We are the professional association serving state drinking water programs, specifically, the 57 drinking water program administrators in the 50 states, the five territories, the Navajo Nation, and the District of Columbia.

Transition Brief for Incoming Administration

Recommendations from States on the National Drinking Water Program

Introduction

Water is life. Vibrant and sustainable communities, their citizens, workforce, and businesses all depend on a safe, reliable, and adequate supply of drinking water. Economies only grow and sustain themselves when they have reliable water supplies. Over 90% of Americans receive water used for bathing, cooking, and drinking from a Public Water System (PWS). And these systems are overseen by state drinking water program personnel.

States play a critical role protecting public health through safe drinking water. State and territorial drinking water agencies implement an array of initiatives to protect public health from "source to tap." They are responsible for ensuring compliance with the national drinking water regulations that address 91 contaminants through a wide range of activities, such as:

- Providing training and technical assistance
- Reviewing and approving construction plans and specifications
- Issuing permits
- Conducting inspections of treatment plant and distribution system infrastructure
- Managing data and information, and reporting that information to EPA
- Managing loan programs for infrastructure construction
- Ensuring that public water systems are operated by certified operators
- Taking enforcement actions, when needed

How The Incoming Administration Can Improve the Safety of U.S. Drinking Water

ASDWA recommends that the Administration focus on four major goals to help states effectively fulfill their critical mission for safe drinking water:

1. Strengthen the State-Federal Co-Regulator Partnership

Implementation of the Safe Drinking Water Act (SDWA) requires a strong relationship between the states and the federal government. The following actions would strengthen this relationship and build on the fundamentals of Cooperative Federalism:

- **EPA engages state co-regulators early and often** to understand where programming and funding gaps are and how EPA can assist in filling those gaps.
- **EPA commits to early interaction with states on rule and policy development**. In recent years, the EPA has been slower to engage with state partners and their representative associations and this has eroded trust. EPA could restore that trust by developing an EPA-State working group for all future drinking water regulations. As an example, EPA instituted a goal of reducing health-based violations of the SDWA by 25% by the year 2022. This measure was developed and released to states without any warning to or input from states.
- **EPA works with states to develop a unified data collection strategy** that reduces redundancies in reporting requirements. Data is the backbone for every decision but the requests for data from multiple offices within EPA as well as other federal organizations are often redundant. Responding to these multiple and duplicative data requests stresses already limited state resources.
- **EPA increases internal cooperation and communication** between its headquarters offices, Regions, and the states. The current disconnects between EPA Headquarters and EPA Regions creates confusion for states and duplicates efforts.
- **EPA focuses on activities that states cannot do,** for example, setting MCLs, develop rule implementation guidance, developing toxicity values and health effects data.

2. Increase Funding for Human Resources and Water Infrastructure

Safe drinking water requires treatment plants, pumps, pipes, and people. State water programs and public water systems both need federal support to ensure a strong, diverse, and capable workforce. This can be achieved by:

- **Supporting the Public Water System Supervision (PWSS) grant** and expanding the authorization and appropriation. The current funding gap for state water programs is estimated to be $295 million, growing to $469 million in 2029, based on ASDWA's latest analysis of states' resource needs.
- **Bolstering EPA's critical role in workforce development** for states and drinking water systems, by strengthening its training and guidance programs for both groups.
- **Developing in-agency expertise within EPA's workforce** of regulators and researchers. EPA's core work to ensure safe drinking water requires considerable funding to develop health effects data, toxicity values, analytical methods, and training and guidance.
- **Supporting The Drinking Water State Revolving Loan Fund (DWSRF).** States use these critical grant funds to make loans to water systems for drinking water infrastructure projects. Water systems repay these loans to the state, which, in turn, uses those funds for additional loans. Over the DWSRF's first 20 years, states funded nearly 14,000 projects worth over $35 billion.[1] A number of other initiatives with broad public health impacts, such as lead in schools and climate change, are supported with set asides but this has the potential to undermine the long-term health of the DWSRF program, unless the Administration increases the dedicated funding through the PWSS program. Specifically, ASDWA recommends that the Administration:

[1] https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf

- Support strong funding for the DWSRF and continue to recognize states' needs for dedicated funding outside of the DWSRF, through increasing the PWSS authorization and appropriation.
- Maintain flexibility for states in their use of DWSRF funds. DWSRF programs have traditionally balanced fiduciary responsibilities with flexibilities to match local needs.

3. Increase Data Access and Transparency

Trust in our nation's drinking water has eroded in recent years. Rebuilding it starts with high-quality data that is robust, accurate, and accessible to the communities we serve. Effective data management plays a crucial role. Currently, the Safe Drinking Water Information System (SDWIS) stores compliance information for Public Water Systems (PWSs) and is decades old. SDWIS modernization must be a priority. A modern SDWIS will provide greater transparency and increase public confidence in the quality of drinking water. This can be accomplished if:

- EPA continues to fund and maintain systems like SDWIS and the Compliance Monitoring Data Portal (CMDP) to ensure they are capable of handling data management complexity of past regulations and the recently proposed Lead and Copper Rule Revisions (LCRR).
- EPA continue its partnership with states to improve access to drinking water quality data through initiatives such as the Enforcement and Compliance History Online (ECHO), a web-based tool developed and maintained by EPA's Office of Enforcement and Compliance Assurance (OECA) for public use.
- **EPA, states, and tribes increase their use of the E-Enterprise for the Environment** model to simplify, streamline, and modernize the implementation of their environmental and public health programs. Increased support for E-Enterprise can enhance services to users by reducing transaction costs and burdens for the regulated community.

4. Address States' Regulatory Challenges

A. Develop Solutions for Small Systems

According to EPA data from 2017, there are 151,119 public water systems (PWS) in the U.S. Of these, 97% serve just 10,000 or fewer people. Said a different way, the vast majority of PWS serve a small amount, 27%, of the U.S. population. While many small systems consistently provide safe, reliable drinking water to their customers, many others struggle to do so. Some of these challenges include lack of expertise to evaluate, select, operate and maintain treatment systems; lack of financial resources; aging infrastructure; limited options for residual disposal; and state primacy agencies with limited resources to support the large number of small systems. The majority of state time is spent with these small systems working through regulatory and compliance problems. While regionalization and partnerships offer solutions for some struggling systems, many need real solutions beyond physical consolidation. These challenges can be mitigated if:

- **EPA develops more information and guidance on cooperative solutions** beyond physical consolidation of water systems. In rural states, many of the PWS systems are too far apart for physical connection, but cooperative agreements or consolidation for operation and maintenance, billing, and other back office work could be an option given the right incentives, including funding assistance.

- **EPA, in consultation with states and water systems, develops updated affordability considerations** for use in its regulatory development processes.

B. Increase Federal Action on Unregulated Contaminants

Unregulated contaminants, especially per- and polyfluoroalkyl substances (PFAS), have been a growing concern for more than a decade. The solubility, mobility, and bio-accumulative properties of PFAS continue to heighten concerns about potential adverse health effects. Absent a clear federal direction and consistent health risk numbers, increased public concern has driven some state drinking water programs to establish their own PFAS actions, either regulatory or quasi-regulatory, noting that both take time and resources. Though PFAS are not the only unregulated contaminants that are problematic and can require states' actions, they highlight the need for federal action. Based on these needs, ASDWA recommends that:

- EPA continues to enhance the PFAS Action plan and advance the regulatory process for PFOA and PFOS, and other PFAS that provide a meaningful opportunity for risk reduction as required by the SDWA.
- The new Administration evaluates whether changes can be made with the current SDWA regulatory development process to speed the process up, as ASDWA has provided several specific recommendations for this process. EPA should evaluate whether additional changes could be made within this process, or whether changes are needed to the SDWA to increase the effectiveness of the regulatory development process.
- EPA reduces the creation of and its reliance on health advisories, which are not regulations and not enforceable. The public looks at the numbers in the health advisories as "bright lines" for safety and demand that states undertake actions that take time and resources away from the core drinking programs.
- EPA works with stakeholders to increase research and development at the federal level.

C. Expand Source Water Protection

- EPA should increase collaboration between OGWDW and OPPT to use TSCA more appropriately to prevent emerging contaminants from entering source water. The TSCA registration process for new chemicals must consider their potential impacts to downstream drinking water systems for the life cycle of the new chemicals.
- EPA should continue its work with the drinking water and agricultural communities to protect drinking water sources through the funding mechanisms within the Farm Bill for water quality conservation measures.

Conclusion

ASDWA's members work tirelessly for safe drinking water. Drinking water in the U.S. is excellent - but like everything else, it can always get better. The status quo is not an option - compliance with existing regulations has not improved in over a decade and the public is not satisfied with our collective response to the challenges with emerging contaminants such as PFAS. We must do better, and the new Administration provides the opportunity for drinking water community to improve and better protect public health.