Response to Questions Submitted to:

Scott Potter
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Nashville Metro Water Services
Testifying on the behalf of Association of Metropolitan Water Agencies (AMWA)

Regarding

Hearing on "H.R. __, Drinking Water System Improvement Act and Related Issues of Funding, Management, and Compliance Assistance under the Safe Drinking Water Act."
May 19, 2017

The Honorable John Shimkus

1. **Safe Drinking Water Act Section 1433 calls on community water systems to conduct vulnerability assessments of their systems to terrorist attack or other intentional acts designed to disrupt the ability of the water system to provide a safe and reliable supply of drinking water.**

    a. **How recently has your utility reviewed and updated your vulnerability assessment?**

    At Nashville Metro Water Services, we began a process to review and update our vulnerability assessment beginning in December 2016. We just completed this process in May 2017. This assessment included an all hazards analysis, meaning that we reviewed the system's vulnerability to not only terrorists or other intentional acts, but also natural disasters such as flooding. We plan to continue to periodically update the vulnerability assessment in the future as circumstances warrant, such as when we encounter a new operating environment or when we become aware of a new type of threat.

    Nashville Metro Water Services also maintains an up-to-date emergency response plan, which outlines plans and procedures for responding to threats identified in our vulnerability assessment. The utility reviews and updates its emergency response plan annually.

    b. **Is your utility unique among your peers in reviewing your vulnerability assessment without a government mandate to do so?**

    No, Nashville Metro Water Services is not unique in this respect. In fact, based on discussions I have had with managers of other large utilities that are members of professional organizations such as AMWA and the

American Water Works Association (AWWA), it is a common practice for these drinking water systems to update their vulnerability assessments and emergency response plans without being mandated to do so.

Because large water systems have made it a practice to keep their vulnerability assessments and emergency response plans up-to-date, Congress must keep these systems in mind in the event that it considers legislation to require these documents to be updated by a certain date. For example, any new law that mandates an update of vulnerability assessments or emergency response plans should include a "grandfather clause" that exempts utilities from having to immediately redo these assessments again if they certify that they had already reviewed and updated the documents within the previous two years.

2. **I appreciate the forthrightness of your testimony when it comes to suggesting a guideline for what your organization believes is the correct number to fund the Drinking Water State Revolving Loan Fund. Does it matter to you whether the number is flat each fiscal year – meaning it would be the same each year – or having it steadily increase every year?**

   EPA's Drinking Water Needs Surveys, completed ever four years, have consistently found that communities' drinking water infrastructure spending needs will grow in the years and decades ahead. As such, AMWA believes it is appropriate for the Drinking Water SRF's authorized funding level to increase each year as well.

   As my written testimony explains, a DWSRF authorization level of $1.8 billion is a reasonable starting point because it is roughly double the program's most recent annual appropriation and would not immediately constrain the ability of Congress to deliver adequate funding to the program. While Congress must remain cognizant of states' financial ability to meet their 20 percent funding match, looking ahead the committee should consider increasing the authorization each year at least until it reaches about $2.7 billion, a sum that aligns with President Trump's previous call to triple DWSRF funding.

   Finally, I should note that when Congress authorized the Water Infrastructure Finance and Innovation Act (WIFIA) pilot program in 2014, it chose to increase the program's authorization by 250 percent over five years. So there is ample precedent for Congress to steadily increase the authorization level of a program to aid local water infrastructure financing efforts.

3. **Your colleague, Rudy Chow from Baltimore, MD, in a written response to a question from our last drinking water hearing, mentioned that codifying the EPA's current practice for Consumer Confidence Reports is among the most**

significant, non-financial areas where Congress can assist drinking water systems. Can you explain that point for me?

As a result of a regulatory review carried out under President Obama, EPA revised its interpretation of the Safe Drinking Water Act's requirement that community water systems deliver their customers a copy of a consumer confidence report each year. Under EPA's new interpretation, community water systems were given the option to deliver these reports to customers electronically, such as by posting the reports publicly online and notifying customers of their availability via notices on water bills. Conversely, water systems that prefer to deliver hard copies of these reports to their customers may continue to do so, as they always have.

The new flexibility offered by EPA's policy has brought significant savings to water systems and their ratepayers nationwide. For example, as a result of the new policy 2012 was the last year that Nashville Metro Water Services printed and mailed the full Consumer Confidence Report to all customers. That year, we mailed 155,488 individual copies of the CCR, with total printing, handling and postage costs totaling $42,631. Since 2013 we have posted the full CCR online and mailed a reminder postcard to all of our customers with a direct URL and instructions for accessing it. As a result, our per-unit cost for mailed CCR communications has decreased compared to five years ago, in spite of higher costs for postage and supplies. Many other utilities across the country have realized even greater savings by including the notice about CCR availability on or alongside billing statements that are sent to customers.

Nashville's experience appears to be typical of many other metropolitan water systems. For example, a 2016 survey of AMWA members found that 80 percent of responding utilities used electronic CCR delivery last year. These utilities reported avoiding printing an average of more than 138,000 paper CCRs, and saved an average of $44,205 in printing and postage costs. Assuming that these figures are representative of all community water systems in the U.S. that serve more than 100,000 people, fully adopting electronic CCR delivery nationwide would save more than 55 million pieces of paper and nearly $17.7 million just at the country's 400 largest water systems. These savings represent additional resources that communities are able to devote to infrastructure investment.

AMWA supports Congress taking the opportunity of a DWSRF reauthorization bill to codify this EPA policy in the SDWA statute, thus ensuring that the ability to utilize electronic delivery options may not be unilaterally removed by a future EPA administrator.

4. **Your testimony mentions that there are places in the Safe Drinking Water Act and the Drinking Water State Revolving Loan Fund program that do not need "top-to-bottom overhaul." So that Congress does no harm, outside of**

mandatory deadlines and the contaminant regulatory process which you already mentioned, can you give me examples of areas you think would not need the "top-to-bottom overhaul"?

AMWA is aware of proposals that would require public water systems to assess potential threats related to climate change and nearby industrial and agricultural activities. Water utilities would have to repeatedly resubmit these assessments to EPA, along with documents outlining strategies to mitigate these threats, and emergency response plans detailing how the water system would respond in the event that one of these hypothetical risks played out.

While I'm sure these proposals come from a good place, it would take a tremendous amount of resources for a water utility to develop a detailed plan that accounts for each possible risk related to climate change, plus an inventory of the ways the utility could mitigate this range of risks, plus an emergency response plan to guide the response should any one of these risks come to pass. Given that Nashville's most recent vulnerability assessment review and update took six months to complete, mandating even more requirements would quickly become a never-ending exercise.

AMWA also does not believe Congress should legislate particular disinfectant methods or chemicals used by water systems. We believe local water utility experts are best equipped to determine the optimal disinfectant to protect public health and ensure compliance with SDWA, so no future SDWA reforms should attempt to broadly steer all utilities away from one disinfection method or another.

Finally, AMWA believes Congress could maintain the integrity of SDWA's regulatory process by directing EPA to develop consistent practices to govern the future development of health advisories. Section 1412 of SDWA allows the EPA Administrator to publish health advisories for contaminants that are not subject to any national primary drinking water regulation. Health advisories are therefore an important tool for providing information on emerging risks, particularly in regions that may have exposure to a particular contaminant that does not meet the threshold for development of a NPDWR. Health advisories are not regulations, but have the real potential to become de facto regulations given resource constraints at the Federal and State level. To avoid potential regulatory confusion, Congress should require EPA to develop criteria and an open process for the development of health advisories and to report back to Congress within the next 180 days laying out criteria and a process for how they are formulated.

The Honorable Richard Hudson

1. **Your testimony called for allowing drinking water state revolving loan funds to be used for water system security enhancements. How often do water systems engage in vulnerability assessments or site security plans? Is that true for the other water utility members of the panel?**

   It is a common practice for large community water systems to periodically review and update their vulnerability assessments and emergency response plans to ensure they are consistent with the current characteristics of the facility and account for known threats. In Nashville, we began our most recent vulnerability update in December 2016 and completed it in May 2017. We update our emergency response plan on an annual basis.

2. **What types of items are you looking to have covered that are not otherwise covered by the Drinking Water State Revolving Loan Fund?"**

   AMWA believes that Congress should formally allow community water systems to access Drinking Water SRF funds for security enhancements. After 9/11 EPA clarified that DWSRF dollars may be used for water facility security enhancements like fencing, security cameras and lighting, motion detectors, and redundant power systems, and EPA continues to recognize such expenses as eligible today. We are not looking to expand this eligibility, but we do believe it would be worthwhile for Congress to codify in the SDWA statute that DWSRF funds may be used for security measures. This would remove any risk of EPA revising its interpretation of the statute in the future, and would align the statutory DWSRF eligibilities with those of the CWSRF, which in 2014 were expanded by Congress to include "measures to increase the security of" treatment works.

The Honorable Paul D. Tonko

1. **Systems have a hard time attracting talented and qualified employees. Many young people do not know these career opportunities exist. Meanwhile existing employees are getting closer to retirement. There is a lot of institutional knowledge at stake. Do you have any recommendations on what can be done to develop the water utility workforce?**

   Developing a sustainable water utility workforce is one of the most pressing personnel challenges faced today by the drinking water community. In particular, drinking water utilities face strong competition from other sectors to recruit and retain skilled college graduates.

   Utilities should start thinking about innovative strategies to develop the water utility workforce, such as partnering with local colleges and universities to

develop curriculums that could position graduates for long-term careers. Similarly, we need to reach out to stakeholders in our local communities to connect with local residents who may be able to fill some of the vital positions on the utility staff that do not require a college education.

Of course, key to maintaining a strong workforce is having the ability to offer competitive pay and benefits, so employees are eager to stay with the utility for the long-term. But doing this requires adequate budget space, so it is important that we keep other manageable costs down so that we can pay our employees what they expect to earn. Maintaining access to low-cost infrastructure financing, such as through tax-exempt municipal bonds, is one way to keep the capital project side of the budget in check so that we have more resources to devote to our workforce.