



Public Employees for Environmental Responsibility

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January 2, 2014

Ms. Vivian Daub
Director, Planning Staff
Office of Planning, Analysis, and Accountability (Mail Code 2723A)
Office of the Chief Financial Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

**RE: Docket ID No. EPA-HQ-OA-2013-0555
Comments on EPA Draft 2014-2018 Strategic Plan**

Via FAX & EMAIL

Dear Ms. Daub:

I am submitting the following comments on the U.S. Environmental Protection Agency (EPA) Draft 2014-2018 Strategic Plan on behalf of Public Employees for Environmental Responsibility (PEER). PEER works on behalf of many EPA employees as well as environmental specialists in other federal, state and local agencies – many of whose contribution to environmental protection would be enhanced by EPA more robustly fulfilling its mission.

Initial Observation

By way of an initial observation preceding individual comments, the plan lists as “core values” the following: “Science, Transparency [and] Rule of Law.” Yet, little in the plan reflects these core values, and they draw scant mention throughout.

The plan provides no scientific basis for supporting either that stated goals could be realistically attained or that the goals selected are in any way strategic. This absence of empirical support stands in marked contrast to its opening declaration that the agency and the plan are guided by the core value of science.

EPA provides no document outlining other options it considered and discarded and why. Thus, there is little about how the strategic plan was formulated that is transparent.

Finally, the plan lays out goal as progress toward some environmental condition. There is almost no mention of legal requirements of the laws that EPA is charged with implementing. For example, the Clean Water Act posits the statutory requirement of swimmable and fishable waters. The EPA draft plan makes no mention of this Clean Water Act requirement and only passing reference to other legal mandates. Thus, it is unclear how rule of law is a core value underlying this plan.

Specific Comments:

1. Abandonment of Enforcement Undermines Plan's Other Goals

One of the plan's central features is an embrace of what it labels "Next Generation Compliance" which consists largely of industry electronically self-reporting its pollution discharges. The stated but unsupported rationale for this shift is that enforcement "can have the inadvertent effect of discouraging innovative approaches that could improve compliance." The plan also urges prosecuting polluters only when it is coupled with "advanced monitoring technologies."

In addition, the plan touts the public's use of "compliance transparency tools (ECHO)" as a critical compliance measure without explaining why or how public use of a web tool relates to actual reductions in pollution.

Perhaps most significantly, the plan projects lower levels of traditional enforcement actions than in recent years, although those are below levels in the 1990s.

A. Without Strict Enforcement EPA Cannot Tell If Electronic Monitoring Is Accurate

The plan assumes that information fed into electronic tracking systems are accurate without providing for verification. It is precisely this type of enforcement effort that is critical but eschewed by EPA as falling outside Next Generation Compliance Guidelines.

B. Enforcement De-Emphasis Makes Air, Water and Chemical Goals More Difficult to Attain

Without strict across-the-board enforcement, industry has little incentive to install less-polluting technology. Moreover, polluters should not be allowed to escape fines and penalties by promising to invest in upgrading their physical plants.

C. Plan Fails to Address Decline in Criminal Investigators and Enforcement Resources

In order to strategically target enforcement efforts, as proposed in the plan, the depth of investigations will have to dramatically increase. EPA personnel cannot be expected to know without investigation which actions carry the greatest potential for pollution reduction. Yet the plan makes no mention, let alone provision, for increasing the acuity of anti-pollution investigations.

2. Plan Is Silent on Need for New Regulation

The plan purports to effectively “minimize the threats posed by climate change but makes no reference to promulgating direct regulation of greenhouse gases. Nor does the plan cite the need for any additional regulation to accomplish stated goals of reducing air pollution, waste water discharges, chemical contamination and other environmental threats.

It is not clear whether EPA expects to accomplish these goals without any new regulation or whether the plan is incomplete for failing to raise the need for new regulations..

During the Obama administration, EPA’s ability to finalize new regulations has been uneven, at best.

Moreover, the absence of new regulation, paired with the de-emphasis on enforcement, suggest but does not explain how EPA will make significant environmental progress solely through its powers of persuasion.

3. No Funds to Support New Era of Partnerships with States and Tribes

The plan identifies as a critical cross-cutting strategy that it will usher in a “New Era” in state and tribal partnerships using the tools of “consultation, collaboration, cooperation and accountability.” Yet, the plan makes no mention of additional funds to support state or tribal efforts.

The plan seems to suggest that prior misunderstanding or hostility prevented past collaboration and that such problems will be completely dispelled and that increased cooperation will occur solely without any financial support. These assumptions appear to be unrealistic.

Without additional financial support, it is unclear why one would expect hard-pressed states and tribes to increase their level of environmental protection activity.

4. Recent Adoption of Radiation Protective Action Guides Appears to Contradict Goal of Minimizing Exposure to Radiation “Should Unavoidable Releases Occur”

As part of Goal I on Air Quality, the plan proposes to “minimize release of radioactive material and be prepared to minimize exposure through response and recovery action should unavoidable releases occur.”

EPA’s recent actions, however, have taken the exact opposite approach to this goal. Its new Protective Action Guides (PAGs, finalized in 2013) dramatically raise permissible radioactive levels in drinking water and soil following “radiological incidents,” The PAGs allow cleanup many times more lax than anything EPA has ever before accepted.

PAGs govern evacuations, shelter-in-place orders, food restrictions and other actions following a wide range of “radiological emergencies”:

- In soil, the PAGs allow long-term public exposure to radiation in amounts as high as 2,000 millirems. This would, in effect, increase a longstanding 1 in 10,000 person cancer rate to a rate of 1 in 23 persons exposed over a 30-year period;
- In water, the PAGs punt on an exact new standard and EPA “continues to seek input on this.” But the thrust of the PAGs is to give on-site authorities much greater “flexibility” in setting aside established limits; and
- Resolves an internal fight inside EPA between nuclear versus public health specialists in favor of the former.

Not surprisingly, the plan makes no mention of the PAGs. In the one, very general, paragraph devoted to reducing the public’s radiological exposure, the plan does not explain how – or to what extent – this goal will be achieved.

5. EPA Offers No Strategy to Address Unregulated Chemicals from Pharmaceuticals, Personal Care Products and Other Sources from Entering Our Waters

In the draft plan, EPA proposes to “achieve and maintain standards and guidelines protective of human health in drinking water supplies. However, America’s drinking water is becoming increasingly contaminated by pharmaceuticals. This is an insidious form of pollution that is, for the most part, legal. Yet the plan does not even mention this issue.

Today, at least 46 million Americans are affected by pharmaceuticals in drinking water. Pharmaceuticals and personal care products include over-the-counter medications, prescription medications, dietary supplements, hormones, cleaning agents (especially antibacterial cleaners), and the inert ingredients that are associated with these products.

Of special concern are endocrine disrupting compounds (EDCs). EDCs are synthetic compounds which either block or mimic natural hormones, which in turn disrupt normal functioning of organs.

From 1999 to 2002, the United States Geological Survey studied surface and groundwater samples from around the country to determine whether pharmaceutical chemicals were present. They found at least one compound in 80% of streams and 93% of groundwater – the most commonly found compounds were steroids, over-the-counter medications, and insect repellants.

While some argue that these chemicals are found in our drinking water in such tiny amounts (parts per trillion or ppt) that they cannot possibly cause human harm, insulin, estrogen, and other hormones are exceptionally potent chemicals that operate at

concentrations of ppt, and fetuses are sensitive to chemicals in the parts per quadrillion range.

Already these chemicals are being associated with reproductive abnormalities in fish, such as male fish bearing eggs and genetic damage in frogs and other indicator species. The potential effects on humans are now coming to be understood. EPA admits that endocrine disruptors may cause a variety of problems with, for example, development, behavior, and reproduction. They have the potential to impact both human and wildlife populations.

In addition to direct health effects, the widespread presence of antibiotics in our water is fostering the growth of antibiotic-resistant bacteria. This could result in the spread of human diseases that cannot be treated by our current arsenal of antibiotics.

In 1996, the U.S. Congress directed EPA to screen chemicals for hormonal effects on humans in the Food Quality Protection Act. During the intervening 12 years, EPA has done remarkably little, despite mounting evidence that thousands of chemical compounds are a spreading presence in drinking water:

- EPA is not listing known EDCs on its Contaminant Candidate List of priority contaminants which are anticipated to occur in public water systems. Even if EDCs made this list, however, Contaminant Candidates are still not regulated under federal drinking water regulations;
- Although it has identified more than 87,000 suspected EDCs, it has taken EPA 11 years to publish a list of only 73 chemicals for which it proposes to begin screening; and
- EPA has repeatedly missed statutory deadlines to begin testing and screening for EDCs.

EPA's webpage on pharmaceuticals and personal care products (PPCPs) contains a bald assertion that these chemicals do not harm humans: "To date, scientists have found no evidence of adverse human health effects from PPCPs in the environment." This assertion, however, is contradicted not only by scientists outside of EPA, but also from EPA's own scientists and publications.

- EPA publications state, for example, "Endocrine disruptors ... may cause a variety of problems with, for example, development, behavior, and reproduction. They have the potential to impact both human and wildlife populations";
- Respected scientists outside the EPA, including at the World Health Organization, also caution that exposure to EDCs can result in adverse health impacts to non-humans, and therefore we must invoke the precautionary principal when considering the potential impacts on humans; and

- The drug industry itself is expressing more concern than EPA. The Associated Press quoted Mary Buzby, director of environmental technology for Merck & Co. Inc., as saying “There’s no doubt about it, pharmaceuticals are being detected in the environment and there is genuine concern that these compounds, in the small concentrations that they’re at, could be causing impacts to human health or to aquatic organisms.”

Fetuses are at risk from even one part per quadrillion of certain chemicals, and children, the elderly, and people with immune deficiencies are more sensitive than the general population. This exposure pathway should be cause for great concern, not bland dismissal.

By its silence on the topic, the EPA plan suggests that pharmacological pollution of America’s waters will go unabated through the next five years.

6. EPA Promotion of Reuse of Industrial Wastes Contradicts Goal of Reducing Risk of Chemicals to Environment and “Our Bodies”

In contrast to the plan’s goals relating to reducing the public’s exposure to chemicals, EPA policies promote just the opposite effect.

For example, EPA policies promote the reuse of coal combustion wastes without any restriction. By allowing virtually unlimited reuse of coal ash and other highly toxic combustion wastes, EPA is allowing the most potent pollutants – the same ones that cost billions of dollars to keep from billowing out of power plant smokestacks – to reach the environment in the manufacture, use, and disposal of second generation coal ash products with no containment strategy..

Coal combustion produces the nation's second biggest waste stream, second only to coal mining. Under EPA sponsorship, 60 million tons (nearly half the total) of coal ash and other wastes are used in mine fill, cement, wallboard, snow and ice control, agriculture and even cosmetics.

Due to stronger air pollution controls on emissions of mercury and other toxics, the mercury levels in coal ash and other wastes has been rising and will likely nearly double this decade. The data EPA used to make its May 2000 regulatory determination that coal ash is not hazardous is no longer representative of today's waste stream.

In addition, EPA is ignoring its own scientific findings about mercury and other toxics reaching the environment from cross-media transfers (e.g., air to water), exposure and disposal of coal ash::

Manufacture. Cement manufacture is the single biggest reuse but studies show that the high temperatures in cement kilns release all of the mercury in the coal combustion waste to the atmosphere. Similarly, gypsum wallboard plants are a secondary release point for mercury;

Leaching and Loss. Mercury and other toxics spill in transport and leach out of products;

Disposal. Products containing coal ash are disposed of in ways that release their toxic elements when the products are incinerated, pulverized or buried in unlined pits.

By refusing to recognize its own research on growing toxicity and release, EPA is promoting greater public exposure to the increasing toxic elements within coal combustion wastes. Further, ignoring cross-media transfers of mercury undercuts EPA's own strategy for reducing health risks associated with mercury.

Compounding the problem, EPA prevents its scientists from examining health risks of coal combustion wastes being added to consumer, agricultural and commercial products. Despite a scathing Office of Inspector General (IG) report in 2011r taking the agency to task for failing to complete a single safety review on the 60 million tons of coal ash and other combustion wastes entering the U.S. marketplace each year, EPA indicates that it has no intention of doing any risk assessments in the near future.

Further compounding this data gap, IG investigative materials PEER obtained under the Freedom of Information Act show EPA scientists' safety concerns about coal ash are routinely "steamrolled" and ignored. Scientists can not even get the answer to the basic question of "What's in this stuff?" For example –

- EPA gave an award to a company that sold coal ash in cement "by putting the mixture into plastic bags and selling it to customers at Home Depot" despite knowing of a prominent study finding that particulate matter in these wastes "caused a morbidity and mortality spike in humans";
- Some coal combustion wastes have radiation levels comparable to those at Superfund sites but no warnings are issued for people living close to where these wastes are stored or used; and
- Officials downplayed scientific recommendations against including combustion wastes in agricultural products, such as livestock feeders and soil treatments.

It is disturbing that EPA applauds consumers being sold bags of toxic waste.. EPA claims to be a science-based agency but it is bending over backward to ensure that its decisions about coal ash occur in a science-free zone.

7. Plan Strategy of Considering "Full Lifecycle" of "Processes and Pollutants" Contradicts Its Promotion of Reuse of Coal Ash

Despite expressing fealty to "full lifecycle" analysis of products, EPA does not apply this principle to coal combustion wastes, yet still promotes its reuse. Further, EPA routinely

makes the false claim that putting coal combustion wastes into consumer and commercial products actually reduces generation of greenhouse gases associated with climate change.

A 2010 PEER complaint filed under the Data Quality Act which requires that materials distributed or relied upon by federal agencies be accurate, complete and unbiased against EPA demanding that numerous inaccurate statements touting the greenhouse gas benefits of coal ash be removed from the EPA website and publications remains unanswered. One huge fallacy is that EPA claims generally omit any mention of the massive amounts of greenhouse gases emitted in mining and burning the coal to produce the ash. Many of the EPA assertions are made without reference sources, methodology or qualification. Occasionally the agency inserts a footnote that it makes the highly questionable assumption that coal ash is carbon neutral for purposes of its claims.

Coal is our biggest source of greenhouse gases. It is the height of absurdity to contend that the toxic wastes produced by coal combustion help our atmosphere. In addition to the central flaw mentioned above, the PEER complaint cites the fact that EPA’s coal ash claims –

- Violate its own guidelines published for calculating lifecycle emissions;
- Bury its own conclusion that coal ash use “may not be an efficient method for reducing overall emissions” of greenhouse gases and may in fact be a net detriment; and
- Are internally inconsistent and usually are un-sourced.

It is difficult to reconcile how EPA has ignored lifecycle analysis of products with the plan’s pledge to use this tool as a key element in meeting its goals.

8. Plan Assumes EPA Ability to Affect “Promote Smart Growth” and Affect Individual “Sustainability Choices”

The draft contains several goals that involve changing social (“sustainable communities”) and individual practices and choices. However, it is not at all clear that absent new regulations that EPA has the influence to affect things such as housing location or consumer spending patterns.

Absent a regulation, such as motor vehicle mileage standards, it is difficult to identify even a single instance in which EPA has measurably influenced community behavior. Nor is it clear that all prior EPA efforts have cause any increased sustainability in either community or individual practices.

Thus, the plan’s inclusion of goals involving changed behavior should be removed as unrealistic.

9. Plan Offers Few Strategic Choices about Limits on EPA Resources

In recent years, the EPA budget has been reduced both by tools like sequestration but also in overall lowered congressional appropriations. Nowhere does the plan reference limited resources or even the need to prioritize.

Any organization facing reduced support must make hard strategic choices about what features to jettison or how to realign the organization to work more efficiently.

By contrast, this draft plan is bereft of any hard choices. Despite its title, there is little that is strategic about it.

As part of a multi-year strategic planning process, EPA should consider how to strengthen its irreplaceable core functions of enforcement and regulation and reducing its investment in areas, such as public education, where it has produced no discernible results..

Respectfully submitted,

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