American Water Works Association
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Barry Breen
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Office of Land and Emergency Management (Mail Code 5101T)
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

DELIVERED ELECTRONICALLY

RE: Comments on the November 2024 "Interim Framework for Advancing Consideration of Cumulative Impacts" (EPA-HQ-OLEM-2024-0360; 89 FR 92125)

Dear Mr. Breen,

The American Water Works Association (AWWA) appreciates the opportunity to comment on the November 2024 proposed policy framework titled "Interim Framework for Advancing Consideration of Cumulative Impacts ". AWWA recognizes the need for a wide variety of approaches to protect public health and supports appropriate actions to reach those goals. Recognizing this, we have identified a number of challenges with the cumulative effects guidance as currently written, and we encourage EPA to revise the document accordingly, or if necessary, to withdraw the document until it can be appropriately rewritten.

The draft framework references Executive Orders which are no longer in effect and thus should be removed and, as appropriate, replaced with other policies

This document makes multiple references to Executive Order 14096 "Revitalizing Our Nation's Commitment to Environmental Justice for All[1]" and Executive Order 13985 "Advancing Racial Equity and Support for Underserved communities Through the Federal Government.[2]" Although those orders were in effect at the time this draft was published, they were revoked during the public comment period

[1] Executive Order 14096. 2023 Apr 21. *Revitalizing Our Nation's Commitment to Environmental Justice for All.* 88 FR 25251. https://www.federalregister.gov/documents/2023/04/26/2023-08955/revitalizing-our-nations-commitment-to-environmental-justice-for-all.

[2] Executive Order 13985. 2021 Jan 20. *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. 86 FR 7009. https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government.

through Executive Order 14154 "Unleashing American Energy[3]" and Executive Order 14148 "Rescissions of Harmful Executive Orders and Actions.[4]" EPA should remove references to EO 14096 and revise the document consistent with policies currently in effect.

EPA should discuss applicability of the application of a cumulative impacts approach

On page 3 of the framework, there is a disclaimer that states *"this document does not address when it is relevant or consistent with law to use a cumulate impacts approach."* Recognizing that there are likely to be many factors at play in such an analysis and this guidance cannot take the place of sound detailed analysis of any given situation, the lack of *any discussion* of when the proposed approach may be used (and conversely, when such an approach should not or cannot be used other than the injunction related to the State of Louisiana) makes it difficult to evaluate the approach as a whole. Adding at least some basic guidelines that are more likely to point toward the use of this approach plus exclusions that definitively or likely point away from it, will put the framework in context for more appropriate evaluation.

EPA's definition of cumulative impacts should be presented with appropriate context and applied consistently

This framework defines "cumulative impacts" on both page 4 and within the glossary (page 32) as *"the totality of exposures to combinations of chemical and nonchemical stressors and their effects on health and quality-of-life outcomes."* As described the concept of "cumulative impacts" as defined is not specific to (1) any particular threshold, nor (2) any particular community or type of community being subject to differing treatment. Such a definition is appropriate as part of a research methodology intended to open conversation about very real challenges. Put simply, at every possible measure at any level (individual, community, state, national, etc.) there exists some level of cumulative impact of stressors, and thus the term "cumulative impact" alone does not describe especially high impacts nor does it alone provide any specific information about what may need to be done or where. Only the results of an analysis of cumulative impacts would do so.

In practice, there are numerous barriers to describing, a specific level of cumulative impact to any given area due to the lack of information about the role of various stressors, inconsistent methodologies for characterizing potential impacts, and many other challenges. In general, this framework recognizes these limitations and notes that cumulative impact analyses should acknowledge their limitations and decisions should be made consistent with and in accordance with law.

Recognizing these limitations in the assessment of cumulative impacts (which are generally well described in the framework), the last step of the proposed framework, "informing decisions" is considerably lacking in substance, providing only very general concepts such as *"how does each decision choice affect health*

[3] Executive Order 14154. 2025 Jan 20. *Unleashing American Energy*. 90 FR 8353. https://www.federalregister.gov/documents/2025/01/29/2025-01956/unleashing-american-energy.
[4] Executive Order 14148. 2025 Jan 20. *Initial Rescissions of Harmful Executive Orders*. 90 FR 8237. https://www.federalregister.gov/documents/2025/01/28/2025-01901/initial-rescissions-of-harmful-executive-orders-and-actions.

outcomes" that would already be analyzed in most decisions, and thus it is unclear how, if at all, the framework would meaningfully change decisions. It is also unclear what circumstances such an analysis would apply to, given that many decisions are required to be performed strictly to the criteria defined in the underlying environmental statutes.

EPA's definition of cumulative impacts is appropriate to guide research and strategic planning at the agency rather than regulatory decisions

As currently portrayed in the interim framework (seen in several places, shown graphically in Figure 2 on page 13), cumulative impacts assessment is intended to create a *"fit for purpose"* process that engages potentially impacted stakeholders through a four-step process of *"initiation, scoping and problem formulation, assessment, and informing decisions."* Within these steps are suggestions such as *"articulate the problem to be analyzed," "perform analysis of current and projected exposures and effects,"* and *"consider the impacts of decision alternatives."* In most environmental and public-health decision processes, there are established practices that are already taking place. Current practice is to evaluate risks and the benefit of ameliorating risks within the scope of the decision at hand (e.g., permitting a regulated facility, issuing a drinking water standard, etc.). Consequently, the scope of the assessment varies depending on the underlying decision being made and the applicable laws associated with making that decision. For example, the Safe Drinking Water Act requires consideration of sensitive subpopulations during health benefit-cost analysis. Such analyses consider risk from other media but given the time and resources available to support timely decision-making, the need for scientific defensibility, and the limited capacity of SDWA-regulated entities to effect change beyond the quality of the drinking water provided, analyses are much more focused than might be considered in a more academic undertaking or a strategic policy planning exercise.

This framework, as proposed, does not address a key stressor – affordability.

Contained within the framework on page 7 is a note that *"approaches for applying cumulative impacts analysis for place-based, geographically specific actions are further developed than are approaches for considering cumulative impacts in national rulemaking."* Although there is one case-study on page 55 (related to an Air Toxics Rule), this case study is not representative of many national EPA decisions, because in the decision analyzed, the benefits accrue to the population studied, but the costs are borne by others. For many decisions, including decisions impacting drinking water, wastewater, and stormwater regulations, the benefits of the decision will accrue to the population that is also bearing the costs of the required controls. Alternatively, communities that face multiple stressors may be subject to regulatory requirements that benefit downstream communities or the aquatic environment, bearing costs but not directly benefitting from the decision.

Essential water services are typically funded by local ratepayers and the additional cost of regulations is borne through increased rates. This is true even when the costs of compliance are partially deferred through long-term financing. Therefore, for a cumulative effects analysis to be informative, the burden of both current and past decisions on those local ratepayers must be incorporated. Elsewise, the analysis framework risks increasing the pace with which essential water services become unaffordable. EPA's recent analyses indicate that water service may already be unaffordable for 12.1 to 19.2 million

households, and that is prior to the costs of already anticipated but not yet implemented regulations impacting those ratepayers[5]. These challenged households may be forced to ration essential services and/or make tradeoffs with other essential expenses (e.g., health care, food, rent, etc.). The entire cumulative burden framework does not mention "affordability" even a single time, and if EPA has considered these effects, the agency did not articulate them. A thorough analysis and discussion of affordability is inherent to any credible cumulative burden framework.

Thank you for the opportunity to comment on this document. If you have any questions regarding this correspondence or if AWWA can be of assistance in some other way, please contact Adam Carpenter at (202) 326-6126 or acarpenter@awwa.org.

Best regards,

FOR THE AMERICAN WATER WORKS ASSOCIATION

G. Tracy Mehan, III
Executive Director, Government Affairs
cc: Jennifer McLain, EPA/OW/OGWDW
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Who is AWWA?

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,500 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.

[5] Environmental Protection Agency (EPA). 2024 December. *Water Affordability Needs Assessment*. EPA 830-R-24-015. https://www.epa.gov/system/files/documents/2024-12/water-affordability-needs-assessment.pdf.