



**American Water Works
Association**

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Oral Comment by the American Water Works Association
to the National Drinking Water Advisory Council
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The American Water Works Association (AWWA) commends U.S. EPA for recognizing the seriousness of exposure to cyanotoxins, as well as per- and poly-fluoroalkyl substances. We agree that cyanotoxins present an important public health issue and that the nation should have strategies in place to reduce exposure to these compounds. AWWA has repeatedly expressed its concerns in testimony to Congress and in comments to EPA on risk management of cyanotoxins. We have also provided both informational material and opportunities for the drinking water community to learn more about how to detect and manage both cyanotoxins and PFAS.

The water supply community is, however, concerned with EPA's process for the preparation, dissemination, and implementation of health advisories. Rapidly released health advisories and risk management guidance that has not been thoroughly vetted with the informed stakeholder community leads to unwarranted distrust of the nation's public water supply.ⁱ AWWA encourages EPA to:

1. Actively engage stakeholders as it develops health advisories and accompanying recommendations.
2. Facilitate effective and consistent state action in response to health advisories.
3. Evaluate the appropriateness of the current health advisory development process and calculation used to set health advisory levels.
4. Work with AWWA, states, and other stakeholders to develop an ongoing dialogue around drinking water, contaminants of concern and effective risk communication.ⁱⁱ

I would like to share with the National Drinking Water Advisory Council some specific concerns AWWA has already shared with EPA:

1. EPA must avoid "regulation through guidance," as well as, the appearance of regulation through guidance. There are clear court opinions within which EPA must work and recent cases illustrating that Agency actions with *de facto* regulatory impacts are, for all intents and purposes, regulation. These *de facto* regulatory actions are subject to the same procedural safeguards as a regulatory requirement.^{iii, iv}
2. Health advisories, particularly those that include recommendations for action should be classified as "Economically Significant Guidance Documents" and their development should

meet the expectations of relevant Office of Management and Budget circulars including adhering to transparency and public engagement requirements.^v

3. As the Agency distributes educational material in the absence of a rulemaking, there is the opportunity to learn from and incorporate key benefits from the normal rulemaking process, including:
 - a. Actively involving expert stakeholders to obtain insights into what information is needed, practical constraints that should be reflected, and insights into how to most clearly convey useful information.
 - b. Effectively engaging the nongovernmental organization / association community throughout the development of educational materials. The association / NGO community provides an important informal vehicle for assuring that key stakeholder communities like state primacy agencies and water systems are ready when the Agency releases its final products and have informed and prepared their leadership and public(s).
 - c. Careful vetting of response strategies with actual practitioners. Educational materials that link thresholds for public health concern to response strategies (e.g., analytical methods, data collection strategies, treatment options, public notification) can be more effective than releasing one without the other, but consideration of input from actual practitioners is critical. Where water system practice is an element of the response strategy, AWWA would be pleased to be of assistance in providing this review.
 - d. Demonstrate analytical method and treatment performance. Standardized analytical methods with verified performance at concentrations of interest, as well as demonstrated treatment options, are essential to the credibility of educational materials.^{vi}

While the above represent key steps to improving the health advisory process, it is essential that the Agency's tenor and the substance of EPA's communication materials clearly and accurately reflect the role and purpose of health advisories, e.g., as tools that inform risk managers.

Thank you for your time and attention. I would be glad to try and address any questions.

ⁱ June 15, 2015, Correspondence to Ken Kopocis, Microcystin and Cylindrospermopsin Advisories and Guidance.

ⁱⁱ September 6, 2016, Correspondence to Peter Grevatt, Health Advisories

ⁱⁱⁱ Ibid

^{iv} May 15, 2017, Comments on "Evaluation of Existing Regulations"

^v July 2, 2015, Correspondence to Caryl Muellerleile, "Recommendations for Public Water Systems to Manage Cyanotoxins in Drinking Water"

^{vi} September 6, 2016, Correspondence to Peter Grevatt, Health Advisories