Permits for Pollutants of Emerging Concern” (January 2025). This fact sheet builds on the aforementioned 2022 memorandum but expands the scope to also include pollutants of emerging concern. Rescission is appropriate as this memorandum has caused confusion for

⁴ *Initial Rescissions of Harmful Executive Orders and Actions*, <https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/>.

⁵ *Ibid.*

⁶ *Unleashing American Energy*, <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>.

⁷ The EPA’s April 28, 2022, guidance to EPA Regions entitled, “Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority,” which the December 2022 memorandum updated, is also rescinded.

states and permittees and resulted in inconsistent application across the country. Additionally, it is notable that this guidance document was never published for public comment. Given the novel issues raised in this document and considering the agency's focus on addressing pollutants of emerging concern, the Office of Water's view is that any guidance implementing case-by-case technology-based effluent limitations in NPDES permits should be properly vetted through a public process.

- Draft guidance entitled, "Applying the Supreme Court's *County of Maui v. Hawaii Wildlife Fund* Decision in the Clean Water Act Section 402 National Pollutant Discharge Elimination System Permit Program to Discharges through Groundwater" (November 2023). The draft guidance provides guidance to permit writers for implementing how to implement the U.S. Supreme Court's decision in *County of Maui v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020), which created a multifactor, nonexclusive test for determining when a discharge from a point source to "waters of the United States" that travels through groundwater is the "functional equivalent of a direct discharge" to WOTUS and therefore requires a federal Clean Water Act permit. The EPA published the draft guidance for public comment, but it was never finalized. Rescission is appropriate to prevent confusion and ensure states, Tribes, permit writers, and the public do not rely on this draft guidance that was not finalized. Rescission is also appropriate under the policy memorandum entitled, "Office of Water Policy for Draft Documents,"⁸ which provides that draft documents that have been issued must be finalized within two years of the draft date or will automatically be rescinded.

The aforementioned guidance documents in this memorandum are hereby rescinded. The Office of Water will consider whether new guidance is appropriate or needed to replace the withdrawn guidance described above. The Office of Water will provide updates as necessary as it continues its review of the documents in the Guidance Portal and other agency materials. The Office of Water welcomes feedback on any of its guidance documents or other materials. Please contact Mike Trombley at Trombley.Michael@epa.gov with any recommendations or feedback.

cc: EPA Regional Administrators, Regions 1-10
EPA Water Division Directors, Regions 1-10
EPA Office of Policy and Regulatory Management
EPA Office of General Counsel

⁸ Office of Water Policy for Draft Documents (August 6, 2019), https://www.epa.gov/sites/default/files/2020-02/documents/ow_policy_for_draft_documents_to_ow_program_directors_signed_002.pdf.