Environmental Protection Network

Resetting the Course of EPA

Safeguarding Drinking Water

This paper is part of the Resetting the Course of EPA project by the Environmental Protection Network (EPN), a bipartisan network of more than 500 former EPA career employees and political appointees across the country who served under multiple Democratic and Republican administrations.

Resetting the Course of EPA outlines specific and actionable steps that EPA leadership can take to reset the course of the agency to address the most significant and pervasive threats to public health and our environment. As there is no single roadmap, EPN looks forward to collaborating with others to advance the dialogue around the future of EPA and set ideas into motion that will better protect the health and wellbeing of everyone.

Additional Resetting the Course of EPA documents are available here:
https://www.environmentalprotectionnetwork.org/reset

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Summary

Everyone should have access to safe, affordable drinking water. Under the Safe Drinking Water Act (SDWA), EPA and its state regulatory partners have made significant progress in addressing this goal. However, a number of factors—including resource constraints, aging infrastructure, climate change, emerging contaminants, and challenges of managing a large and highly diverse population of facilities—combined with actions that have slowed down or rolled back drinking water protections, could stymie or even reverse that progress.

There is a continuing need for increased investment in drinking water infrastructure in order to replace and/or upgrade aging treatment and distribution systems, address new contaminants, and provide resilience for climate change and other security threats. The need for expanded funding to protect public health and the environment is addressed in a separate paper on budget.

Recommendations

1. **Identify and address regulations, actions, and policies that have been altered, slowed down, or rolled back, hindering the effectiveness of the drinking water program**. Examples include: restarting the publication of drinking water health advisories for unregulated contaminants; addressing the proposed Lead and Copper Rule, perchlorate regulation, and the planned regulation of per- and polyfluoroalkyl substances (PFAS); and acting on emerging issues such as Legionella and disinfection byproducts. EPA must also ensure integrity and transparency are used in scientific and economic analyses to support decisions and address impacts on drinking water in intra- and interagency processes, including full compliance with the National Environmental Policy Act (NEPA). [Read More]
2. **Strengthen the co-regulating partnership between EPA and states/tribes for safe drinking water**. Establish a unified, modern system to manage drinking water data, address underreporting of violations, and achieve compliance with program requirements. [Read More]
3. **Improve safe drinking water regulatory systems**. Improve the process for updating existing drinking water standards to ensure that new science is taken into account in a timely manner. [Read More]
4. **Address disparities in access to safe drinking water in small and very small public water systems (PWS), particularly in low-income, rural, and tribal areas, and where there are environmental justice challenges**. [Read More]
5. **Take an integrated approach to protecting drinking water sources**. Coordinate among different EPA programs, as well as between statutes, and with other Federal agencies and departments such as the U.S Department of Agriculture (USDA), U.S. Geological Survey, and others. [Read More]

Recommendation #1: Identify and address regulations, actions, and policies that have been altered, slowed down, or rolled back, hindering the effectiveness of the drinking water program.

Identify and address regulations, actions, and policies that have been altered, slowed down or rolled back over time that are hindering the effectiveness of the drinking water program. Examples could include: the Lead and Copper Rule, perchlorate, PFAS, and emerging risks from Legionella and disinfection by-products (DPB), and others.

Immediate Actions

- Review the policy that halted the publication of drinking water advisories for contaminants and reverse or amend as appropriate, including consideration of initiating new processes for public notice and comment. Drinking water advisories are important tools for guiding activities such as contaminant cleanups and localized drinking water contamination control, especially where EPA has not issued regulatory Maximum Contaminant Levels (MCLs).
- Issue a statement identifying recent regulations and policies that slowed down and altered actions that affected the integrity of EPA's drinking water program.

Early Actions, Including the First 100 Days

- Initiate a review of proposed regulations, pre-regulatory drinking water decisions, emerging issues needing action, and actions taken that are affecting the integrity of the program. Determine which issues need further consideration.
- Ensure that drinking water impacts are fully considered as cross-cutting policies such as NEPA procedures, and that regulatory impact analysis guidances are reviewed.

First Year and Sustained Actions

- Take action to revise or rescind policies or decisions that have had an adverse impact on the effectiveness of the drinking water program, and take action on health priorities that have not received adequate attention.

Recommendation #2: Strengthen the co-regulating partnership between EPA and states/tribes for safe drinking water.

Under SDWA, EPA has granted states primary enforcement authority ("primacy"). Primacy has been granted under existing regulation to 49 state agencies. One tribe has also been given primacy. EPA with the primacy states regulate 155,000 public water systems, including 53,000 community water systems. EPA partners with these primacy agencies through coordination and oversight by regional offices, headquarter's guidance and technical assistance, and grants that support the operation of the state and tribal programs. The effectiveness of the EPA/state partnership has been challenged by the growing complexity of drinking water management, declining resources, ineffective communication, and

inadequate data availability due in part to inadequacies of the current Safe Drinking Water Information System (SDWIS) data management system.

It is time to rebuild this partnership. EPA should work with state and tribal primacy agencies to strengthen their co-regulating partnership regarding drinking water programs, including establishing a unified, modern system to manage drinking water data, address underreporting of violations, and achieve compliance with program requirements.

Immediate Actions

- Form an Association of State Drinking Water Administrators (ASDWA)/EPA workgroup with the mission to (1) document progress and challenges in implementing current primacy regulations and state grant programs; (2) identify changes in primacy regulations, policies, and practices that could strengthen co-regulator partnerships; and (3) develop a partnership action plan. The workgroup should include EPA headquarters, EPA regional, and state representatives.
- Initiate a review of the status of the SDWIS replacement system. Ensure that the new system will serve both state/tribal and EPA needs for comprehensive information on drinking water system status.

Early Actions, Including the First 100 Days

- As an activity of the ASDWA/EPA workgroup, begin to meet with individual EPA regions and state/tribal primacy drinking water programs to develop joint assessments of the status of their programs, including identification of successes and challenges.
- Use these evaluations as the backdrop to a series of meetings with selected states and tribes to reach agreement on ways to strengthen the partnership and address areas where programs need to be improved, including enforcement. Review funding needs to adequately implement primacy agency programs.
- Ensure that resources and management attention are dedicated to timely execution of the SDWIS replacement system, if needed.

First Year and Sustained Actions

- As an activity of the ASDWA/EPA workgroup, oversee and support the implementation of the individual EPA/state agreements to strengthen the primacy program. Renegotiate primacy agreements and grant funding conditions to support stronger partnerships and better sharing of activities.
- If necessary, promulgate a revised primacy regulation and issue a new primacy policy. Oversee and support state and tribal primacy agreements and grant funding, continue implementation, and reconvene groups to evaluate progress.
- Complete development and testing of the SDWIS replacement system and ensure that states and tribes have the technical support and resources to complete their transition to this system in a timely manner.

Recommendation #3: Improve safe drinking water regulatory systems.

Under SDWA, EPA must review existing contaminant regulations every six years to decide whether new information supports updating those regulations ("six-year review"). In addition, EPA must also gather and review information on contaminants that are not regulated and decide whether new standards are needed. These processes have been time-consuming and resource-intensive. They need to be re-examined to improve the pace of decision-making and ensure that priority problems are identified and addressed in a more timely manner.

Immediate Actions

- Begin to develop a white paper on unregulated contaminant review that would lay out possible opportunities to streamline and improve the drinking water regulatory process, and create a charge for the National Drinking Water Advisory Committee (NDWAC) to advise on this effort.
- Solicit input and suggestions from a wide array of researchers and practitioners on emerging problems, recurring problems, and regulations in need of review due to new data. Topics should not be limited to clearly defined problems and may include areas of significant uncertainty.

Early Actions, Including the First 100 Days

- Convene discussions with major stakeholder groups.
- Compile a list of potential topics in need of further investigation.

First Year and Sustained Actions

- Publish a white paper for public comments and convene follow-up stakeholder meetings.
- Select changes and implement the revised process.
- Decide whether any of the candidate topics should be considered for programmatic inclusion.
- Ensure the six-year review process detects emerging or recurring problems or National Primary Drinking Water Regulations in need of review/revision.

Recommendation #4: Address disparities in access to safe drinking water in small and very small public water systems (PWS), particularly in low-income, rural, and tribal areas, and where there are environmental justice challenges.

Many small and very small PWS face challenges achieving and maintaining compliance with drinking water standards. This is particularly true in low-income, rural, and tribal areas, and where there are environmental justice challenges. Large urban areas also face affordability challenges as well as infrastructure deterioration. Addressing these issues will require collaboration with state and local governments, utilities, and affected communities.

Immediate Actions

- Develop a proposed action plan to convene stakeholders and build on previous work to identify potential solutions to long-term non-compliance with drinking water standards.
- Use forums such NDWAC or National Environmental Justice Advisory Council (NEJAC) to convene stakeholders.

Early Actions, Including the First 100 Days

- Initiate meetings and provide input on priorities and actions to address long-term non-compliance challenges.
- Solicit input and suggestions from professional groups associated with drinking water implementation and the public.

First Year and Sustained Actions

- Publish a plan of action and schedule to address long-term non-compliance challenges for small and very small PWS.
- Develop and begin tracking progress in reaching intermediate outputs, and update the action plan based on progress and feedback.

Recommendation #5: Take an integrated approach to protecting drinking water sources.

Explicitly recognize that drinking water is one part of the water cycle and should be addressed comprehensively—including source water (surface and groundwater) and other waters that influence drinking water sources such as wetlands. This will involve coordination among different EPA programs and statutes (such as the Clean Water Act (CWA), Toxic Substances Control Act (TSCA), Clean Air Act (CAA), and others), and collaboration with other federal entities (such as the National Resources Conservation Service in USDA).

Immediate Actions

- Issue a statement reaffirming the priority to implement source water protection plans as an integral aspect of a successful drinking water program.
- Identify priority actions to provide internal EPA support to the Office of Water and regional source water protection programs, supported by robust funding and appropriate staffing levels.

Early Actions, Including the First 100 Days

- Set up a task force in consultation with members of the Source Water Collaborative to provide recommendations to EPA and other federal agencies to enhance the safety of tap water by improving source water protection for mutual water quality environmental and public health benefits.

- Consider mechanisms such as targeted funding, watershed protection, expedited rulemaking procedures for contaminants of concern, staff training, green infrastructure investments, and agreements to share data and geographic information system layers.

First Year and Sustained Actions

- Determine whether to work with Congress on new legislation creating a source water protection program that would establish and authorize funding for state source water protection programs, and require utilities to update and make publicly available their source water assessments.
- Develop and implement source water protection plans based on priority contaminants or threat sources identified in the assessments. Allow state and local latitude to develop plans. Encourage development of plans consistent with requirements of key potential funding sources, including CWA 106 and 319 plans and other EPA programs, as well as USDA conservation and forest management program plans.
- To fund development and implementation of these plans, provide increased federal funding through the Clean Water and Drinking Water State Revolving Funds (SRFs) and capacity development programs (making source water protection a part of asset management), and other possible mechanisms such as state grants. Incorporate investment in source water protection into the Drinking Water Infrastructure Needs Assessment Survey.
- Better integrate and hardwire CWA, TSCA, and other EPA programs with drinking water source protection, particularly in CWA watershed and non-point source protection programs. Consider possible organizational changes that facilitate CWA integration.

Participants in the EPN Workgroup
Safeguarding Drinking Water

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