



**American Water Works
Association**

Dedicated to the World's Most Important Resource™

Government Affairs Office
1300 Eye Street NW
Suite 701W
Washington, DC 20005-3314
T 202.628.8303
F 202.628.2846

November 12, 2021

Faisal Amin
Chief Financial Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: EPA Strategic Plan 2022-2026 ([EPA-HQ-OA-2021-0403](#))

Dear Mr. Amin:

The American Water Works Association (AWWA) appreciates the opportunity to comment on the EPA Strategic Plan for 2022-2026. Our comments below are organized by the relevant sections of the strategic plan.

Goal 1: Tackle the Climate Crisis (pages 7-19)

EPA should, within the confines of its authority, assist water systems and others in increasing efficiency to reduce emissions of greenhouse gases, to improve data and information available to support decision-making as communities adapt to climate change, and assist with adapting to existing and future water resource challenges. However, it is unclear what authorities and resources EPA plans to use to assist water systems with these goals. EPA has previously developed decision support tools with mixed success. There are likely opportunities for additional research and data collection and dissemination that would be of assistance. Although additional funding will be needed to actualize the research program.

For objective 1.3 (Advance International and Subnational Climate Efforts), AWWA appreciates the specific mention of assistance with *“adaptation and resilience strategies for ... building resilient water infrastructure, managing flood and fire risk, and mitigating public health impacts of natural disasters and other extreme weather events.”* Addressing both short-term and long-term needs related to adaptation and resilience is essential for the water sector (and other sectors which interface with the water sector). We encourage EPA to provide additional information on how the Agency plans to continue, expand, or modify such efforts to reach these goals. EPA is not a water resource management agency. Nor does EPA direct infrastructure investments. Therefore, it is unclear what approach(s) are being proposed here. Additional detail is needed to understanding EPA’s proposed plans and assess their viability.

Goal 5: Ensure Clean and Safe Water for All Communities (46-56)

On page 46 there is a mention that *“EPA will also address a critical public health issue by working with states and water utilities to remove lead service lines that contribute to high lead levels in drinking water. EPA will help utilities identify their lead service lines and work with federal and state funding authorities to*

November 12, 2021

Comments on EPA Strategic Plan 2022-2026

Page 2

help utilities remove the lines." AWWA agrees as to the criticality of solving issues around high lead levels and the replacement of lead service lines.

Page 49 characterizes lead service line as *"the most significant sources of lead in drinking water."* This statement is overly simplistic. Lead service lines are a large potential source of lead in drinking water in areas where they exist. It is important that all sources of lead that are in contact with drinking water be removed over time. Lead-containing materials include plumbing materials and fixtures within building plumbing. Consequently, investing in removing lead over time must be balanced with ongoing efforts by water systems and customers to manage water quality to minimize corrosivity and the concentration of lead in drinking water that is consumed.

As a professional organization serving the technical education needs of the water sector and as a participant in the Lead Service Line Replacement Collaborative, AWWA has helped to identify tools to facilitate lead service line replacement. The statements in the draft plan indicate EPA plans to take an active role in assisting with lead service line inventories and lead service line removal. We encourage clarification of the Agency's direction so that communities and individual households have a clear sense of what to anticipate as support from EPA for lead service line replacement. While there is currently legislation that will provide some funding to assist with LSL replacement, the bulk of the cost of lead service line replacement will be borne by individual homeowners and businesses either directly or through community-level fees and charges. Assistance from EPA facilitating reduction of this financial burden through its own programs and engagement of other federal funding agencies could help the sector accelerate lead service line replacement.

On page 48, there is a mention that *"EPA will promote and certify water operators."* EPA does not certify water operators. Rather, licensure is completed through state agencies, which EPA could support. It is also unclear what *"promote"* refers to in this phrase. EPA actively works with and supports workforce development and licensure programs through its existing water sector workforce programs.¹ Growing and expanding the skillset of the water sector workforce is an important objective for the sector. AWWA would appreciate EPA's support for the ongoing efforts underway through a number of nongovernmental organizations to address the sector's workforce needs. A more accurate framework for the EPA strategic plan would be *"EPA will support water sector efforts to strengthen the sector's workforce, promoting the importance of water operators and providing assistance to state agencies managing licensure and certification."*

Page 49 discusses PFAS. EPA recently published the PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024,² and it provides a path forward for how EPA intends to use regulatory authorities to address PFAS. However, neither the Roadmap nor EPA's strategic research action plans³ describe the research necessary for advancing these regulatory actions. A clearly communicated research strategy for

¹ EPA. 2021. Water Sector Workforce. <https://www.epa.gov/sustainable-water-infrastructure/water-sector-workforce>

² EPA. 2021. PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024. https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf.

³ EPA. 2020. Strategic Research Action Plans 2019-2022. <https://www.epa.gov/research/strategic-research-action-plans-2019-2022>.

PFAS is needed to maintain public trust in EPA processes and to gather adequate science to support the planned rulemakings.

Page 50 states that *“EPA will also update and develop new health advisories and benchmarks that can be used by federal and state partners, drinking water utilities, and others to better characterize the potential health risks associated with drinking water contaminants.”* Communities across the United States have experienced challenges as a result of the release of previous health advisories where there has been no opportunity for public review and comment prior to issuance. Health advisories have in recent instances become *de facto* standards despite the absence of analysis of the feasibility or consequences of treating them as such. EPA should place a high priority on collaborative engagement of the drinking water community including opportunities for public comment prior to release of future health advisories.

Page 51 states that *“The risk to the environment and public health from cyber-attacks and the limited adoption of cybersecurity practices within the water sector gives urgency to federal-state engagement on improving the operational security of public water systems and publicly owned treatment works.”* At present, the draft Strategic Plan does not recognize the critical need to engage water system owner-operators as stakeholders in crafting policies intended to mitigate cyber risks. Currently EPA is pursuing funding in the FY22 budget to expand sanitary surveys to include assessing cybersecurity resilience, yet it has not engaged the sector to identify what such an approach could accomplish and more importantly, what it is unlikely to achieve.

AWWA supports the use of a tiered, risk-based performance model to determine cybersecurity requirements for the sector. Moreover, investments in technical training and assistance, cyber-breach event reporting, communication of threat information, and funding for cybersecurity improvements should be aligned into a cohesive program. Achieving this objective will require a collaborative effort not yet reflected in EPA practice nor the draft Strategic Plan. EPA should revise the Strategic Plan to reflect an effort to ensure that all Agency efforts to advance cybersecurity are based on collaboration with water system owner-operators through the water sector’s associations and Water Sector Coordinating Council as well as other contributors to a sustainable national cybersecurity response including state primacy agencies and the Department of Homeland Security.

Page 51 notes that *“EPA will also work to facilitate compliance with updated Federal Flood Risk Management Standards for critical infrastructure, which includes many water systems.”* Executive Order 14030 (Climate-Related Financial Risk)⁴ reinstated the FFRMS originally created under Executive Order 13690⁵ and subsequently repealed under Executive Order 13807.⁶ There are complex technical and policy questions that must be addressed in implementing the FFRMS with regards to EPA programs, including capital investments made through the state revolving loan fund and Water Infrastructure

⁴ 86 FR 27967. 25 May 2021. Executive Order 14030: Climate-Related Financial Risk. <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-11168.pdf>

⁵ 80 FR 6425. 4 February 2014. Executive Order 13690: Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. <https://www.govinfo.gov/content/pkg/FR-2015-02-04/pdf/2015-02379.pdf>

⁶ 82 FR 40463. 24 August 2017. Executive Order 13807: Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects. <https://www.govinfo.gov/content/pkg/FR-2017-08-24/pdf/2017-18134.pdf>

Finance and Innovation Act programs. However, EPA has taken no formal action to date towards addressing how the FFRMS will be addressed in these and other Agency programs. Consequently, there is currently nothing for EPA to “*facilitate compliance*” with regards to its programs. Although FEMA did issue a 2016 proposed rulemaking on FFRMS,⁷ it only covered FEMA programs and was formally withdrawn in 2018⁸ and has not yet been re-established. Regardless, EPA should initiate its own stakeholder consultation and rulemaking process for the incorporation of FFRMS into its programs.

Draft Learning Agenda (pages 94-105)

With regards to EPA’s priority questions on the “*drinking water systems out of compliance*” learning area (pages 96-97), the following may help to inform EPA’s process for questions 1 through 3⁹:

1. *To what extent does EPA have ready access to data to measure drinking water compliance reliably and accurately?*

EPA has ready access to violations data through the Safe Drinking Water Information System (SDWIS). Primacy agencies have more detailed information on compliance information through SDWIS-State and similar state-level programs. However, it is important to note that SDWIS has long-recognized limitations and concerns around the accuracy of the data reported.¹⁰ Improving the accuracy and timeliness of information available to EPA ultimately requires replacement of the existing data systems with one that allows for better data verification, which EPA has now been working on for more than a decade with limited progress.

2. *What factors determine system noncompliance and continuous compliance?*

Although all of the example factors listed in this discussion may be related to compliance, it is important to recognize compliance (or non-compliance) as an endpoint that does not directly measure any one factor but rather is the result of a combination of many factors including the system’s technical, managerial, and financial (TMF) capacity, the health of its source waters (for compliance endpoints related to quality), the complexity of rule requirements (especially for non-health based endpoints), and other factors. Although it may be possible to develop a statistical model that can explain existing compliance information, its use to predict compliance at any given system is likely to be useful only as a screening-level tool for further investigation, rather than a direct predictor of compliance.

3. *How can we determine if a system has the technical, managerial, and financial capacity to provide safe water on a continuous basis to its customers?*

⁷ 81 FR 57402. 22 August 2016. Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard

<https://www.govinfo.gov/content/pkg/FR-2016-08-22/pdf/2016-19810.pdf>

⁸ 83 FR 9473. 6 March 2018. Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard.

<https://www.govinfo.gov/content/pkg/FR-2018-03-06/pdf/2018-04495.pdf>

⁹ Note that the order of questions 3 and 4 is reversed on the initial list (pages 96-97) and the existing strategies (pages 97-99).

¹⁰ As an example, see the Office of Inspector General’s July 18, 2017 Report 17-P-0326 at

https://www.epa.gov/sites/default/files/2017-07/documents/epaoig_20170718-17-p-0326.pdf.

Primacy agencies have the task of and experience with engagement with systems that have challenges with TMF capacity impacting or likely to impact compliance. Because of the complexity of water system operations and the complexity of regulatory compliance, it may or may not be possible to predict compliance, but the relationships primacy agencies have can be leveraged as a way to help achieve timely return to compliance at systems that are in noncompliance.

If you have any questions regarding this correspondence or if AWWA can be of assistance in some other way, please contact me directly or Adam Carpenter at (202)326-6126 or acarpenter@awwa.org.

Best regards,

FOR THE AMERICAN WATER WORKS ASSOCIATION

A handwritten signature in black ink that reads "G. Tracy Mehan, III". The signature is written in a cursive style with a large, stylized initial "G".

G. Tracy Mehan, III
Executive Director, Government Affairs

cc: Radhika Fox, EPA/OW
Wayne E. Cascio, EPA/ORD
Jennifer McLain, EPA/OW/OGWDW
Andrew Sawyers, EPA/OW/OWM
Kathy Sedlak O'Brien, EPA/OCFO/OPAA
Suzanne Van Drunick, EPA/ORD
Holly Green, EPA/OCFO/OPAA

Who is AWWA?

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,500 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.