Additional Questions for the Record

The Honorable Frank Pallone, Jr. (D-NJ)

1. **The Drinking Water State Revolving Fund (SRF) provides critical support to help states and water systems deliver safe, reliable drinking water to communities.**
    a. **As we consider reauthorization of the SRF, what recommendations do you have for increasing access to funding and assisting communities as they address drinking water challenges?**
    b. **What specific changes would be beneficial to support disadvantaged communities?**

The Need for Additional Funding.
As I highlighted in my testimony, federal funding provides a shrinking and tiny percentage of water infrastructure funding—less than 5 percent of available funding and an even smaller percentage of the total funding needed. It is crucial that Congress extend and expand the significant investments in water infrastructure that were enacted in the Infrastructure Investment and Jobs Act ("IIJA," Public Law No. 117-58, Nov. 15, 2021). This included investments in drinking water of $15 billion for lead service line replacement, $9 billion for PFAS and emerging contaminants, and $11.7 billion for the general Drinking Water State Revolving Fund. In addition, while we understand the attraction of Congressionally directed spending, or earmarks, in FY26 about 60 percent of the Drinking Water State Revolving Fund regular annual appropriations was earmarked, leaving much less for states' priority projects. And since those funds are basically grants rather than loans, they will not "revolve" back into the state funds, meaning even fewer funds will be available to water systems in the future.

We urge Congress to create a separate pot of funds for earmarks, and to set aside the full annual appropriations to the DWSRF for states to spend and revolve as appropriate. Other drinking water infrastructure funding, such as the Assistance for Small and Disadvantaged Communities (SDWA §1459A), Reducing Lead in Drinking Water program (SDWA §1459B), and Water Infrastructure Finance and Innovation Act (WIFIA) also should be far more fully funded, as discussed in my testimony.

The EPA estimated in its 7th Report to Congress of the Drinking Water Needs Survey that the need for drinking water compliance is $625 billion dollars over the next two decades. Estimates by industry and engineering professionals are much higher—from $1 trillion to $1.6 trillion dollars. Clearly, there is an urgent need for increased federal investment.

The Need to Streamline and Improve Access to Funding, Especially for Small and Disadvantaged Communities.
It is important that funds be set aside from these federal and state programs for disadvantaged communities, as was done in IIJA. In addition, small and disadvantaged communities often lack the technical expertise and resources to develop a strong application for state or federal funding. They need significant additional federal and state technical assistance to help prepare their funding applications and conduct the engineering and other studies needed to present a strong application. In addition, impediments to obtaining funding, such as state requirements that the community first pay for an infrastructure project and then seek reimbursement make it

extremely difficult for these small and disadvantaged communities—which often lack the credit rating needed to obtain commercially-available funds in the first place—to receive state/federal funding. We also are in the process of developing additional recommendations to improve access to funding for such communities, which we will share with the Committee when they are ready. Finally, while we strongly support WIFIA's attractive loan features, and the DWSRF's low-interest long-term payback for loans, some small and disadvantaged communities cannot realistically pay back loans at all and require outright grants, as was recognized in IIJA, which reserved about half of the funding for what essentially are grants.

2. **The Water Infrastructure Finance and Innovation Act (WIFIA) is a low-cost financial assistance program that helps communities pay for water infrastructure projects. As Congress considers ways to ensure communities can meet the water infrastructure needs, what changes should we consider to the WIFIA program?**

We strongly support an expansion of funding for the WIFIA program. One challenge is that as noted above, small and disadvantaged communities often lack the technical and legal capacity to prepare strong applications for WIFIA and other funding. Additional technical assistance to help these communities do the studies needed and prepare well-documented applications for WIFIA or other funding is urgently needed.

3. **In the hearing, you mentioned a "contaminant of the month" approach to addressing drinking water contaminants. How would a more holistic approach to addressing drinking water contaminants help water systems more efficiently achieve public health goals?**

We recommend that Congress consider an approach that would require EPA to establish drinking water standards, likely through treatment techniques, that would address a suite of contaminants together rather than considering them one at a time. More than 320 contaminants have been detected in the nation's drinking water, and with more than 42,000 chemicals actively in commerce in the United States, this is clearly a significant understatement as to the number of contaminants in our drinking water. It will take geologic time before EPA can regulate each of these chemicals using the current one-at-a-time approach. The agency has regulated about 100 contaminants in 52 years since the SDWA was enacted; at its current pace of about 2 contaminants per year, it would take 21,000 years for EPA to regulate the chemicals now actively in commerce.

Instead, we suggest that EPA adopt treatment techniques requiring comprehensive treatment that would remove a wide suite of contaminants simultaneously. For example, granular activated carbon, which Congress wrote into the statute as a "feasible" technology for controlling synthetic organic chemicals in SDWA §1412(b)(4)(D), can control a broad array of such chemicals. Other treatment technologies such as reverse osmosis are even more effective and can control not only organic but also virtually all inorganic and other contaminants. In addition to strong treatment techniques, incentives and funding to use such advanced technologies should also be written into the statute.

Congress in earlier SDWA legislative history suggested a total synthetic organic chemicals standard is needed (see for example statements of SDWA Amendments Conference Report

Floor managers Sens. Stafford (R-VT) and Durenberger (R-MN) at pp. 11657 & 11663, stating that EPA should adopt a total synthetic organics standard). The State of New York has adopted such standards for "principal organic contaminants" (5 ppb), for "unspecified organic contaminants" (50 ppb), and for the total of all of these organic contaminants (100 ppb) (unfortunately, New York's standards are set at levels so high that they capture only a small number of water systems and thus don't fully achieve the goal of a comprehensive synthetic organics standard.) *See,* N.Y. Comp. Codes R. & Regs. tit. 10, ch. I, pt. 5 §5-1.52 Table 3. We recommend that Congress consider requiring a total synthetic organics standard (such as a treatment technique), a total radiological contaminants standard, and a comprehensive microbiological contaminants standard particularly for storage and distribution systems.

4. **Drinking water systems have expressed concern over polluters contaminating water supplies, and the stress this contamination can put on water systems and ratepayers. What recommendations do you have for ensuring drinking water (including source water) is protected, and that the burden of cleanup is not shifted to communities?**

Polluters should pay to remove contaminants from source water and drinking water; these costs ideally should not be shifted to consumers. Of course, until there's a universal "polluter pays" approach in place which provides adequate and timely funding for all necessary treatment upgrades and operation and maintenance of those upgrades, we are stuck with a situation where ratepayers and/or other governmental sources of funding need to be used.

The SDWA should be amended to include both a polluter pays provision and strong source water protection requirements. A polluter pays provision would enact a cause of action for public water systems (PWSs), states, EPA and consumers to ensure that corporations that manufacture chemicals, such as PFAS manufacturers, and who were aware that the chemicals are dangerous and likely to contaminate PWSs, should pay for ongoing removal of those chemicals from drinking water supplies. A fee on PFAS manufacturers that would generate sufficient funds to fully pay for installation, operation and maintenance of PFAS treatment for all affected water systems and private wells could be an alternative option. Similarly, other polluters who are contaminating or threatening to contaminate water supplies should be required to pay to remove those contaminants, rather than consumers. Unfortunately, because of the lack of sufficient polluter pays laws today, consumers and taxpayers will need to foot the bill for removing these contaminants until the polluters can be held accountable.

EPA can use existing authority to help protect drinking water sources and shift the burden of clean up from water providers to the polluters themselves. For PFAS, EPA should create effluent limit guidelines for PFAS manufacturers and industrial users and finalize water quality criteria for PFAS. Further, EPA should publish EPA Method 1633A for use in NPDES permits and finalize the 2025 PFOA and PFOS Risk Assessment for sewage sludge and develop rules for testing and standards for PFAS in sludge under the Clean Water Act (CWA). Similarly, for nitrates, EPA should take action to ensure that nonpoint source and CAFO pollution control programs under the CWA are developed and enforced to protect source waters from significant nitrate contamination.

In addition, the weak source water protection provisions in the SDWA enacted in 1996 should

be built upon and substantially strengthened. First, PWSs should be required to comprehensively update—with public disclosure and input—their source water assessments, which generally have not been updated in more than two decades. Second, PWSs, states, and EPA should be authorized to regulate upstream or upgradient polluters who have contaminated or are threatening to contaminate a PWS's source water. Finally, as noted above, PWSs and those who drink their water should be authorized by a polluter pays provision added to the statute to bring a civil action in federal court to force upstream or upgradient polluters to pay to treat their water to ensure that the water meets drinking water standards and does not otherwise pose a health risk to consumers.

5. **What recommendations do you have for preventing a two-tiered system in our nation, where well-resourced communities have access to safe, reliable water, while those without resources are left with the quality of water they can afford? How can a permanent, federal water affordability program help achieve this goal?**

Congress should provide additional funding to assist disadvantaged and small water systems to pay for upgraded treatment and protection of their drinking water. As noted above, significant additional resources, certainly at least comparable to those provided in the IIJA, are urgently needed. In addition, strong incentives, funding, and technical assistance to help small and disadvantaged water systems to consolidate or otherwise restructure, with significant community input and participation, so that they can take advantage of the economies of scale and ensure reliable, high quality, and affordable drinking water for all of their customers. A two or even many-tiered water system already exists for schools and childcare centers in the U.S. Some states and school districts have taken action to address lead in drinking water by requiring certified lead filters while others have done nothing to address it. Congress should provide funding for installing and maintaining certified filters for schools and childcare centers. Finally, water already is unaffordable to some families, and it is inevitable that water rates will increase in the future, even without additional federal drinking water standards. As demonstrated by EPA's 2024 Water Affordability Needs Assessment Report to Congress, there is an urgent need for a permanent low-income household water assistance program that will help enable lower-income families to pay their water bills.

6. **How can Congress ensure better transparency regarding drinking water for communities?**

Public water systems provide a public service and should be accountable to their customers. Unfortunately, a paternalistic attitude has gradually suffused into many in the industry's psyches, and many utilities have chosen to hide the facts and failed to level with their consumers about water quality and other challenges. As we documented extensively in our comments on EPA's proposed updates for the "consumer confidence reports" rules, unfortunately many water systems have repeatedly made false and misleading statements to their consumers about the quality of their water and challenges faced by their water system. Rather than being honest with their consumers and treating them as intelligent adults, seeking support for improvements, increased expenditures, and possible rate increases they would necessitate, many water systems instead

choose a strategy of providing false reassurances or silence about their challenges.

This problem was highlighted when EPA recently proposed to prohibit PWSs from making "false or misleading statements" in their annual consumer confidence reports (often called annual water quality reports or right-to-know reports). After an outcry from the American Water Works Association and other water utilities and their trade associations, EPA relented and in its final updated rules for these reports and deleted this prohibition on false or misleading statements.

Congress should explicitly prohibit public water systems from making false or misleading statements to their customers in their annual water quality reports or other public statements provided to their consumers. In addition, Congress should create and fund Consumer Utility Bureaus (CUBs) in each state, which could act as ombudsmen for consumers, as well as providing oversight of PWSs to encourage them to regularly and honestly communicate with their consumers. The CUBs could be funded through a modest annual fee per thousand gallons of water paid by water systems over a certain size (perhaps 10,000 people).

Additionally, similar to past Congressional action requiring federal data collection on energy utility shutoffs for non-payment, which generated the first-ever comprehensive nationwide data on electric and gas shutoffs earlier this year, Congress should direct EPA to require water utilities to submit data on water shutoffs for non-payment and require EPA to publish such data. This would further help identify the need for a low-income water assistance program and help the public identify where local and state water shutoff policies need to be improved.

7. **Are there any other issues related to drinking water that this Committee should consider?**

A few additional issues we would recommend that Congress consider:

A. **Cybersecurity and resilience to extreme weather challenge water systems small and large is emerging as a major issue.** Cyberattacks of water systems have been publicly reported, and extreme weather including droughts, hurricanes, superstorms, and saltwater intrusion into coastal waters are increasing risks that require serious attention by Congress, EPA and the industry. We recommend that Congress require all public water systems to conduct a comprehensive and regularly updated cybersecurity and extreme weather resilience audit and plan, subject to state and EPA oversight and with federal funding support. The extreme weather audit and plan should be developed with significant public participation and input.

B. **Reauthorize funding for Lead in Water in Schools and Childcares.** BIL included $50 million/yr by FY26. This should be increased to at least $100 million/yr. It should be clarified that funding is for filtration stations with specific requirements discussed in my written testimony before the Committee.

C. **Enact a Permanent Low-Income Household Water Assistance Program.** Congress appropriated $1.2 billion for low-income water assistance during the COVID pandemic. BIL directed EPA to report to Congress on the need for rural and urban low-income community water assistance; the agency's 2024 Water Affordability Needs Assessment Report to Congress found widespread need for such help. Congress should establish a permanent low-income water assistance program akin to LIHEAP.

D. **Invest in technologies including broad-spectrum treatment and real-time and other advanced monitoring**.

E. Let citizens act immediately to force action on imminent health endangerment.

F. **Vigorously enforce the Safe Drinking Water Act and revise the citizen suit provision** in the Act to provide penalties, as already included under other environmental statutes such as the Clean Water Act and Clean Air Act.