March 11, 2019

Ms. Michele McKeever

Chief, National Planning and Measures Branch

Office of Enforcement and Compliance Assurance

Environmental Protection Agency

1200 Pennsylvania Ave. NW

Washington, DC 20460

**RE: EPA's National Compliance Initiatives for Fiscal Years 2020-2023 [Docket ID No. EPA-HQ-OECA-2018-0843]**

Dear Ms. McKeever,

The Association of State Drinking Water Administrators (ASDWA) appreciates the opportunity to provide comments on Environmental Protection Agency’s (EPA’s) fiscal year (FY) 2020-2023 National Compliance Initiatives (NCI). The Association of State Drinking Water Administrators (ASDWA) represents the drinking water program administrators in the 50 states, five territories, the Navajo Nation, and the District of Columbia. ASDWA’s members regulate and provide technical assistance and funding for the nation’s 150,000 public water systems (PWS) and coordinate with multiple partners to ensure safe drinking water for our nation’s over 300 million people that are served by a community water system (CWS).

State drinking water programs have a long history with their compliance and enforcement counterparts at the state and at EPA regions and headquarters. The compliance support and enforcement tools are critical to protecting public health and the environment. ASDWA supports developing an NCI for drinking water if, and only if, this does not trigger additional reporting requirements from state programs, any predictive tools that are developed as a part of this effort include an action plan for identified problem areas and clear expectations for state actions, and efforts are deployed with states that volunteer to partner with OECA on these future compliance efforts.

The NCI for drinking water should not create new reporting requirements and additional burden on state staff, but instead leverage existing reporting and publicly available data in addition to the data sets provided to EPA through SDWIS. ASDWA strongly recommends OECA take advantage of existing state reports in their efforts to develop and implement the drinking water NCI and suggests reviewing the following existing reports developed by states for EPA: Annual Capacity Development and Operator Certification Reports, Annual Compliance Report, Quarterly/Annual/Biannual Progress Report on Grant Activity, Triennial Governor’s Report, DWSRF Report which includes information on set-aside activities and technical assistance provided by the state to water systems. Additional publicly available data may be appropriate to use for developing tools to assist states in achieving increased compliance. Examples include census data, consumer price index data, and other data sets developed by the Department of Housing and Urban Development, Department of Commerce, Department of Agriculture and others that can offer insight to communities across the Nation.

An important part of deploying new tools and implementing new measures is ensuring there is an action plan for when an issue is identified. Across states and EPA regions, there should be a plan in place for how to respond when a new tool flags an issue or a new measure gauges something to be inadequate. What are the next steps for a state to take? What are the next steps for EPA to take? Expectations of EPA, EPA regions, and states need to be made clear early on, particularly if EPA develops predictive tools for non-compliance. What does it mean when a system is identified as potentially having an issue? What are the roles of the state and federal agencies? These must be clearly defined. Rolling out a new measure or tool without context and planning of future actions is setting up the system for failure. States and EPA need to work jointly to develop not only the tools or measures but a full, start to finish implementation plan for effectively utilizing the tools to reduce non-compliance of community water systems.

ASDWA recommends OECA work with states that are interested in partnering on developing a drinking water NCI and that have the capacity to do so. States, not unlike EPA, are already hard pressed to keep up with the regulatory and non-regulatory demands on their water programs. Non-regulatory issues such as per- and polyfluoroalkyl substances (PFAS), harmful algal blooms (HABs), and *Legionella* continue to take up significant amounts of states’ staff time and can detract attention from core program areas. Because of this, some states may not be able to dedicate the time and attention to partnering with EPA on the NCI early on. Other states may be less interested in trying new approaches but may be interested in adopting tried and tested approaches once EPA has worked with another state to implement a tool or measure. ASDWA asks EPA to respect the varying levels of interest and capacity between the states.

ASDWA supports EPA working jointly with states to identify how they can use resources more effectively and efficiently to focus efforts where they can make the biggest difference and increase compliance with primary drinking water standards for community water systems, thus improving public health protection. As a part of this effort, ASDWA encourages OECA:

* Work together with Office of Water and the strategic breakthrough measure;
* Share and learn from states’ existing tools;
* Recognize states resource needs in this conversation;
* Focus on targeting the largest populations;
* Acknowledge data discrepancies; and
* Explore approaches to returning community water systems to compliance and preventing non-compliance

The Office of Water has announced a strategic breakthrough measure of reducing the number of health-based violations under the Safe Drinking Water Act for water systems by 2022. ASDWA strongly recommends framing this NCI as cooperative with OW’s actions and as a way to help states achieve the strategic breakthrough measure. ASDWA appreciates the existing coordination between both offices and encourages continued collaboration.

Some states have developed tools and strategies to address non-compliance independent of EPA. ASDWA recommends that the NCI include sharing existing, successful state-developed approaches with other states. ASDWA is happy to help in this facilitation and looks forward to working on this initiative.

As previously mentioned, state water programs are often working with tight budgets to sustain core activities in addition to the non-regulatory issues that continue to demand state resources and staff time. ASDWA asks that EPA recognize the resource constraints faced by states during the development of this NCI, particularly during implementation. States would love to have the resources to spend the one-on-one time often needed not just to return a system to compliance, but to keep them in compliance for the long-term. Unfortunately, that is not possible with current levels of funding for state water programs. Any expectations of the states should take into account the reality of decades of stagnant funding for water programs despite increased demands, and the resource constraints states are working under. ASDWA would also support the quantification of the resource needs for increasing water system compliance with the Safe Drinking Water Act as a part of the development of the NCI and looks forward to partnering with EPA.

ASDWA recommends OECA explore the idea of measuring success based on population affected. By focusing efforts on actions that ensure the highest public health protection for the most people, EPA and States may be able to achieve a better cost-benefit performance for their work and resources invested.

Multiple state water programs have observed variations between data in SDWIS State and non-SDWIS databases as compared to those used by EPA as obtained from the federal SDWIS database. Often, federal data is not representative of activity at the state level with enforcement lists and violations not demonstrating the most current efforts to address public water systems with serious and/or significant violations. ASDWA would support an initiative that accounts for, identifies, and/or works to help address data discrepancies.

ASDWA supports OECA exploring strategies that increase compliance of community water systems as well as strategies to help prevent non-compliance, again with the caveat of working through existing reporting requirements for states or utilizing publicly available data sets. New tools or improving existing tools, if accurate and implemented correctly, could be a great asset to state drinking water programs. Due to resource constraints, targeting assistance to water systems that need it most is an important tenet of many state water programs. ASDWA supports the development of tools that could help states deploy their time and resources more effectively and efficiently to increase compliance.

Thank you for the opportunity to comment to these important issues. If you have any questions regarding this correspondence or if ASDWA can be of assistance in some other way, please contact me or Wendi Wilkes at (703) 812-2127 or wwilkes@asdwa.org.

Best Regards,



J. Alan Roberson

Executive Director

Association of State Drinking Water Administrators

CC: David Ross – EPA OW

Jennifer McClain – EPA OGWDW