



**ASSOCIATION OF  
METROPOLITAN  
WATER AGENCIES**

**LEADERS IN WATER**

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April 20, 2022

Dr. Jennifer L. McLain  
Director  
Office of Ground Water and Drinking Water  
U.S. Environmental Protection Agency  
1201 Constitution Ave NW  
Washington, DC 20004

Re: Docket ID No. EPA-HQ-OW-2022-0114, Environmental Justice Considerations for the Development of the Proposed Per- and Polyfluoroalkyl Substances National Primary Drinking Water Regulation

Dear Dr. McLain,

The Association of Metropolitan Water Agencies (AMWA) is pleased to have the opportunity to provide comment on environmental justice considerations for proposed per- and polyfluoroalkyl substances (PFAS) National Primary Drinking Water Regulations (NPDWR). AMWA is an organization of the general managers and CEOs of large publicly owned drinking water utilities. Members serve communities of more than 100,000 people and work hard to provide safe, clean drinking water to the public. The association applauds the administration’s efforts to advance equity, environmental justice, and civil rights compliance, and urges the agency to consider how regulatory actions will affect water affordability for disadvantaged communities.

Affordability is a critical topic, and many utilities across the U.S. are struggling to maintain affordable rates in light of required capital and regulatory projects. Future regulations must not put unnecessary or significant financial burdens on ratepayers. As the nation continues to recover from the COVID-19 pandemic and respond to the increasing effects of climate change, large portions of communities still have difficulty with paying their water and other utility bills. Access to safe, clean drinking water is a necessity, and the sector should be working to ensure this access is affordable and equitable. Therefore, a thorough and accurate cost analysis is needed when developing a PFAS regulation as any treatment and disposal costs will likely lead to increased rates for communities.

AMWA also encourages EPA to maximize the opportunities for states and municipalities to spend funds from the Bipartisan Infrastructure Law (BIL) in a way that delivers the most benefit to low-income households and communities, particularly those set aside for PFAS. However,

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AMWA has concerns that EPA's implementation memorandum suggests that the agency is not prepared to use the full scope of authority granted by Congress to ensure that additionally subsidized State Revolving Fund (SRF) dollars reach low-income communities, no matter where they are. As stated in AMWA's letter to EPA on February 11 (attached below), the association applauds the Biden Administration's prioritizing the delivery of funds to low-income or disadvantaged communities but believes this objective can best be attained by allowing a spectrum of water systems with underserved populations to access the additionally subsidized funds set aside for "eligible recipients."

It continues to remain unclear how EPA and other agencies will track federal dollars spent to benefit disadvantaged communities concerning stipulations in the BIL and the administration's Justice40 initiative, specifically, where a disadvantaged community exists within a utility's larger overall service area. For utilities with pockets of disadvantaged communities within their service areas, will the utility be eligible to receive funds dedicated for use in disadvantaged communities, and will money they spend count towards the Justice40 initiative? The main concern is that the multitude of definitions of "disadvantaged community" throughout states and federal agencies will lead to confusion, potentially excluding targeted populations from funds, because they reside within a large utility service area.

AMWA supports the actions detailed in the Equity Action Plan, released by EPA on April 12, and believes that addressing the topics laid out in this letter will help EPA achieve the overall goals of the plan. Specifically, ensuring that water is affordable, and all communities benefit from federal funding will help EPA with Priority Action 2, build the capacity of underserved communities to provide their experience to EPA and implement community-led projects. EPA acknowledges the economic disadvantages many communities face and that allowing funding to help entire utility service areas would benefit populations that could otherwise be overlooked. Limiting the additionally subsidized BIL SRF dollars to only these state-defined disadvantaged communities would exacerbate inequities, as metropolitan utilities in some states would be eligible for the funding, while others would be excluded.

The Equity Action Plan also mentions several metrics EPA will use when evaluating its progress towards stated goals. AMWA applauds EPA for increased accountability but asks for further clarification on how the agency will use these metrics. For example, EPA mentions trying to go beyond the requirements laid out in Justice40; however, there remain significant questions about what actions will count toward Justice40. For SRF, the definition is determined by the state administering the funds. However, many federal agencies have different tools for identifying disadvantaged communities, like EPA's EJScreen and CEQ's Climate and Economic Justice Screening tool. AMWA requests more information on how EPA and other federal agencies will track progress of environmental justice efforts, particularly when it comes to Justice40.

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AMWA thanks the agency for its continued work towards environmental justice and its dedication to assisting low-income communities. If you have any questions, please contact AMWA's Manager of Regulatory and Scientific Affairs, Brian Redder ([Redder@amwa.net](mailto:Redder@amwa.net)).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Arceneaux', with a long horizontal flourish extending to the right.

Michael Arceneaux  
Acting Chief Executive Officer

Attachment

cc: Radhika Fox, OW  
Anita Thompkins, OGWDW  
Eric Burneson, OGWDW



February 11, 2022

The Honorable Radhika Fox  
Assistant Administrator  
Office of Water  
U.S. Environmental Protection Agency  
1204 Constitution Ave. NW  
Washington, DC 20004

Dear Assistant Administrator Fox,

On behalf of the nation’s largest publicly owned drinking water systems, AMWA appreciates EPA’s ongoing effort to develop guidance for implementation of the Bipartisan Infrastructure Law (BIL). As you know, AMWA supported passage of this landmark legislation and its infusion of nearly \$50 billion for the State Revolving Funds (SRFs) and initiatives to replace lead service lines and address emerging drinking water contaminants like PFAS.

As EPA formulates guidance related to the distribution of the law’s SRF dollars, we urge the agency to maximize the opportunities for states and municipalities to spend funds in a way that delivers the most benefit to low-income households and communities. This approach would be consistent with the Biden Administration’s Justice40 Initiative, as well as the law’s direction to distribute 49 percent of the SRF funds as grants or principal forgiveness loans.

Specifically, we believe EPA’s guidance must clarify which entities are eligible to receive this set-aside of grant and principal forgiveness funding. Division J, Title VI of the BIL specifies that 49% of the Drinking Water and Clean Water SRF appropriations provided through the measure for public health projects and lead service line replacements, and all of Drinking Water SRF appropriations provided to address emerging contaminants, must go to “eligible recipients” in the form of additional subsidy such as grants or 100% principal forgiveness loans. But because the BIL does not define the term “eligible recipients,” EPA’s guidance needs to clarify which entities are eligible to benefit from this funding.

To maximize considerations of equity and the provision of assistance to a wide range of low-income communities and ratepayers, AMWA urges EPA to define “eligible recipients” as any community water system or treatment works that is eligible to receive SRF aid, and which will use these grant or principal forgiveness loan funds on projects that will significantly benefit low-income communities.

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Importantly, EPA should not simply rely on the Safe Drinking Water Act's definition of a "disadvantaged community" when identifying the universe of water systems that may be eligible for this additional subsidy. The SDWA section 1452(d)(3) definition of "disadvantaged community" is limited to "the service area of a public water system that meets affordability criteria established ... by the State in which the public water system is located." In practice, many states apply this definition in such a way as to focus on small and rural water systems with relatively uniform income demographics, as opposed to metropolitan utilities whose service area includes both low-income neighborhoods and more affluent areas. This means that the metropolitan water systems in many states, despite serving significant numbers of minority and low-income households, are ineligible for additionally subsidized DWSRF funds provided through regular appropriations.

Similarly limiting the additionally subsidized BIL SRF dollars to only these state-defined disadvantaged communities would exacerbate inequities, as metropolitan utilities in some states would be eligible for the funding while similar metropolitan utilities in other states would be excluded. Instead, it would be much more equitable for EPA to broadly define "eligible recipients" in the BIL as any community water system or treatment works, thus making a wide range of communities with different demographic profiles eligible to compete for the funds. This should be accompanied by a requirement that, as a condition of accessing the 49% of funds set aside for additional subsidization, any utility must ensure that those BIL funds are spent on projects that significantly benefit low-income communities or ratepayers in the service area. This will deliver benefits to low-income areas that do not fall within traditionally defined "disadvantaged communities," but also will not preclude those communities from receiving funds.

The BIL represents a major infusion of funding for drinking water and wastewater infrastructure, and we applaud the Biden Administration's prioritizing the delivery of funds to low-income and/or disadvantaged communities. AMWA believes this objective can best be attained by allowing a broad universe of water systems with these underserved populations to access the additionally subsidized funds set aside for "eligible recipients."

Thank you again for your efforts to develop this guidance, and your dedication to assisting low-income communities. AMWA looks forward to continuing to work with you on this important issue.

Sincerely,



Diane VanDe Hei  
Chief Executive Officer

cc: Michael Regan, U.S. EPA  
Jennifer McLain, U.S. EPA  
Andrew Sawyers, U.S. EPA