

EPN Comments on the Draft Fiscal Year 2022-2026 EPA Strategic Plan

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The [Environmental Protection Network](https://environmentalprotectionnetwork.org) (EPN) comprises over 550 U.S. Environmental Protection Agency (EPA) alumni volunteering their time to protect the integrity of EPA, human health, and the environment.

EPN is pleased to offer the following comments on [EPA's FY 2022-2026 Draft Strategic Plan](#) (DSP).

In August 2020, EPN published "[Resetting the Course of EPA](#)," a series of papers outlining 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. EPN provided these papers to agency officials during and following the transition. Our comments are informed in large part by our recommendations and findings.

In general, we are encouraged by the EPA's draft strategic vision and find significant alignment with our core recommendations.

In particular, we applaud EPA's DSP for:

- (1) Renewing EPA's commitment to the three principles articulated by former Administrator William Ruckelshaus to: follow the science, follow the law, and be transparent (p. 4).
- (2) Adding "a fourth foundational principle: to advance justice and equity" (p. 4). We strongly support this addition, but recommend:
 - Strengthening the principle by adding "civil rights" to justice and equity, as it is reflected later in the DSP under Goal 2 ("EPA will center its mission on the integration of justice, equity, and civil rights across the nation's environmental protection enterprise," p. 20).
 - Expanding the purpose of this principle ("to infuse the consistent and systematic fair, just, and impartial treatment of all individuals into all EPA policies, practices, and programs," p. 4) in order to explicitly recognize the need "to achieve tangible progress for historically overburdened and underserved communities" (p. 20).
- (3) Establishing a new strategic goal on environmental justice (p. 20). In particular, we note with appreciation:
 - EPA's commitment to "[t]he vigorous enforcement of civil rights."
 - EPA's goal of achieving "measurable environmental, public health, and quality of life improvements in the most overburdened, vulnerable, and underserved communities."

- EPA's commitment to "significant transformations in how EPA understands and implements its work, including how EPA prioritizes program resources, allocates funding, implements statutory authorities, and engages the communities most affected by environmental and public health threats, especially as the climate changes."
 - EPA's commitment to "engage in meaningful joint planning with communities to advance community visions and priorities."
- (4) Establishing a new strategic goal on addressing climate change, including cutting pollution and increasing the adaptive capacity of Tribes, states, territories, and communities (p. 7).
 - (5) Including a Cross-Agency Strategy to "Ensure Scientific Integrity and Science-Based Decision Making" (p. 77).
 - (6) Focusing on vulnerable populations, including protecting and improving the health of children (p. 81).
 - (7) Committing to build back EPA's workforce by fostering "a diverse, equitable, and inclusive workforce within an effective and mission-driven workplace" (p. 84).
 - (8) Setting a vision to meet EPA's responsibility to Tribal nations and improve its collaboration with Tribal, state, and local government partners, stakeholders, the regulated community, and the public" (p. 89).
 - (9) Establishing a clear goal to "use vigorous and targeted civil and criminal enforcement to ensure accountability for violations and to clean up contamination" (p. 32).

We believe the major opportunity for improving the DSP lies in taking a more ambitious approach in articulating a broader set of near-term action items. While the DSP is by its nature a five-year planning exercise, EPA wisely includes FY 2022-2023 Agency Priority Goals (APGs) to jumpstart actions and showcase progress toward Administrator Regan's priorities. This time horizon takes us all the way to September 2023, representing a critical window for action.

The DSP identifies three FY 2022-2023 APGs:

1. Phase down the production and consumption of hydrofluorocarbons;
2. Clean up contaminated sites and invest in water infrastructure to enhance the livability and economic vitality of overburdened and underserved communities; and
3. Reduce exposure to lead to protect families, particularly children, in overburdened and underserved communities.

We applaud these goals. However, no rationale is presented for excluding additional agency priorities for the coming year.

In particular, we note the absence of any APGs under Goal 2, “Decisive Action to Advance Environmental Justice and Civil Rights.” EPA has a long history of environmental justice initiatives, and yet problems persist. Near-term benchmarks will be essential.

The DSP currently includes a 2026 (long-term) goal that “all EPA programs that seek feedback and comment from the public will provide capacity-building resources to communities with environmental justice concerns to support their ability to meaningfully engage and provide useful feedback to those programs” (p. 22). As EPA is already making progress in this area, this long-term goal could feasibly be achieved as a near-term APG.

Additional APGs could reflect other areas where Administrator Regan has announced a priority focus and urgency, including addressing PFAS, reducing methane emissions, and getting EPA’s clean cars program back on track.

Finally, we would like to offer the following, more specific comments for your consideration.

- In General
 - “Increasing Public Trust and Transparency” and “Promoting Environmental Education” are squeezed together with “Strengthen Tribal, State, and Local Partnerships” under Cross-Agency Strategy 4. As a result there is very little specificity and no performance goals. The critical objective of strengthening Tribal, state, and local partnerships is worthy of its own strategy, and the critical objectives of enhancing engagement with the public through outreach, data, and education also deserve their own strategy, or some similar level of serious treatment. One of the most rapidly-changing areas of environmental protection is the landscape of environmental data, science, technologies, and information. The public needs and deserves ready access to data that documents health and environmental conditions and their impacts. EPA plays essential roles in ensuring the integrity of its data, and providing its data to the public in integrated, user-friendly formats. EPA must secure and maintain its reputation as the gold standard of environmental information while increasing its ability to provide the public useful information on how people can better understand and reduce health and environmental risks in their own lives.
 - The DSP tends to overlook opportunities to expand interagency collaboration within the federal government. A central element of a high-performing EPA (as well as a whole-of-government approach to climate change and environmental justice) is collaboration with executive departments and agencies that draw upon critical constituencies, policy frameworks, budgetary resources, and legal authorities. Candidates for priority actions include the Department of Defense (DOD), Department of Energy (DOE), Department of Transportation (DOT), National Oceanic and Atmospheric Administration, U.S. Department of Agriculture (USDA), and others.
- Goal 1
 - Objective 1.1: The DSP correctly acknowledges that “[t]ackling the climate crisis will require deep gains in energy efficiency and deep decarbonization of buildings, transportation, and the power and industrial sectors” (p.8-9). However, Objective 1.1 does not include any

- long-term performance goals, nor FY 2022-2023 APGs, for decarbonizing the electric power and industrial sectors. This should be remedied in the final strategic plan.
- Objective 1.1: The second “long-term performance goal” needs more information, including clarity of the underlying baseline by which the 533 million metric tons is being measured (p. 8).
 - Objective 1.2: As EPA fills in the Long-Term Performance Goals for climate resilience (currently marked with placeholders), we encourage ambitious goals for meaningful engagement with Tribes, EJ communities, states, territories, and local governments. These communities are on the frontlines of climate resilience, and EPA should both support those efforts and learn from them (p. 14).
 - Objective 1.3: This long-term performance goal is measurable but not particularly meaningful. EPA goals are most useful when the measurable indicators directly correlate to protecting public health and the environment (p. 17).
- Goal 2
 - Objective 2.3: We recommend that EPA prioritize the development and issuance of practical guidance for recipient agencies in meeting their obligation to consider, address, and, if possible, avoid disproportionate impacts in carrying out their programs. We also encourage EPA to sequence its compliance review activities in relation to guidance development in order to maximize the effectiveness and capacity of EPA and recipients’ programs in achieving the purposes of Title VI.
 - Goal 3:
 - EPN appreciates the renewed and very welcome focus on enforcement as a central part of EPA’s work. For all the reasons stated in the DSP, that’s essential for EPA’s mission. EPN supports the enforcement goals set out in EPA’s DSP. Our comment is about what’s missing. EPN thinks that innovation is central to the forward-looking mission of the agency. We believe the DSP can be improved by incorporating suggestions from EPN’s [Resetting the Course of EPA](#) to modernize enforcement and compliance through innovative technologies and strategies, including:
 - Using updated pollution monitoring and information collection as part of compliance monitoring.
 - Pursuing innovative monitoring and control as part of enforcement cases and settlements.
 - Establishing an agency-wide commitment to innovative regulations that drive better compliance.

- Goal 5:
 - Objective 5.1: We support much of the proposed drinking water actions and priorities in the DSP, but offer the following comments:
 - No explicit commitment is identified to build a single database for use by utilities, states, and EPA. The need and use of data is the centerpiece of the drinking water objective (p. 47-51), essential for the Drinking Water Learning Agenda Priority Area (p. 94-99), and central to Goal 3 on enforcement. EPN recommends that building and maintaining a single database be separately identified in the strategic plan since this is an unprecedented approach to drinking water information.
 - Although Objective 5.1 and Goal 3 (as well as the Drinking Water Priority Area) effectively set a performance goal of reducing non-compliance, there is no commitment to fix ongoing problems in identifying when a system is in violation, how to target serious violations, and when a system returns to compliance. This is a continuing issue for small systems and for the more complex regulations such as the lead and copper rule. This has led to general public belief that violations are under-reported or unaddressed. EPN recommends that EPA set priority objectives to better track when violations occur and when systems return to compliance.
 - Although Cross Agency Strategy 4 on strengthening State partnerships focuses on improving collaboration with the states, there is little mention of the existing primacy regulation and policy that establishes how State primacy is obtained and maintained. This regulatory foundation works, and it needs to be improved not reinvented. Primacy states act in EPA's place through their own regulations and oversee and act as the primary enforcers of the utilities. EPN recommends that EPA strengthen Strategy 4 for drinking water by building on the existing primacy regulation and policy.
 - Although Goal 5.1 mentions in text the need to partner with the other related water programs and other statutes and programs (e.g., Clean Water Act (CWA), USDA), the draft strategy does not explicitly target or set performance objectives for broadening program priorities to include source water protection. In EPN's Resetting the Course of EPA paper, EPN recommends a source water strategy to protect drinking water sources based on immediate and long-term milestones. EPN recommends that EPA add text and milestones to include a source water protection strategy.
 - The Drinking Water Learning Agenda Priority Area (p. 94-99) incorporates many of the concerns EPN identified in its Reset paper and has developed excellent questions that need answering around the long-standing compliance issue. However, the questions are so broad and inclusive that they likely will not be addressed without a major increase in resources. EPN recommends that EPA develop a more targeted approach that focuses on a few specific actions and consult with EPN and others with extensive experience in the program.

- Objective 5.2: The long-term performance goal to increase by an additional 41,000 square miles the area of watersheds meeting water quality standards by September 30, 2026, is a worthy goal. However, the specificity of this performance goal suggests that a geographically-targeted watershed approach is needed. It is not clear how the list of strategies enumerated in the plan achieve the goal. EPN recommends that EPA consider additional performance goals to address important program functions, such as regulation development, wetlands protection, enforcement, and ocean disposal. Many of the other objectives in the DSP, including Safe Drinking Water and Infrastructure, have multiple performance goals, and Objective 5.2 is complex enough to justify additional goals. EPN has the following specific recommendations for the agency to consider:
 - EPA has spent decades promoting a watershed-based approach: setting standards, monitoring to determine if standards are achieved, establishing total maximum daily loads (TMDLs) for impaired waters, implementing point source controls through permits, utilizing enforcement where needed, providing technical assistance, financial support, and monitoring to ensure standards are achieved. EPN recommends that the national water program continue its emphasis on integrating these core programs in a strategically targeted manner to achieve the goal, including public reporting of impaired waterbody restoration progress. This also includes targeting wetland protection efforts in a manner that supports overall watershed goals and coordinating closely with critical infrastructure investments under Objective 5.1 and Goal 2.
 - The agency has struggled in implementing a watershed-based approach for a variety of reasons. These include: inadequate monitoring resources at a level needed to make pollution control decisions, failure of states to implement TMDLs, inability to create the necessary incentives to reduce major sources of uncontrolled pollution, and challenges with fundamental changes to the hydrology of aquatic systems that often underpin biological impairments. EPN recommends that the national water program incorporate the achievements of the existing geographic programs (e.g., the Chesapeake Bay, Great Lakes, Gulf of Mexico, and National Estuary Programs) into the strategic goal and use their processes to advance national objectives. For example, all of the geographic programs recognize the value of scientifically sound monitoring data on the status of water resources. Effectively integrating the monitoring conducted in these areas within a national monitoring framework could further enhance the ability of the national program to communicate the status and trends of waters across the U.S. In addition, because the geographic programs often excel at bringing multiple parties to the table, they can provide further opportunities to fully implement TMDLs to achieve water quality results (e.g., nutrient controls in the Tampa Bay estuary). These place-based programs also offer excellent venues for implementing climate resilience actions, building on previous efforts.
 - The agency cannot fully control its destiny when it comes to achieving the strategic goal because agricultural activities are the leading cause of impairment in many waters. The DSP acknowledges the importance of partnerships with other agencies. EPN recommends that EPA build on past efforts with the USDA and the state

agencies to target priority watersheds and the utilization of funds (e.g., Environmental Quality Incentives Program and Wetlands Reserve Program) to reduce agricultural impacts (both chemical and physical). In addition, USDA needs to be accountable for accomplishing actual pollutant load reductions in impaired watersheds through the best management practices employed. Watersheds with a TMDL that requires nonpoint source reductions to achieve load reduction goals should measure not only the acres of cropland to which practices are employed or the miles of stream acres that are protected through devices such as exclusionary fences, but also measure the amount of pollution reduction achieved through these practices each year. Practices that do not result in measurable pollutant reductions should be terminated. These measurements should be made in waterways that are upstream and tributary to impaired waterways as well as in the specific waterway to which the TMDL has been calculated. For example, in the Chesapeake Bay watershed, the main stem of the Bay has a TMDL, but the tributaries whose nutrient pollution contributes to the impairment are not necessarily listed as impaired by nutrients since those tributaries, like most rivers in the U.S., have no numeric nutrient standards. In high-priority nutrient impaired watersheds, EPA should promote use of the approach used in the Everglades Agricultural Area. Based on an approved numeric water quality standard for total phosphorus in the downstream Everglades, this approach provides a suite of actions farmers can select to achieve farm-level reductions in nutrient runoff based on edge-of-field measurements that coupled with large marsh treatment systems will achieve the nutrient reduction goal for the entire watershed.

- TMDLs are only effective if they are implemented. EPN recommends that the agency work with the States to set multi-year targets for TMDL implementation for mutually agreed upon high-priority watersheds and track implementation using annual milestones. CWA Section 106 funding should be tied to achievement of those milestones.
- Having quantifiable, scientifically-based water quality standards is critical to an effective water quality-based approach. This is particularly true (albeit challenging) for nutrient pollution. A recent Inspector General report on harmful algal blooms recommends that “...EPA establish new nutrient numeric water quality criteria (NNC) recommendations under the Clean Water Act...” Although the technical aspects of nutrient criteria are complex, the issues can be more manageable on a regional basis. EPN recommends that EPA redouble its efforts to support states in the development of NNC for waters/watersheds impaired by nutrient pollution and require that a schedule for setting such standards be included in every triennial review plan.
- EPA has a special responsibility for protecting water quality on Tribal lands, since no tribes are authorized to issue NPDES permits and a relatively small number have authorized Water Quality Standards programs. EPN recommends that the strategic plan indicate how EPA will work with tribes while promulgating federal water quality

standards in Indian country and simultaneously supporting individual tribes seeking approval of their own enforceable Water Quality Standards.

- Goal 6

- Objective 6.1

- While emphasis is placed on lead (Pb), it would be more accurate to refer instead to heavy metals, to include additional metal contaminants such as arsenic and zinc.
 - Contaminated surface water should be included in addition to soil, sediment, and groundwater contamination sites.
 - The proposed strategy to “consider climate change and weather science as part of standard operating practices in Superfund cleanup projects” (p.60) has been implemented for several years. A possible improvement would be for EPA to redouble its work to consider climate change and continue its efforts to reduce the carbon footprint across the entirety of the remedial process, not just in remedy implementation.

- Goal 7

- Objective 7.1

- Given the agency’s commitment to environmental justice, EPN is pleased to see EPA has set a goal to improve protections for farmworkers; we agree this should be a high priority. EPA’s goal for safety training for 20,000 farmworkers annually, while good (and almost a doubling of the previous four-years), is too limited. EPA estimates that there are 2,300,000 agricultural employees covered by the Worker Protection Standard (WPS) (Economic Analysis of Proposed Agricultural Worker Protection Standard Revisions, p. 15). They are subject to some of the highest risks from pesticide exposure in the country. EPA’s WPS requires the employers of these workers to provide annual safety training to all of these workers.
 - The goal to complete 78 pesticide review cases by 2026 seems to ignore the more urgent and more important challenge facing the agency’s registration review program: meeting the statutory mandate to finish the first round by September 30, 2022. The pesticide law mandates that EPA, starting in 2007, must reevaluate all then-registered pesticides by September 30, 2022. Then, the law requires EPA to perform a second round of registration review from 2022 to 2037 covering pesticides registered in 2022. The agency has not met the 2022 deadline and has no realistic prospect of doing so. EPA has issued a large number of “Interim Registration Review Decisions” but almost no final Registration Review Decisions. The large number of interim decisions reflects the fact that the agency has not yet made effects determinations for the pesticides’ impacts on listed species and has not yet screened the pesticides for their potential effects on the endocrine system. Until the agency completes the endocrine screening and Endangered Species Act (ESA) evaluation steps, the first round of registration review will remain unfinished. Before describing

goals for the second round of registration review, EPA's registration review goal needs to address how the agency intends to accomplish the remaining work to meet the 2022 registration review deadline.

- EPN is concerned that the 2026 goal to “consider the effects determinations or protections of federally threatened and endangered species for new active ingredients in 90% of the risk assessments supporting pesticide registration decisions for new active ingredients...” could lead EPA to focus on chemicals that should have lower priority for ESA review. EPN suggests that EPA instead establish criteria for judging which pesticides are likely to pose the greatest risks to listed species and habitats and schedule its work so that those pesticides receive the highest priority for ESA review.

To meet the registration review target of 78 final decisions in four years, EPA will need to select chemicals for which there is little risk and for which the literature search and updated risk assessment steps can be completed relatively quickly. Those pesticides are likely to pose less risk to listed species than other previously registered pesticides. Likewise, new active ingredients generally pose less risk to nontarget plants and animals than the previously registered pesticides they would replace. In sum, these goals will give the agency incentives to look at pesticides that are quite likely to do less harm to listed species than other pesticides.

Based on the goal of completing 78 new registration review cases by September 30, 2026, this goal would mean making effects determinations on 39 pesticide cases. Likewise, the goal of making effects determinations for 90% of new active ingredients over the four-year period would mean making ~60 – 90 new effects determinations, assuming EPA approves 20 – 25 new active ingredients each year. Combined, the agency seems to be setting a target of ~ 100 – 130 effects determinations, or about 25 – 30 a year. With an effects determination requiring close to one work year each, it is hard to envision EPA having enough resources to meet its goal without compromising its ability to fulfill other statutory duties, e.g., meeting deadlines for decision-making on applications to register and amend registration of pesticides.

- EPN supports concrete steps to increase transparency of the EPA's scientific assessment and regulatory decision-making. Specifically, for pesticide registration review decisions, EPA should identify the “pivotal” human health toxicity studies—those that the agency used to derive reference doses (RfDs), reference concentrations (RfCs), and Margins of Exposure (MOEs) as well as those that were central to the cancer classification for chemicals— and make the data evaluation records (DERs) for those studies available to the public in the docket. In addition, just as it does for decisions under the Toxic Substances Control Act (TSCA), EPA should make public its assessments of studies on pesticides retrieved from the public literature.

- Cross-Agency Strategy 3
 - We are encouraged by the cross-agency strategy for organizational excellence and workforce equity. EPA must continuously seek enhanced productivity, improved agency processes, and innovative ways to achieve program goals. It must value diversity and inclusion in its operations, develop structures and processes that encourage open communication, and create incentives for exercising leadership and initiative. EPA's culture and actions need to encourage teamwork, trust, and continuous learning. EPA should:
 - Reward managers for innovation and risk-taking
 - Focus on strengthening mechanisms and structures for addressing cross-agency management needs and on supporting internal collaboration across program lines.
 - Encourage teamwork, open communication, flexible rotational assignments, and innovation to tackle complex issues that will require EPA to draw on expertise from across the agency.
 - Work with partners, on an ongoing basis, to identify innovative approaches to improve programs nationwide.
 - Charge national program managers to continually assess regional programs for best practices that can be shared with or replicated in other regions.
 - Establish the expectation that programs and activities (including regulatory programs) will be evaluated regularly to assess their impact, identify potential improvements, and, when appropriate, disinvest. Dedicate resources to this function and reward self-evaluation.

EPN's members are deeply grateful for the work of EPA's staff, and we appreciate this opportunity to share our comments. We are happy to answer any questions or be of any help.