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Nation's Environmental Stewardship Since 1974

November 4, 2022

U.S. Environmental Protection Agency
EPA Docket Center, OLEM Docket
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Docket ID No. EPA-HQ-OLEM-2019-0341

Dear Sir or Madam:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) appreciates the opportunity to provide comments regarding the U.S. Environmental Protection Agency's (EPA) Proposed Rule, Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Hazardous Substances.

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State program experts from all States who manage State-run Superfund programs under CERCLA.

Over the past several years ASTSWMO has requested that the EPA regulate Polyfluoroalkyl Substances (PFAS), including PFOA and PFOS, under CERCLA and commends the EPA for taking this important step to promote a consistent regulatory framework for PFOA and PFOS.^{1,2} In March 2021 ASTSWMO released a Position Paper (updated in November 2022 and enclosed with these comments), which recommends that EPA, after completing the listing of PFOA and PFOS, evaluate classes of PFAS that have common characteristics in order to expeditiously designate as many constituents as possible as CERCLA hazardous substances and RCRA hazardous constituents.³ Designation of additional PFAS would provide federal and State regulators with greater authority when considering the development of groundwater, soil and/or drinking water standards. This designation would also advance federal and State efforts to compel responsible and potentially responsible parties to investigate and remediate contamination nationwide, especially when private wells and public water systems are impacted.

¹ https://astswmo.org/files/Comments/2019-04-PFAS_Action_Plan_letter_States_Final.pdf

² <https://astswmo.org/files/Comments/2019-06-10-ASTSWMO-Letter-PFASGWRec-EPA.pdf>

³ <https://astswmo.org/astswmo-position-paper-addressing-pfas-2/>

ASTSWMO acknowledges that the proposed rule to designate PFOA and PFOS as CERCLA hazardous substances is generally in agreement with the ASTWMO November 2022 position paper addressing PFAS. The value of this designation derives from:

- creating a consistent national regulatory framework for the evaluation and cleanup of contaminated sites at a federal level;
- strengthening federal and State authority to hold polluters accountable by compelling responsible and potentially responsible parties to remediate PFOA and PFOS contamination in a complete and timely fashion;
- requiring facilities to report releases of PFOA and PFOS in excess of reportable quantities, which will lead to greater transparency and identification of potential releases. This will enhance the ability of federal, Tribal Nations, State, and local authorities to obtain information regarding the location and extent of releases;
- having a positive impact on Brownfields programs because the rule will provide clarification and consistency related to addressing PFAS during redevelopment; and
- improved knowledge and consistency, hopefully encouraging better waste handling due to potential liability.

However, ASTSWMO members do have concerns regarding the implementation of the proposed rule, which poses logistical challenges that are of significant concern to ASTSWMO membership. It is important that the EPA work hand in hand with States during the implementation of the proposed rule to ensure that State regulatory requirements and concerns are appropriately considered and addressed, and that appropriate attention is given to the impacts this implementation may have on already strained core functions of State programs. Some of the issues and questions associated with implementation that ASTSWMO has identified include, but are not limited to:

- clarification on the approach for addressing PFOA and PFOS at existing National Priority List (NPL) sites where they may be a concern;
- clarification on addressing PFOA and PFOS at NPL sites that are in the post-construction phase where the site management has been transferred to the States, namely around the issues of:
 - who will perform and fund initial sampling to determine if an issue exists;
 - who will re-engage responsible and potentially responsible parties;
 - whether the site will be addressed as fund lead;
 - what the implications may be when an existing remedy is not addressing PFOA and PFOS and it is determined to be an issue; and
 - what the impact will be on sites that are being proposed for delisting and whether there will be a requirement for PFOA and PFOS investigation;

- clarification on how enforcement discretion will be applied and how it will be considered during decision-making processes;
- clarification on how the reportable quantity amount is calculated and how will potentially overlapping sources be accounted for during this calculation; and
- how will reportable concentrations be considered in the release reporting/notification process.

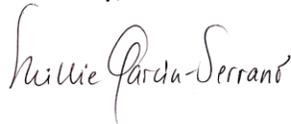
Overall, as movement is made toward better regulation and oversight of these contaminants, ASTSWMO membership recognizes a corresponding need for research, communication, and improved understanding within the following areas:

- development of human health and ecological toxicity values for PFAS;
- drinking water and wastewater treatment technologies;
- remediation technologies to remove PFAS from environmental media, to include groundwater, surface water, sediments, soil, and air;
- destruction and disposal technologies for PFAS-containing materials, and waste streams;
- solidification and stabilization technologies to minimize PFAS in landfill leachate and methods to assess treatment effectiveness to aid in addressing capacity limitations; and
- acceptable levels of PFAS in compost, biosolids, and industrial byproducts that are suitable for land application.

Development within the identified key research areas, along with advancing pollution prevention programs to support the reduction and removal of PFAS from use, needs to occur concurrently with the implementation of the CERCLA designation for PFOA and PFOS.

ASTSWMO appreciates EPA's efforts to address PFOA and PFOS contamination at the country's NPL sites. We look forward to participating in the continuing development of an effective national regulatory framework for PFAS contaminants in the environment. If you have any questions about these comments, please contact me at millie.garcia-serrano@mass.gov or (508) 946-2727.

Sincerely,



Millie Garcia-Serrano (MA)
ASTSWMO President

Enclosure

cc: Dania Rodriguez, ASTSWMO