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ONE HUNDRED FIFTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 9, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

Thank you for submitting a statement for the record for the Subcommittee on Environment's Friday, May 19, 2017 hearing entitled "H.R.__, Drinking Water System Improvement Act and Related Issues of Funding, Management, and Compliance Assistance under the Safe Drinking Water Act."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Friday, June 23, 2017. Your responses should be mailed to Elena Brennan, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Elena.Brennan@mail.house.gov.

Thank you again for your assistance to the Subcommittee.

Sincerely,

John Shimkus
Chairman
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment

## Attachment – Additional Questions for the Record

### The Honorable John Shimkus

1. What do you consider the core mission and programs of the Agency?

2. How does the DWSRF and SDWA fit into a Back to Basics strategy?

### The Honorable Frank Pallone, Jr.

**BuyAmerica**

1. Is it the policy of this Administration to support Buy America requirements on projects financed by Drinking Water State Revolving Fund loans?

**Asset Management**

Section 3 of the Drinking Water System Improvement Act discussion draft amends section 1420(c) of the Safe Drinking Water Act, which conditioned receipt of SRF capitalization grants on the development and implementation of state capacity development strategies. Current law does not include a requirement to periodically revise those capacity development strategies, and the discussion draft does not create such a requirement. Despite this, the discussion draft adds a new requirement for the content of those plans.

2. Have all states developed capacity development strategies under this section?

3. Have states periodically revised these strategies?

4. Has EPA required states to periodically revise these strategies?

5. Would the language in section 3 create a requirement for states to revise and resubmit these strategies?

6. The 1996 SDWA amendments provided 4 years for states to develop the capacity development strategies – how much time would be provided under section 3 for states to revise these strategies before they are penalized with decreased funding?

**Source Water Protection**

Section 6 of the Drinking Water Systems Improvement Act discussion draft amends the source water protection provisions in the Safe Drinking Water Act in two ways. First, it removes the fiscal year limitation on the use of SRF capitalization grants by states for source water protections. Second, it bars the use of those funds for costs arising from requirements under the Federal Water Pollution Control Act.

7. Does this section make additional funding available for source water protection activities?

8. If these activities are to be funded from current capitalization grants, do many states have surplus funds to direct towards source water protection activities?

9. Current funding allotments are based on EPA's needs assessment – does that assessment incorporate source water protection costs?

10. Is the limitation on using funds for costs arising from requirements under the Federal Water Pollution Control Act a new limitation? If no, is the additional language needed? If yes, what will the impact of this limitation be?

11. Who would be responsible under this language for determining what source water protection activities can be funded under section 1452(k)(1) versus what costs arise from requirements under the Federal Water Pollution Control Act?

12. If a state used funds under this section for source water protection activities that contributed to compliance under the Federal Water Pollution Control Act, would the state be penalized? What would the penalties be, and how would they be enforced?

The EPA website provides resources to assist with source water protection and states, "Preventing source water contamination is preferable to remedying its negative effects." The website also says that "Preventing source water contamination can be less costly than remedying its effects."

13. Do these statements still reflect the position of the EPA with regards to source water protection?

**Cross-Cutting Requirements**

Section 8 of the Drinking Water System Improvement Act discussion draft grants the EPA Administrator to accept demonstrations of compliance with state or local laws as a demonstration of compliance with "federal cross-cutting requirements" that are equivalent. That section defines the term "Federal cross-cutting requirement" as a federal requirement that would be redundant with a requirement of an applicable state or local law.

14. This section introduces two different standards for comparing federal and state requirements – first that they are "equivalent" and second that they are "redundant." Would the EPA interpret these standards as meaning the same thing?

15. What cross-cutting do you anticipate would be covered by this section? Does this apply to demonstrations to be made to the EPA by states receiving capitalization grants under the SRF? Does this apply to demonstrations to be made to states by water systems receiving loans under the SRF?

16. Under the language, the Administrator determines whether a demonstration is

"equivalent" but the definition seems to be ambiguous as to who determines what requirements are "redundant." How would you interpret this ambiguity?

**Lead and Copper Rule Long-Term Revisions**

17. Last year, EPA testified before the Committee that the long-term revision of the Lead and Copper Rule (LCR) was expected to be finalized in 2017. Is EPA still on track to publish a revised LCR in the coming months? If not, what has changed?

18. How would cuts to EPA funding in the President's budget impact your ability to finalize revisions to the Lead and Copper Rule?

19. How would cuts to the Office of Enforcement and Compliance Assurance (OECA) in the President's budget impact your ability to enforce current requirements under the lead and copper rule?

**Flint Response**

20. How would cuts to EPA funding in the President's budget impact your ability to provide guidance and technical assistance to the community of Flint, Michigan?

21. How would the cuts impact your ability to continue to monitor chlorine levels biweekly and collect sequential samples for lead assessment on a bimonthly basis?

22. In December, EPA agreed with recommendations from the EPA Office of the Inspector General (OIG) to issue updated guidance through OECA on emergency authority under Section 1431 of the Safe Drinking Water Act. That guidance is due to be issued in November 30, 2017. Do you still anticipate issuing that guidance by November 30, 2017? How will proposed budget cuts for OECA affect the issuance of that guidance?

23. EPA also agreed in December with the OIG's recommendation to train all relevant EPA drinking water and water enforcement staff on Section 1431 authority by November 30th, 2017. Do you still expect to complete that training by November 30, 2017? How will proposed budget cuts for OECA affect that training?

**Board of Scientific Counselors**

24. Last month, EPA dismissed many members of the Board of Scientific Counselors (BOSC). Please provide the full list of members who were terminated, as well as those who remain.

25. Which members of the BOSC Safe and Sustainable Water Resources Subcommittee have been terminated?

26. EPA is currently seeking nominations to replace the terminated BOSC members. According to EPA's website, you are currently seeking nominations for scientists with expertise in drinking water treatment, nutrient management, climate change, risk assessment, and other drinking water safety concerns. How will these expertise gaps affect your ability to seek advice from the BOSC until the positions are filled?

27. Will the BOSC vacancies affect the timeline for revisions of the Lead and Copper Rule or any other rulemaking under the Safe Drinking Water Act?

28. What is your timeline for filling the BOSC vacancies?

29. What opportunities for public participation will be provided in the selection of new BOSC members?

**Perfluorinated Compounds (PFCs)**

30. Has EPA worked with the Department of Defense (DOD), Air Force, or Navy to respond to the emerging contamination of drinking water caused by PFCs on and around DOD installations?

31. Please explain any information sharing, technical assistance, or coordinated response that has occurred between EPA and DOD.

32. Has EPA encouraged states to notify firefighting departments, civilian airports, or other organizations that may have utilized or stored aqueous film forming foam about the risks of PFC contamination?

33. Has EPA considered supplying states or public water systems with a list of best available technologies to treat PFC drinking water contamination?

34. Is EPA currently considering issuing a national drinking water standard on any perfluorinated compound?

**WIIN Act Authorizations**

In 2016, Congress authorized three new grant programs to promote safe drinking water in the Water Infrastructure Improvements for the Nation Act (Public Law No: 114-322) –

- Lead service line replacement grant program authorized at $60 million annually from FY17 to FY21;
- Assistance for small and disadvantaged communities grant program authorized at $60 million annually from FY17 to FY21; and,
- Voluntary school and child care lead testing grant program authorized at $20 million annually from FY17 to FY21.

35. Please provide an update on EPA's implementation of these three programs.

36. The President's FY18 Budget Request did not include funding for these programs. Is EPA prepared to award grants in FY18, either through a reprogramming of existing funds or an appropriation from Congress?

**Chlorpyrifos**

In April 2016, EPA published a revised chlorpyrifos drinking water assessment and found "potential exposure to chlorpyrifos or chlorpyrifos-oxon in finished drinking [water] based on currently labeled uses." Chlorpyrifos is a dangerous pesticide that causes serious neurodevelopmental harm in infants and children, including delayed mental development, attention problems, autism spectrum disorders, and intelligence decrements. EPA itself found these effects in a rigorous risk assessment vetted by the Science Advisory Panel. Despite these clear findings, EPA recently denied a petition to ban chlorpyrifos.

37. Given EPA's shocking decision to allow continued use of chlorpyrifos, what will be done to address and eliminate the risk of chlorpyrifos exposure from drinking water?

**Climate Change**

On June 1, 2017, President Trump announced his intention to withdraw the United States from the Paris Climate Accord, imperiling our progress in the fight against climate change. This followed a May 25, 2017 briefing provided to the Energy and Commerce Committee on the President's FY 2018 budget, at which an EPA representative stated that climate change is "no longer a priority" for this administration, and that the agency's focus would be on issues impacting human health. But Climate change has significant and undeniable impacts on human health, including on the safety of drinking water.

38. EPA's own website states that harmful algal blooms (HABs) might "occur more often, in more water bodies, and be more intense" because of climate change, and acknowledges that the unregulated microcystin toxins from the blooms "endanger human health." How will this change in priorities affect efforts by EPA to address the risks to drinking water safety and human health from the impacts of harmful algal blooms? How will the potential eventual withdrawal from the Paris Climate Accord impact the public health risks from harmful algal blooms?

39. Climate change also threatens the availability and reliability of drinking water sources, through more frequent droughts, floods, and extreme weather events. How will EPA's change in priorities affect efforts to protect and adapt our drinking water infrastructure to droughts, floods, and extreme weather events? How will the potential eventual withdrawal from the Paris Climate Accord impact the public health risks from droughts, floods, and extreme weather events?

40. Climate change also threatens drinking water sources through sea level rise and saltwater intrusion into aquifers. How will EPA's change in priorities and the potential eventual withdrawal from the Paris Climate Accord affect the public health risk from the effects of sea level rise and saltwater intrusion on drinking water?

41. Climate change also threatens the safety of drinking water because higher temperatures can lead to greater leaching of lead from pipes and plumbing fixtures; proliferation of viruses and bacteria in our drinking water distribution systems; and increases in concentrations of pollutants such as ammonia. How will EPA's change in priorities and the potential eventual withdrawal from the Paris Climate Accord affect the public health risk from rising temperatures?]

42. A May 17, 2017 memorandum from EPA acting CFO David Bloom notes an adjustment "in the Climate Protection Program reflecting reduced activity" but does not specify a dollar amount. What is the dollar amount associated with this budget reduction and how will this reduction impact implementation of climate programs?

43. The President's proposed FY 2018 budget cuts EPA's budget by nearly $2.6 billion - an overall 31 percent reduction- and includes extreme cuts to key public health and environmental programs, such as grants and programs for state and tribal air quality, diesel emission reductions, and lead safety. What analysis, if any, has the agency conducted to assess the impact of these reductions on human health? What did the analysis conclude?

On the EPA website entitled "Addressing Climate Change in the Water Sector," several links that have previously provided valuable information to affected communities are now described as "being updated". Examples include "Explore Your Climate Region", "Climate Impacts on Water Resources", "Climate Impacts on Coastal Areas", and "Climate Impacts on Ecosystems", and all links under the heading "Learn about Climate Change."

44. When will these webpage updates be completed, and what process is the EPA using to ensure that any changes to their content reflects the best available science on climate change and its impact on water resources?

**<u>The Honorable Paul D. Tonko</u>**

1. What steps are being taken to ensure the highest level of adherence to EPA's Scientific Integrity policy?

    a. How are new EPA employees, including political appointees, being educated on these policies? Are they being made aware of what would constitute a violation?

    b. Has EPA's scientific integrity official met with or requested a meeting with Administrator Pruitt to discuss EPA's Scientific Integrity policy and related procedures? If yes, when?

    c. What is the role of EPA's advisory committees for ensuring integrity of science at the agency?

2. Is EPA seeing any signs that the recent dismissal of nine members of the Board of Scientific Counselors will have a larger effect on the membership of other advisory boards?
    a. How many resignations have there been related to these dismissals?

    b. Have any Board members expressed concerns to EPA over the handling of these dismissals? If yes, what are the details of these concerns?

    c. What processes are in place to ensure that any new Board members are in compliance with all applicable ethics regulations and free of any conflicts of interest or appearances of being unable to provide impartial advice?

    d. It is my understanding that there are 7 members of the EPA Science Advisory Board whose first terms are ending on September 30, 2017. Will these members be renewed?

3. How does EPA define conflict of interest?

    a. Who is responsible for determining whether EPA political appointees, including the Administrator, have conflicts of interest on certain issues?

    b. How will EPA ensure that key technical positions at the agency are filled with qualified scientists free from conflicts of interest?

4. What role does independent science have in informing EPA decisions to protect public health and the environment?

5. What kinds of communications were involved between the White House, industry organizations, and EPA regarding chlorpyrifos?

    a. Were scientists from the Office of Chemical Safety and Pollution Prevention, or other relevant EPA offices, consulted before Administrator Pruitt decided not to ban chlorpyrifos?

6. What steps has EPA taken to implement President Trump's Executive Order on Reducing Regulation and Controlling Regulatory Costs?

    a. How is EPA choosing which two regulations to repeal for every new regulation promulgated?

7. Please provide an average annual cost estimate for EPA to run its Energy Star program.

    a. Since 1992, how much have consumers saved in their utility bills due to Energy Star products?

b. Since 1992, how many tons of greenhouse gas emissions have been reduced due to Energy Star products?

**The Honorable Tony Cárdenas**

1. How will the sudden removal of members of the Board of Scientific Counselors affect the research into lead in drinking water and other such research used to develop national standards to ensure our public health?
2. How will the Administration's budget cuts and staffing shortages affect the EPA's ability to carry out its duties required by statute, such as its programs to ensure safe drinking water?

3. How will the budget cuts and staffing shortages affect the oversight and testing of water systems?

4. How will budget cuts affect the Drinking Water State Revolving Fund?