Summary of Input from State, Territory, and Tribal Partners for Office of Water's FY 2025-2026 National Program Guidance

Date: November 2023

Process for Soliciting Early Input

Name of Organization	Venue	Date
National Tribal Water Council	Feedback Received via a Virtual Meeting	August 9, 2023
Association of Clean Water Administrators (ACWA)	Feedback Received via E-mail	September 21, 2023
Minnesota Pollution Control Agency	Feedback Received via E-mail	September 21, 2023
Association of State Drinking Water Administrators (ASDWA)	Feedback Received via E-mail	September 28, 2023
National Association of Wetland Managers (NAWM)	Feedback Received via E-mail	September 29, 2023
Environmental Council of the States (ECOS)	Feedback Received via E-mail	October 2, 2023

Highlights of Early Input from States, Tribes, and Associations

Comments on Engagement and Outreach

- EPA should recognize its partnership with states and Tribes by focusing on cooperative federalism in EPA's FY 2025-2026 National Water Program Guidance (NWPG). Transparency and early collaboration with coregulators is important, especially as the Agency updates rules, orders, guidance documents, and policies. An effective partnership between states, Tribes and EPA is not just about who makes decisions, but about how decisions are made, along with a sense of shared accountability to provide positive environmental and public health results. States and Tribes need to be included earlier in Agency policy discussions to ensure any regulation, policy, or guidance is implementable.
- Early and continued engagement with stakeholders is paramount to assist the Agency. Regularly scheduled meetings between the Office of Water (OW) leadership, beyond the once-a-year discussion, would ensure that all parties are working in synch towards the mutual goal of protecting public health.

• The Agency should outline specific actions within the NWPG that OW will undertake to partner with states and Tribes.

- OW should prioritize coordination efforts with the Office of Enforcement and Compliance
 Assurance (OECA), other program offices, and regions, outlining specifically how each office
 plans to ensure more streamlined communications with states. Joint coordination will be
 especially important as OW moves forward with the proposed Lead and Copper Rule
 Improvements, National Primary Drinking Water Regulation (NPDWR) for Per-and
 Polyfluoroalkyl Substances (PFAS), and other regulations. Workgroups, joint trainings, and
 regularly scheduled meetings and briefings are all potential avenues to help achieve the goal of
 enhanced coordination.
- The NWPG would be more useful if EPA could outline specific actions that the Agency will take
 to have respectful dialogues with public and private sector partners. OW could outline or
 schedule standing meetings with partners specifically to discuss implementation concerns. OW
 could include co-regulators in agency workgroups or collaborate to develop public
 communication and guidance materials.
- States appreciated the revival of quarterly meetings between the state associations and OW
 leadership. These quarterly meetings need to continue. In addition, standing meetings with
 state association staff and members of OW leadership would increase the level of collaboration
 and partnership between the co-regulators. A standing meeting would allow for a more
 consistent and streamlined approach to managing state concerns.
- States face new challenges as they incorporate climate change, emerging pollutants, changes in federal water law, and other priority areas into existing regulatory and non-regulatory processes. EPA should continue to engage with states through the development of improved guidance materials, training, tools, and other clarifying resources.
- EPA should engage with stakeholders as the Agency works to implement EPA's 2021 Climate Adaptation Action Plan. Impacts from climate change can be region-specific and require unique on-the-ground solutions that states may be better equipped to address.
- As EPA continues to work to deploy the 29 Environmental Finance Centers (EFCs) throughout
 the country, the Agency should engage with state associations and states to ensure that the
 EFCs are filling existing technical assistance gaps. Coordination between states and these EFCs
 has been minimal to date. States continue to be concerned that, without proper coordination,
 these EFCs will unknowingly be duplicating efforts that have already been in place with existing
 technical assistance providers.

Comments on the Priority Area "Addressing and Mitigating the Effects of Climate Change"

- The Agency should first focus on core mission areas and statutory requirements before focusing on environmental justice and climate issues.
- Addressing climate change and environmental justice should be an important and critical piece
 of the National Program Guidance (NPG). If EPA includes climate change and environmental
 justice in the NPG, the Agency should provide regulatory guidance to the states on how to
 incorporate these concepts into their state programs.

- EPA should focus on climate change resiliency in the NPG.
- States and Tribes need additional resources for engagement and funding to support climate resiliency needs.

Comments on the Priority Area "Monitoring and Remediating PFAS"

- Successful implementation of EPA's PFAS drinking water regulation will be a significant undertaking. The Agency should work with stakeholders throughout the entire process of developing the NPDWR guidance documents. Particularly on:
 - o regulatory implementation guidance,
 - o detailed information for water systems on the available PFAS mitigation strategies,
 - o guidance regarding residual waste handling and disposal,
 - o information for states to aid in reviewing PFAS mitigation strategies,
 - best practices for ensuring the long-term maintenance of each strategy,
 - o best practices for pilot testing the available best available technologies,
 - o guidance on simultaneous compliance, and
 - o funding roadmap targeted at small and disadvantaged communities.
- Appropriate risk communication is critical for successful implementation of the PFAS regulation.
 So far, the materials provided by the Agency have been inadequate. The Agency should prioritize the development of adequate risk communication tools as it moves forward in addressing PFAS. The materials communicating risk should also be released in a timely manner.
 EPA should strongly consider coordinating with states before any public release or notifications of PFAS actions as more time will be needed to prepare and handle the increase in public, media, and water system inquiries.
- The NPG should consider PFAS source reduction and remediation as priority areas. Stakeholders
 need recommendations for difficult to treat pollutants (i.e., salts) and direction/guidance on
 PFAS in biosolids.

Comments on the Priority Area "Investing in Water Infrastructure"

- The Agency should establish waivers for federal requirements such as the Buy America, Build America Act (BABA), to continue to target infrastructure funding for underserved communities.
- The BABA requirements make obtaining funding from federal programs, like the Drinking Water State Revolving Fund (DWSRF), insurmountable for many small systems.
- There are inconsistencies between the State Revolving Fund programs on which projects qualify as lead service line replacements. For example, what constitutes as a lead service line under Infrastructure Investment and Jobs Act funding, versus the funding through the traditional DWSRF funds. EPA should work to ensure consistency and lessen confusion.
- EPA should update its tools and resources for lead service line replacement. For example, EPA's Strategies to Achieve Full Lead Service Line Replacement was released in 2019. The amount of knowledge developed by the water sector has increased significantly over the past four years.
- Despite great potential for wetlands to further contribute to effective and resilient infrastructure, the EPA wetland programs have not benefited from Infrastructure Investment and Jobs Act funding that has been made available to traditional clean water programs designed

Document Number: 800S23001

to build, maintain, and operate water treatment plants. EPA should elevate the important role that wetlands play as a solution for clean water and hazard mitigation. Wetlands are an equally important partner and solution for our Nation's crumbling infrastructure.

Date: November 2023

Comments on the Priority Area "Protecting and Restoring Waterbodies and Watersheds"

- The Agency should adapt a holistic approach to prevent contaminants from entering the environment and drinking water sources. Throughout a chemical's lifecycle, from manufacturing to disposal, it is much more effective and less expensive to remove a contaminate before it enters the environment.
- EPA should continue to focus on actions to protect and improve water quality, including giving
 greater recognition to the role of wetland protection and restoration. The Agency should update
 the permit implementation guidance and provide technical support for implementing the water
 quality standards guidance and criteria in permits. An EPA commitment to updating EPA permit
 implementation procedures alongside the development of new and revised water quality
 standards is warranted and needed.
- The Agency should include wetland restoration as an approved activity in other Clean Water Act
 (CWA) programs. Some CWA programs include wetland restoration as an approved activity, but
 not all. This should be reviewed and changed.
- OW should eliminate the competitive structure of the Wetland Program Development Grant. This would increase funding for state and Tribal wetland programs.
- The Agency should include nutrient reduction especially nitrogen and implementing sulfate/wild rice water quality standard as priority areas.

Comments on Metrics

- EPA should work with state agencies to investigate why water systems have remained out of compliance with health-based standards. When systems are out of compliance for extended periods of time, they will likely require a unique, non-traditional solution to bring the system back into compliance.
- The Agency should provide an opportunity to provide input on potential Bipartisan
 Infrastructure Law and environmental justice metrics if these metrics are still being developed.
- EPA should continue to focus on reducing the backlog of primacy packages as a priority activity
 for Public Water Supply Supervision (PWSS) grantees. This problem is at both the state and EPA
 levels. Some states have submitted primacy packages to EPA and have had to wait three or
 more years for the package to be approved. EPA should work with states to identify and
 implement process improvements.
- Some states report violations to EPA beyond the minimum reporting standards, such as a
 significant deficiency discovered at a system or the lack of a certified operator. These
 differences cause states that do increased reporting to appear to have a higher number of
 violations than a state that does not. EPA should complete a re-baselining of state reporting of
 violations to ensure the strategic measure is accurate and consistent.

The Agency should include in the NWPG all the tribal metrics that were removed in the FY 2020

 FY 2021 National Water Program Guidance.

• Under the Evidence Act Grant Commitments Learning Agenda, EPA has taken steps toward a better understanding of current grant reporting and tracking processes across EPA. EPA is encouraged to take a holistic approach to data collection, considering potential new information needed alongside what reporting may no longer be needed, what information is not being utilized that could stop being collected, and what information may already be collected that could be shared more broadly so that states are not reporting information more than once. Collection, review, reporting, and management of data incurs costs to both states and EPA so conducting a complete review of needed and under-utilized information will allow resources to be better directed where they may be most effective. This review should also include expanded ability for information available in one system to more readily be available through and to other systems. Future data modernization efforts should include this holistic approach to data access to further reduce duplicate data entry and increase data transparency. States have worked closely with EPA and Tribes in conversations about reinvigorating the Exchange Network. States encourage continued engagement and continued momentum for these conversations through the E-Enterprise Leadership Council (EELC).

Comments on Prioritizing Programmatic Needs

- One of the most pressing challenges state and Tribal drinking water programs continue to face is prioritizing competing programmatic needs without increased funding for the programs. The current approach by EPA to continue to add regulatory and non-regulatory requirements without additional resources and without guidance on disinvesting in lower-priority issues is not sustainable. States are at a critical point in which they must disinvest in lower-priority activities or risk significant public health impacts, burnout, and/or loss of staff. OW, OECA, and regions should work together with states and Tribes to identify program areas that could be deemphasized. These priorities may have regional variations and should reflect local concerns in the states and regions. Stakeholders are willing to work with EPA to do that if there is a strong commitment for success from EPA. Tackling this problem is not simple, but, collectively, the coregulators can no longer ignore this issue as the addition of new responsibilities continues to exacerbate the problem and put drinking water programs and public health at risk.
- EPA should acknowledge that state and Tribal programs have significantly increasing workloads
 and recognize successes states have already achieved in reducing non-compliance. The current
 approach by the Agency to continue to add regulatory and non-regulatory requirements without
 additional resources and without guidance on disinvesting in lower-priority issues is not
 sustainable.
- State agencies manage a diverse array of environmental challenges. Flexibility in funding, planning processes, regulatory actions, and Agency guidance allows states to determine the most effective ways to meet national standards while accommodating social, geographic, and economic factors that may be jurisdictionally specific. EPA should maximize flexibility for states and Tribes to use federal grants for the highest priority needs in their areas. EPA should also work closely with states and Tribes to adjust resources to meet changing priorities, collaboratively resolve planning issues, and provide flexibility in developing work plans.

Comments on Technical and Financial Assistance for States and Local Regulators

Date: November 2023

- Funding for PWSS and EPA programs must be increased. In FY 2020 appropriation funding for the PWSS program increased by 4.2 percent; however, the total funding gap for states' drinking water programs has increased by \$197 million since 2011. Without adequate funding from EPA, states are finding it increasingly difficult to protect public health through drinking water programs.
- States are the primary implementers and enforcers of the nation's environmental laws and
 programs are under severe strain with high staffing vacancies and insufficient funding to meet
 our shared goals for protecting human health and the environment. EPA should use every
 opportunity to support increased federal funding through Categorical Grants, including allowing
 funding flexibility such as offered through Performance Partnership Grants, EPA's E-Enterprise
 Workload Trade-Offs, and other mechanisms, to carry out delegated/authorized/primacy
 federal programs.
- Programs under the Inflation Reduction Act and Infrastructure Investment and Jobs Act lean on many of the same oversubscribed resources and staff that EPA's stakeholder rely on to meet existing and ongoing requirements. States and Tribes require substantial budget increases to ensure that they can continue to fulfill their current responsibilities while also assuming obligations for new high-priority programs.
- To streamline annual grant workplan development, states recommend EPA support
 establishment of electronic collaborative forums between regions and states that can be used to
 develop and negotiate grant workplans. States in regions that utilize online collaboration
 platforms for Performance Partnership Agreement and Performance Partnership Grant
 workplan negotiations have spoken very highly of them. States hope that online collaboration
 platforms such as the ones used by EPA Regions 1, 5, and 8 become an option for all states.
- As EPA continues to implement the Drinking Water State, Federal, Tribal Information Exchange System (DW-SFTIES), EPA should provide adequate funding to state agencies to support the transition to the new system.
- EPA should look to create a new funding mechanism, like CWA §106 or §319, to support the
 wetland program implementation and for administering the dredge/fill permitting program, if
 approved under 404(g). This could potentially be accomplished through a formula-based block
 grant that would allow all states and Tribes to support their wetland programs based on their
 current and evolving needs.

Comments on the Format and Purpose of the Document

- States need additional information on how the NPGs are used.
- EPA should also seriously consider comments and recommendations that come directly from individual states, interstates, and territories, as well as comments from other state associations that comment on water policy.

Next Steps

The Office of Water and EPA regions will consider the early input received from state, territory, and tribal partners in developing the FY 2025-2026 National Water Program Guidance.