

June 2016

MOVING DRINKING WATER FORWARD ACTION PLAN

Thank you for the opportunity to provide comments on development of an Action Plan to improve Safe Drinking Water Act (SDWA) implementation. We appreciate the efforts of the U.S. Environmental Protection Agency Office of Ground Water and Drinking Water to address strategic opportunity areas, to advance policy development and to engage stakeholders.

OVERARCHING COMMENTS

We appreciate that investment is not motivating for things that are “broken,” and that this poses challenges for making the case for dramatically increased funding and effort around SDWA oversight, infrastructure funding and other drinking water needs. Drinking water is not “broken,” but our clean water progress has led to complacency and to an inability to recognize lost opportunity in protecting public health and moving toward 21st century drinking water systems. Our work is premised on the idea that people need to value the water from Public Water Systems more, not less, and that motivating people to distrust tap water and/or resort to bottled water is counterproductive to all of our goals. We also recognize that aggressive action now could prevent having to respond to emergencies, which tend to cause us to deploy resource inefficiently. We are prepared to engage with EPA and other stakeholders to make the case for ramped up focus and investments of numerous kinds in a manner that is productive and that can have benefits beyond drinking water.

We agree that a major “rethink” on SDWA and our drinking water systems cannot happen overnight and that we do not yet have a full picture of what it is that we are trying to achieve. The Action Plan process is a good start. An overarching goal should be to move toward more sustainable water systems supported by a robust research program, an agenda open to innovation and by ample oversight at the federal and state levels to meet the SDWA goals of reducing public health risk from drinking water.

EMERGING/UNREGULATED CONTAMINANTS

Using Other Authorities to Prevent Source Water Contamination

The examples in the Issue Context/Background paper illuminate challenges and potential pathways for addressing as yet unregulated contaminants. MCHM, which spilled from a faulty chemical storage tank in West Virginia, and PFOA and PFOS have wreaked havoc on some drinking water systems, and yet do not occur widely throughout the country. This could pose

challenges for setting an enforceable federal standard under current statute. They also have in common that their presence in source water could ideally have been prevented under other authorities. The growth of Harmful Algal Blooms leading to cyanotoxin formation is more widespread, but it is also true that nutrient pollution that increases algal blooms is not sufficiently controlled.

Aggressively using existing authorities is directly related to the pressure for regulation of unregulated contaminants. This was a core aspect of the 2010 *Drinking Water Strategy*, and some progress has been made but far from enough. Integration of the Clean Water Act and the Safe Drinking Water Act has been a part of EPA's Strategic Plan and the focus of efforts of NGOs and others for quite some time. We suggest that EPA define concrete steps to make progress on integration of our two landmark water laws to better keep contaminants out of drinking water and to use other authorities to address chronic and new drinking water contaminant issues. It would be incredibly helpful to quantify public health benefits of making progress in this area. Such an exercise, perhaps around a few selected contaminants, would also contribute to the overall argument for action discussed in our overarching comments above.

Research, Innovation and Data

- We need increased investment in drinking water research in all areas: contaminant occurrence, health effects and treatment. There are opportunities to better coordinate EPA's own research agenda with drinking water needs but an overall increase in research and innovation is justified. As noted above, we look forward to engaging with EPA and others on defining these needs and supporting research investment.
- EPA should identify barriers to lab methods development and treatment technology innovation in order to enhance the ability of stakeholders to support activities that could remove these barriers. Treatment technology innovation was another core aspect of the 2010 Drinking Water Strategy, so understanding what has been accomplished and roadblocks to further progress would be helpful.
- We are interested in engaging with stakeholders on innovative ideas like using the SDWA treatment technique approach to address unregulated contaminants.
- Data and information systems need investment and innovation. EPA should explore and explain how new approaches in this area could lead to better public engagement, more effective oversight, and increased public health protection.

OVERSIGHT OF SAFE DRINKING WATER ACT IMPLEMENTATION

- While money is not the only answer to drinking water challenges, it is a fundamental problem. Within the EPA budget and as a share of federal spending, water simply must be a bigger priority. Cost estimates around water infrastructure needs can make this

seem like an impossible problem, while other numbers point to solutions that are within our reach. Inadequate state agency resources for SDWA oversight is a recognized and demonstrated problem. The Association of State Drinking Water Administrators (ASDWA) estimates that the gap between needs and current funding for comprehensive state programs is \$308 million. For the return in investment in terms of public health protection and effectively implementing SDWA while supporting progress toward 21st century drinking water systems, \$308 million is not a huge amount of money. It is within reason to think that this funding could be found if the case can be made by EPA and other stakeholders. The SDWA program receiving perhaps the least federal support – the Underground Injection Control Program – is an \$11 million item in EPA’s budget. With a statutory goal of protecting the underground sources of drinking water relied upon by millions of people, dramatic improvements could be made if this drinking water protection program received higher priority for federal spending.

- EPA resources would be well spent ensuring that states are performing their SDWA implementation obligations. EPA should be transparent about states that are not delivering on program requirements.
- Data and transparency could be part of the solution, allowing stakeholders to better understand the need for effective state programs and to build public support for these programs in all states.
- There is a certain dichotomy between states’ role in overseeing water system SDWA compliance and in providing technical assistance. Regulations designed to encourage better system performance overall – for example the “find and fix” approach implicit in the Revised Total Coliform Rule – might offer opportunity to support more effective state oversight and efficient use of resources.
- The state role is complicated by the enormous number of Public Water Systems, including Community, Non-Transient Non-Community and Transient Non-Community Systems. Some of these systems require a great deal of state oversight and may not be sustainable. EPA should work with states to quantify this burden and to recommend and support actions that can address this including innovations in sharing resources across systems, restructuring approaches and others.

LEAD AND COPPER RULE

We appreciated the discussion at the June 2 meeting and had a few points to add or emphasize.

- EPA should provide analysis of findings from its increased state oversight, announced in late February 2016. These findings will enable stakeholders to work

for improvements in states and specific communities and provide important information for the Lead and Copper Rule (LCR) revision process.

- As noted above, investment in drinking water research is insufficient and EPA and the federal government can play a role in bridging this gap. Among the areas relevant to the LCR are innovations in identifying lead service line location, advances in corrosion control treatment, monitoring, assembling and sharing monitoring data and flushing protocols for different situations to avoid lead exposure at the tap.
- As noted in the June 2 meeting, in the long term support of all kinds for full lead service line replacement is a critical role for EPA since removing this largest source of lead in contact with drinking water must be the ultimate goal.
- EPA can play an important role in ensuring that local and state health departments not only recognize water as a potential source of lead exposure in communities facing lead poisoning issues, but in ensuring that lead hazard programs overall are well-resourced.

ENVIRONMENTAL JUSTICE AND EQUITY IN DRINKING WATER INFRASTRUCTURE FUNDING

- EPA must continue to improve the ability of both State Revolving Funds (SRFs) to address disparities in community resources to address clean water needs. Work with other agencies, including the U.S. Department of Agriculture, is a positive step as well. Where communities lack the resources to meet minimum requirements for receiving grants or loans, including from the SRF programs, EPA should work with other agencies on integrated approaches to what are essentially issues of government infrastructure.
- Ultimately, system ratepayers are called upon to bear the majority of costs incurred by their water system. Where ability to pay is an issue, it is critical that we don't resort to two-tiered water systems where communities with more resources enjoy a better quality of water than those without. This vastly complicated question is related to many of the other issues discussed in the Moving Drinking Water Forward discussions including research and innovation. However, solutions to the fundamental affordability question have by no means been exhausted. We urge EPA to, among other actions, revisit the 2003 recommendations of the National Drinking Water Advisory Council on affordability, including development of a federal assistance program for drinking similar to the federal program for home heating assistance for low-income consumers.

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