Prioritize safe and secure drinking water in 2022



Last year saw several landmark water policy achievements. Passage of the Infrastructure Investment and Jobs Act (P.L. 117-58) set the stage for record levels of water infrastructure appropriations in the coming years, while also authorizing new initiatives to improve utilities' climate resilience and to increase equity through low-income water affordability aid. The Association of Metropolitan Water Agencies urges Congress to build on this important progress in 2022.

AMWA is an association of the nation's largest publicly owned drinking water systems, representing utilities that serve more than 100,000 people. There are about 400 such drinking water systems nationwide, serving nearly half of the nation's population while facing about \$175 billion in infrastructure investment needs over the next 20 years, as estimated by EPA. AMWA members themselves serve roughly 156 million Americans from Alaska to Puerto Rico.

This year, lawmakers from both sides of the aisle should come together behind the following water-focused policies that promote equity, security, sustainability, and public health:





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Support historic investments in drinking water infrastructure



2022 Policy Priorities

Last year's passage of the Infrastructure Investment and Jobs Act (IIJA) set the stage for historic levels of investment in the nation's drinking water systems. The legislation provides nearly \$50 billion in additional funds over the next five years for EPA's Drinking Water and Clean Water State Revolving Funds, with a special focus on remediating public health threats related to lead and emerging contaminants. The legislation also authorizes a host of programs focusing on climate resilience, cybersecurity, and largescale infrastructure projects.

AMWA urges Congress fully fund the Drinking Water State Revolving Fund (DWSRF), the Water Infrastructure Finance and Innovation Act (WIFIA) program, and the Midsize and Large Drinking Water System Resilience and Sustainability Program in FY23.

America's water infrastructure needs are well-documented

Communities across the U.S. face staggering costs to upgrade aging water infrastructure. EPA's most recent estimates found that the nation's drinking water and wastewater systems need nearly \$750 billion over the next 20 years just to maintain current levels of service. Nearly a quarter of this sum – about \$175 billion – is attributed to metropolitan drinking water systems that serve more than 100,000 people.

The DWSRF is essential to the delivery of safe drinking water

The DWSRF helps states leverage federal assistance to issue loans for water projects that address serious public health risks by improving drinking water quality. Through 2020, the DWSRF had provided more than \$44.7 billion to help cities and towns nationwide carry out more than 16,300 projects to upgrade drinking water infrastructure, improve water supply sources, and modernize drinking water treatment. The DWSRF is authorized at \$2.75 billion in FY23.

WIFIA is an innovative program targeting large-scale projects

WIFIA offers competitive low-cost financing for large water projects – generally those expected to cost in excess of \$20 million. Every dollar appropriated to the WIFIA program can support roughly \$100 worth of loans – an excellent return on the federal investment. To date EPA has closed more than 70 WIFIA loans totaling more than \$13 billion in credit assistance to communities across the country. WIFIA is authorized at \$50 million in FY23.

A new EPA program will support water system resilience

IIJA authorized the new Midsize and Large Drinking Water System Resilience and Sustainability Program at EPA to help water systems meet climate change, extreme weather, and cybersecurity challenges. The new program supplements an existing initiative dedicated to serving small or disadvantaged drinking water systems and allows funds to be used on projects that enhance water conservation or efficiency, modify or relocate infrastructure at risk of impairment by natural hazards or extreme weather events, enhance water supplies, or implement measures to reduce cybersecurity vulnerabilities. The program is authorized at \$50 million in FY23.



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Hold polluters accountable for the cost of cleaning up PFAS contamination 2022 P

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2022 Policy Priorities

Per- and Polyfluoroalkyl Substances, or PFAS, are a class of thousands of man-made compounds that were originally used in non-stick products and firefighting foams, and which have been found in some drinking water sources. EPA is currently developing drinking water standards for PFOA and PFOS, two of the most prevalent PFAS.

EPA is also working on plans to designate PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) – a law intended to make polluters pay for the environmental cleanup of hazardous materials. However, without congressional action community water systems could be exposed to cleanup liability as well.

AMWA encourages Congress to explicitly exempt drinking water systems from liability under CERCLA for the costs of cleaning up PFAS contamination, in cases where the utility followed all applicable laws in its disposal of the substances following the water treatment process.

Polluters should pay for PFAS cleanup and remediation

Parties responsible for introducing contaminants into drinking water sources should be responsible for their cleanup. Designating certain PFAS as hazardous substances under the Superfund statute could help achieve this objective, but only if water systems are exempt from liability when they legally dispose of water treatment byproducts containing traces of PFAS. Otherwise polluters will be able to transfer environmental cleanup costs to water systems and ratepayers whose only action was to remove PFAS from their source waters.

Water systems must dispose of PFAS removed from their source water supplies

EPA plans to finalize drinking water regulations for PFOA and PFOS by the fall of 2023. This will require communities across the country to remove these contaminants in compliance with the standard, and these PFAS filtered out of water supplies will need to be disposed of by the utility. A community water system that follows all applicable laws in the safe handling and disposal of these contaminants, and properly sends them to an appropriate landfill, should be protected against future liability under CERCLA, should that landfill location ever become a Superfund site.

Congress must act to protect ratepayers

Without congressional action, CERCLA could force drinking water systems nationwide, along with their ratepayers, to pay to cleanup environmental PFAS contamination simply because they sent these substances to a landfill after their removal from their water supplies. Congress must ensure that PFAS cleanup liability remains with the polluters that introduced the contaminants into the environment in the first place, and not public water systems and ratepayers that already incurred significant costs in removing them from their drinking water supplies. Failure to do so would violate the "polluter pays" objective of CERCLA.



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Help water systems defend against cyberattacks



2022 Policy Priorities

Cyberattacks against the nation's critical infrastructure assets are an emerging threat that have the potential to cause millions of dollars of damage while interrupting essential public health services. Last year's cyber intrusion at the water system serving Oldsmar, Florida demonstrated how hackers could manipulate industrial control systems to impact water quality and undermine the public's trust in their drinking water.

AMWA supports expanded federal support for cyber threat information sharing activities that will help water systems prepare for and respond to emerging cyber threats. We further call for flexible and realistic incident reporting mandates, and we are eager to work with policymakers to ensure that sensitive utility information is protected against public disclosure.

Water systems need access to cyber threat information

Cyber threats are changing by the day, so water systems need up-to-date information on the latest risks and recommended response actions. WaterISAC is the sector's dedicated information sharing network, but many small water systems lack the resources to fully take advantage of the service. The federal government should support utilities' membership in WaterISAC while offering technical assistance to help them act in response to cyber threats.

Incident reporting mandates must include appropriate flexibility

Any federal mandate for critical infrastructure sector cyberattack victims to report incident information to the federal government should be focused on targeted attacks against industrial control systems that could lead to implications for public health, not random phishing events unrelated to utility operations. Any such mandate should be flexible with reporting deadlines, as attack victims will be focused on their own response to the incident. Covered entities should be allowed to report incidents through their sector's Information Sharing and Analysis Center, and appropriately reported incidents should not be used by the government in regulatory enforcement activities.

Sensitive information must be protected from public disclosure

Any water security program or requirement that includes the collection of data from water providers should explicitly prohibit the disclosure of such information under federal, state, and local public information laws. Likewise, federal, state, and local agencies must take all internal precautions to prevent the inappropriate disclosure of water system information. Otherwise, this information could reach criminal or state actors who may wish to make a water system the target of a cyberattack.

Federal funding assistance should be part of the equation

Any new or expanded federal cybersecurity requirements should be accompanied by federal funding assistance that helps utilities update threat assessments or implement operational enhancements that will increase cyber defenses. Otherwise, new cybersecurity evaluations or requirements will amount to unfunded federal mandates on local governments at a time when water treatment facilities are facing hundreds of billions of dollars in other priority infrastructure projects.



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Pursue social equity through drinking water affordability



2022 Policy Priorities

Access to safe drinking water is essential to achieving equity and social justice for all Americans. But today the cost of basic water service poses a challenge to many lowincome households, particularly for those in vulnerable communities. Aging water infrastructure and expanded regulatory mandates are expected to put additional upward pressure on local water rates in the coming years.

AMWA believes that federal, state, and local levels of government must work together to ensure that all households are able to pay their water bills without imposing undue hardship on financially vulnerable families. Two newly established programs can help achieve this goal.

Everyone needs equitable access to safe drinking water

Widespread access to clean and safe drinking water is one of America's greatest public health achievements, but today more and more families are having trouble paying their water bills. The problem is particularly acute for low-income households that simply cannot afford increased water service costs associated with infrastructure improvements and regulatory compliance.

Current affordability metrics paint an incomplete picture

Today, EPA considers residential drinking water service to be "affordable" on a national scale if it represents less than 2.5% median household income, as measured in small communities. This figure is used to determine if a new regulation would make water service too expensive, but it fails to fully account for impacts on a community's lowest earners, who are the first to suffer when water rates rise. Instead, EPA should calculate water affordability with a metric that prioritizes impacts on a community's lowest-earning residents, such as those with income in the lowest quintile, while also factoring in total drinking water and wastewater service costs.

HHS must quickly distribute funds under the new LIHWAP

COVID-19 relief legislation enacted in 2020 and 2021 created an emergency Low Income Household Water Assistance Program (LIHWAP) at the Department of Health and Human Services and provided it with more than \$1.1 billion in funding. The intent was to quickly deliver water rate aid to low-income households suffering during the pandemic, and HHS has begun to distribute funds. Getting all of these appropriated funds to states, to support water service to qualifying low-income households, must be a top priority in 2022.

Congress should fund EPA's new water aid program

Separate from LIHWAP, the Infrastructure Investment and Jobs Act established a new Rural and Low-Income Water Assistance Pilot Program at EPA, which will offer a limited number of grants to support municipal drinking water and wastewater affordability programs across the country. This will help vulnerable individuals maintain water service and recognize that the federal government should support for access to water service, just as there are long-established federal programs to help needy families meet nutritional needs and cover home heating costs. Congress should provide strong funding for this program in upcoming appropriations legislation.



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