

Summary of Early Engagement with States and Tribes on the FY 2018-2019 National Water Program Guidance

Office of Water

Publication #: 190S16001

November 9, 2016

The Office of Water (OW) initiated the early engagement with states and tribes in July requesting comments on water priorities, performance measures, and subobjective/program strategies. With the goal of improving transparency and communication, OW in collaboration with the Office of Enforcement and Compliance Assurance (OECA), convened meetings with states and tribes to brainstorm on early input topics. Subsequent discussions were more pointed and allowed each organization to present the most important areas of concern to OW and OECA leadership. The dates of these are below.

- State-EPA agenda-setting meeting – September 8
- National Tribal Water Council/ EPA Monthly Call – September 14

Early engagement calls were held on the following dates:

- Early engagement call with states and state associations: September 22
- Early engagement call with tribes and tribal associations: October 5

Comments were requested by September 15. Ten organizations provided comments or participated in the meetings:

- Association of State Drinking Water Administrators (ASDWA)
- Association of Clean Water Administrators (ACWA)
- Environmental Council Of the States (ECOS)
- Association of State Wetland Managers
- Iowa Department of Natural Resources
- Idaho Department of Environmental Quality
- Oregon Department of Environmental Quality
- Ohio Environmental Protection Agency
- United South and Eastern Tribes
- Susanville Indian Rancheria
- Big Pine Paiute Tribe of the Owens Valley
- Ketchikan Indian Community
- National Tribal Water Council
- National Tribal Council
- National Tribal Toxics Council

The comments range between general, cross program to specific programs and measures:

- **Collaboration:** Tribes and States both emphasized their desire for continued collaboration and early involvement in new rulemakings spanning the entire lifecycle of the process from rule design, development, finalization, and implementation.

- Specific examples mentioned include: E-reporting rule, Health advisories, the Unregulated Contaminant Monitoring Rule (UCMR), Revised Total Coliform Rule (RTCR), emerging contaminants, the Lead and Copper Rule, and the Drinking Water Contaminant Candidate list.
- **Water Infrastructure Finance and Innovation Act (WIFIA):** State and state associations were concerned about the slow and challenged roll out of WIFIA, and emphasized that WIFIA should be well-integrated with the SRF program.
- **National Water Program Priorities:** States and state associations made suggestions for new priorities in the next two-year cycle
 - Examples include general support for the retention of Children’s Health, Environmental Justice, and communities in need, and Climate Change/Resiliency as priorities
 - Would like to focus on capacity development in small systems and building in a focus on challenged communities into the SRF program. This amplifies the need for SRF and WIFIA integration.
- **Tribal Performance Measures:** Tribes highlighted their preferences for the creation of new performance measures.
 - Specifically, they would like to see an active replacement measure for SDW-18.N11 to gauge tribal home access to safe drinking water.
- **Data Collection and Access:** Tribes also requested improved access to water data, and suggested improvements to EPA data collection and data systems.
 - Specifically, tribes were pleased to hear about a data pilot in Region 6 with the ATTAINS database which would improve ease of access to information on impaired waters and TMDLs. The transition of listing impaired waters to implementing meaningful restoration work is a priority for tribes.
 - Improved sampling training and techniques are recommended for the Lead and Copper Rule.

OECA participated in both of OW’s early engagement meetings, fielding cross-NPM concerns raised by co-regulators. OECA highlighted their three National Enforcement Initiatives for 2017-2019.

- 1) Municipal sewer system violations of stormwater and raw sewage discharges
- 2) Concentrated Animal Feeding Operations (CAFOs)
- 3) Industrial Pollutants from metals manufacturing, mining and food processing

Improvements in Regulation and Enforcement: Tribes requested more tailored regulation and enforcement including distinguishing between NPDES permitting for major vs. minor facilities. They also would like to be able to track how many enforcement actions are occurring in Indian Country.

Also of concern within the Native American community is strengthening state performance and oversight. According to the National Tribal Toxics Council (NTTC), EPA flexibility in establishing state water quality standards has resulted in states using this latitude in reducing the responsibility of regulated communities within state jurisdictions for protecting water bodies. Citing examples in Washington and Florida, the NTTC claims this results in regulatory inconsistencies across state lines which negatively impacts water quality in bordering states and tribal lands. The NTTC recommends national EPA oversight to continually update standards to improve water quality across states and Indian Country.