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United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Via regulations.gov: Docket ID No. EPA-HQ-OA-2017-0533

RE: Draft FY 2018-2022 EPA Strategic Plan

The Association of Clean Water Administrators (“ACWA”) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers, who on a daily basis implement the water quality programs of the Clean Water Act (“CWA”). ACWA appreciates the opportunity to comment on the Environmental Protection Agency’s (“EPA”) Draft FY 2018-2022 Strategic Plan (the “Strategic Plan”).

General Comments

ACWA generally approves of the broad goals of the Strategic Plan to support the protection and restoration of water quality. Specifically, ACWA is greatly encouraged by EPA’s focus on cooperative federalism, investment in wastewater and stormwater infrastructure, financial and technical assistance to states, and prioritization of robust science. However, ACWA has concerns it would like to address.

Cooperative Federalism

ACWA appreciates the efforts EPA has made to focus on cooperative federalism. States are responsible, under the federal CWA, Safe Drinking Water Act (“SDWA”), and under each state’s own laws and regulations, to advance the attainment of clean and safe waters and to prevent violations of the requirements designed to support these goals. Therefore, as states are often implementing and enforcing the statutes, regulations, and policies put forth by EPA, the co-regulator relationship between EPA and the states is paramount. The CWA functions best when the federal government and state implementers work as co-regulators, resulting in more effective statutes, regulations, policy, and environmental management. However, cooperative federalism has often been interpreted differently by EPA Headquarters, the EPA Regional Offices, and the states.

ACWA agrees with the language found in the Strategic Plan stating:

The unique relationship among EPA and its co-regulators is the foundation of the nation's environmental protections system—each organization fulfills a critical role based on its expertise, abilities, and responsibilities in protecting and improving human health and the environment.

However, ACWA has found that in practice states are often treated as a lesser partner, if a partner at all, in federal decision making. In the past, EPA has sometimes given states token engagement while moving forward with a predetermined plan of action. This is not how states define cooperative federalism. Cooperative federalism is when the federal government and the states work together as true co-regulators, appreciating each other's knowledge and expertise when drafting and finalizing regulations and policy. True cooperative federalism includes communication, consultation, and collaboration early and often during rulemaking/policymaking processes, increased transparency of federal decision-making, and honest and respectful engagement with state co-regulators.

Further, EPA Headquarters must ensure that the Regional Offices have the same commitment to cooperative federalism explained in the Strategic Plan. Often, states find that EPA Headquarters and the Regional Offices speak with different voices, causing states significant confusion. As cooperative federalism is fundamental to the co-regulator relationship, it must be embraced consistently by EPA Headquarters and the Regional Offices.

In decades prior, EPA and the states have seen great successes when working together as partners. ACWA looks forward to working closely with EPA in implementing the type of cooperative federalism expressed in this letter.

Investment in Wastewater and Stormwater Infrastructure

The Strategic Plan explains:

Supporting state and local efforts to modernize the outdated drinking water, wastewater, and stormwater infrastructure on which the American public depends is a top priority for EPA.

ACWA agrees with this very important priority. However, the Administration and EPA must continue to support the programs that will make this modernization possible. ACWA's members urge EPA to advocate for robust funding for the Clean Water State Revolving Fund ("SRF") program to address the ever-growing funding gap. Clean Water SRF funding levels must, at a minimum, be maintained. Further, any increases in funding must not adversely affect the Drinking Water SRF, as these investments are also essential to advance critically needed and important work to protect the environment and public health in communities across the nation.

Moreover, states strongly believe that the Water Infrastructure Finance and Innovation Act ("WIFIA") program should not adversely impact or disrupt the very successful SRF programs in any manner. The types of projects these two programs fund are different, and therefore, the programs should be complementary to one another. ACWA feels strongly that any funding for WIFIA not come at the expense of funding to the SRFs. The SRFs are an extremely effective

model for addressing local infrastructure needs. State administration of these funds is a long-standing and proven mechanism for moving critical funding to the nation's communities that so desperately need it.

Financial and Technical Assistance to States

The Strategic Plan explains that EPA plans to “[i]mprove water quality by financing traditional and nature-based wastewater treatment infrastructure;” and provide “financial assistance to states to assist public water systems in protecting and maintaining drinking water quality;” along with the above referenced support to “state and local efforts to modernize the outdated drinking water, wastewater, and stormwater infrastructure...” In addition to this assistance, EPA must continue to support other financial assistance programs to reach the goals stated in the Strategic Plan that include but are not limited to:

Continuing to protect and restore water resources, including sources of drinking water, from contamination;...Work[ing] with partners to protect and restore wetlands and coastal and ocean water resources; Prevent[ing] or reduc[ing] the discharge or pollutants; [and] Conduct[ing] monitoring and assessment...

States are the entities ultimately responsible for ensuring these objectives are achieved and they rely on federal funding through the CWA § 106 grant program to support the state water programs that work toward these goals. These grants provide significant baseline funding that builds and sustains effective state water quality programs that ensure the health of our nation's water bodies. States administer the core components of the CWA, oversee the quality of their state waters, issue water pollution control permits, restore and protect watersheds, and ensure compliance with the CWA. Section 106 funding is fundamental to the implementation of the CWA and the protection of the nation's waters in furtherance of the Strategic Plan goals listed above. Any funding cut from these grants will result in a direct reduction in states' capacity to carry out permitting, enforcement, standards setting, and monitoring, and both states and EPA will lose the gains made nationally to our critical water resources and public health.

Furthermore, the Strategic Plan explains that EPA is “carefully examining the potential impacts of and solutions to” a series of issues including nonpoint source and stormwater runoff. CWA § 319 funds are essential to implement state nonpoint source water quality programs and are used for vital restoration efforts in waterbodies primarily impaired by nonpoint sources. Given the fact that most of the waterbodies on the impaired waters list are impaired due to nonpoint source pollution, this funding source remains critical to restoring beneficial surface water uses and safe water supply sources for drinking water utilities.

Lastly, while funding is extremely important to states, technical assistance is also key for states to reach the goals set forth in the Strategic Plan. Too often, EPA regional offices develop technical assistance contracts with consultants without engaging with state resource managers. EPA managers need to ensure that their staff engages in meaningful face-to-face dialogue with their state counterparts to identify common issues needing technical assistance. ACWA recommends EPA perform a comprehensive analysis of state resources and support needs to effectively and efficiently allocate such federal assistance and support.

Prioritization of Robust Science

The Strategic Plan explains:

The rule of law must also be built on the application of robust science that is conducted to help the Agency meet its mission and support the states in achieving their environmental goals. Research, in conjunction with user friendly applications needed to apply the science to real-world problems, will help move EPA and the states forward in making timely decisions based on sound science.

ACWA also supports this priority. However, EPA must be open with its science, regularly communicating research and results to states and the greater public. EPA must also work with their co-regulators to ensure that investments in research are made in a manner consistent with cooperative federalism and that will meet state priorities. States are often willing to work with EPA to test models and to provide feedback on scientific research. Lastly, EPA must be willing to conduct research in cooperation with state co-regulators and focus on answering questions necessary to successfully implement programs and achieve environmental outcomes.

Conclusion

While ACWA's process to develop comments is comprehensive and intended to capture the diverse perspectives of the states that implement these programs, EPA should also seriously consider the recommendations that come directly from individual states, interstates, and territories. Please contact ACWA Executive Director Julia Anastasio at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,



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