ASTSWMO, Providing Pathways to Our Nation's Environmental Stewardship Since 1974

May 30, 2023

U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 2822IT
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: ASTSWMO Comments on U.S. EPA's Proposed PFAS National Priority Drinking Water Regulation; Docket ID No. EPA-HQ-OW-2022-0114

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 Per- and Polyfluoroalkyl Substances (PFAS) National Primary Drinking Water Regulation (NPDWR) Rulemaking. 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 programs under both the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA).

ASTSWMO commends the EPA for taking this important step to regulate perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), hexafluoropropylene oxide dimer acid (HFPO–DA) and its ammonium salt (also known as GenX chemicals), perfluorononanoic acid (PFNA), perfluorobutane sulfonic acid (PFBS), and mixtures of these PFAS under the Safe Drinking Water Act (SDWA) and is pleased to offer comments on this proposed regulation.

ASTSWMO's PFAS Position Paper, drafted by the Association's Contaminants of Emerging Concern (CEC) Steering Committee, and updated and approved by our Board in November 2022, recommends that EPA evaluate classes of PFAS that have common characteristics, to more expeditiously designate PFAS compounds as CERCLA hazardous substances and RCRA hazardous constituents. However, the summary document (EPA-822-P-23-004) distributed for

public comment on the combined Maximum Contaminant Level Goals (MCLGs) does not adequately explain why PFHxS, GenX chemicals, PFNA, and PFBS, four seemingly disparate PFAS, were selected. ASTSWMO recommends more careful consideration of PFAS functional groups, chain length, and toxic endpoints, and the use of a more-refined approach for the combined regulation of these chemicals.

EPA's promulgation of health-based MCLGs for the aforementioned PFAS compounds would 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 supply systems are impacted. This is a critical step for impacted communities' access to financial resources for costly mitigation and cleanup.

EPA needs to consider implementation of the proposed regulation, which poses financial, technological, logistical, and communication challenges that are of significant concern to the ASTSWMO membership, as follows:

1. **Cost Concerns:** EPA's cost analysis does not include costs that will be incurred under CERCLA or other remediation programs, which are likely to be significant. For example, for Superfund-financed sites, where there are no viable responsible parties, States will be responsible for cost-sharing obligations for remedial actions as well as 100% of the costs for long-term operation and maintenance of the remedies in perpetuity. Additionally, with this proposed regulation, the number of sites to be remediated is likely to increase significantly, requiring additional resources for States to perform and/or oversee the remedial activities.

2. **PFAS Disposal and Destruction:** ASTSWMO is concerned with the increase in the volume of PFAS-contaminated materials and waste streams that will result from this rulemaking. As EPA is aware, there are many existing challenges associated with the lack and/or limitations of destruction and disposal technologies for PFAS-containing materials and waste streams, including the outright prohibition of PFAS-containing materials destruction in some jurisdictions. Sending PFAS-containing materials to landfills is problematic, due to capacity issues and the lack of proven solidification and stabilization technologies to minimize PFAS in landfill leachate. Further, there remains uncertainty in the acceptable levels of PFAS in compost, biosolids, and industrial byproducts that are otherwise suitable for land application. ASTSWMO recommends that EPA prioritize the identification of effective treatment and disposal options and associated PFAS destruction research to ensure that PFAS contamination is safely disposed of, including finalization of EPA's interim *Guidance on the Destruction of and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfuoroalkyl Substances*.

3. **Consistency with State Standards**: More than a dozen States have promulgated groundwater and drinking water protection standards for one or more PFAS. Some State standards use a similar "hazard index" approach for combinations of PFAS and regulate

PFAS not included in the proposed MCLGs. EPA should confirm that the proposed federal MCLGs do not affect the applicability of State standards, in the context of their use as "Applicable or Relevant and Appropriate Requirements" (ARARs) in CERCLA cleanups.

4. **Risk Communication:** The proposed MCLGs are higher than EPA's 2022 Lifetime Health Advisories for the same PFAS contaminants. The proposed MCLGs are also considerably lower than the previous 2016 Health Advisory (still currently used as an action level by the Department of Defense), the May 2023 Regional Screening Levels (RSLs) used in the CERCLA program, and most of the drinking water standards promulgated by States. As such, we are extremely concerned about how to approach health risk communication with the public and stakeholders. ASTSWMO members face continual risk communication challenges, as they attempt to explain the myriad of different risk-based standards employed in different contexts to constituents who are justifiably concerned about PFAS concentrations in their drinking water. ASTSWMO requests a greater degree of consistency between the values issued by different offices of the EPA and more straightforward risk communication guidance. While this proposed drinking water rulemaking is extremely important to further the goal of regulating PFAS at a federal level, ASTSWMO recognizes that other regulatory programs (e.g., CERCLA, RCRA), and their respective decisions, rely on the science used to derive drinking water standards. ASTSWMO strongly urges more coordination across all EPA programs, particularly when developing other health-based standards in the future (e.g., soil, air).

5. **Analytical Laboratory Capacity**: ASTSWMO anticipates an increase in sampling and analysis, warranting the need for sufficient analytical laboratory capacity to not only address the needs of the public water suppliers regulated under the SDWA, but also the needs of site discovery and cleanup programs managed under CERCLA, RCRA, and the States' cleanup programs, among others. ASTSWMO recommends further communication between EPA and certified state and commercial laboratories to ensure that capacity issues do not impact PFAS analysis and site remediation.

Overall, as movement is made toward better regulation and oversight of these contaminants, ASTSWMO's 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, soil, and wastewater treatment technologies;
- finalization of PFAS-specific analytical methods to facilitate analysis of PFAS in surface water, groundwater, and other media;
- remediation technologies to remove PFAS from all environmental media;
- 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, wastewater sludge and industrial byproducts that are suitable for land application.

Advances in the key research areas listed above, along with establishing prevention programs to support the reduction and removal of PFAS from use, need to take place concurrently with this proposed rulemaking. More specifically, expanded coordination across all federal Agencies needs to be prioritized to reduce, and conceptually eliminate, PFAS present in consumer products and food supplies, which ultimately get into the water supplies and waste streams.

Finally, ASTSWMO recommends the development of guidance documents and training following the promulgation of the PFAS NPDWR, and to the extent possible, requests that some of the training modules provide a crosswalk between the SDWA rule and CERCLA and RCRA programs managed by our membership.

ASTSWMO appreciates EPA's efforts to address PFAS contamination through this rulemaking and looks 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

cc: Dania Rodriguez, ASTSWMO