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Thomas D. Croci
Acting Assistant Administrator
Office of Land and Emergency Management (OLEM)
Environmental Protection Agency
1200 Pennsylvania Avenue NW Washington, DC 20460

Via electronic submission

Re: Comments on EPA-HQ-OLEM-2020-0527 -- 2026 Interim PFAS Destruction and Disposal Guidance

Dear Mr. Croci:

The Association of Metropolitan Water Agencies (AMWA) is pleased to comment on the U.S. Environmental Protection Agency's (EPA) 2026 Interim PFAS Destruction and Disposal Guidance (Interim Guidance). AMWA represents the nation's largest publicly owned drinking water systems. Our member utilities each serve more than 100,000 customers and collectively provide safe drinking water to more than 160 million people across the United States. As large public water agencies, AMWA members are focused on effectively treating drinking water supplies impacted by per- and polyfluoroalkyl substances (PFAS) while ensuring that PFAS-containing residuals are managed in a manner that protects public health and the environment. We appreciate the opportunity to provide feedback as EPA evaluates how affected stakeholders manage PFAS-containing wastes and considers revisions to its Interim Guidance.

The Interim Guidance Does Not Provide the Certainty Public Water Systems Require Due to Potential CERCLA Liability

AMWA supports the Agency’s efforts to provide comprehensive management of PFAS-containing wastes through the Interim Guidance. However, the implementation of the 2024 PFAS National

Primary Drinking Water Regulations (NPDWR)[1] and the designation of PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)[2] collectively present significant challenges for drinking water systems without clear solutions.

First, the 2024 listing of PFOA and PFOS as hazardous substances under CERCLA imposes significant potential liability on public water systems that are required to remove PFOA and PFOS under the 2024 PFAS NPDWR. Meanwhile, the CERCLA listing authorizes the Agency to identify and remediate sites contaminated with these compounds through the Superfund program. Public water systems are "passive receivers" of PFAS, meaning systems do not participate in manufacturing the chemicals but must interact with them due to the responsibility of removing the contaminants from drinking water. Water systems, in addition to being passive receivers, bear no financial or material benefit from PFAS chemicals and only interact with the substances as part of their obligation to provide clean water to the public. Despite this reality, water systems may still be held liable as "potentially responsible parties" under the current CERCLA framework, exposing them to substantial remediation costs for fulfilling their obligations under SDWA.

While EPA has recognized this concern, Agency responses to date do not fully eliminate potential liability for water systems. Following the designation of PFOA and PFOS as hazardous substances, EPA released an "enforcement discretion" policy[3] that aimed to address potential complexities concerning passive receivers. The memo notes that EPA would concentrate the Agency's CERCLA enforcement activities related to PFAS on the entities responsible for contamination, including those entities that manufacture or use PFAS in manufacturing processes, federal facilities, and other industrial parties, rather than passive receivers like water systems. This policy, however, fails to provide permanent, legally binding, and full liability protections for water systems, given that Agency policy memoranda can be altered or withdrawn at any time, and case law to date dictates that guidance documents "do not have the force and effect of law."[4] Furthermore, potentially responsible parties face additional liabilities for cleanup costs under other sections of CERCLA. Specifically, water systems continue to be vulnerable to lawsuits from third parties who may bring a "private right of action" under section 107 of CERCLA, or a "contribution claim" under section 113, to attempt to recover costs from other entities that meet CERCLA's definition of "potentially responsible parties" for a given site.[5]

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[1] EPA. (April 26, 2024). Environmental Protection Agency. (2024). *PFAS National Primary Drinking Water Regulation*. *Federal Register, 89*(82), 32532–32757. https://www.federalregister.gov/documents/2024/04/26/2024-07773/pfas-national-primary-drinking-water-regulation.

[2] EPA. (July 8, 2024). Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances. https://www.govinfo.gov/content/pkg/FR-2024-05-08/pdf/2024-08547.pdf.

[3] EPA. (April 19, 2024). PFAS Enforcement Discretion and Settlement Policy under CERCLA. https://www.epa.gov/system/files/documents/2024-04/pfas-enforcement-discretion-settlement-policy-cercla.pdf.

[4] *Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 97 (2015) (quoting *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 99 (1995).

[5] Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(a) (2024).

These regulatory developments underscore the urgent need for clearer guidance and practical frameworks governing PFAS waste treatment and disposal. The absence of standardized treatment protocols, lack of accessible and abundant disposal or treatment facilities, and uncertainty regarding what constitutes effective destruction of these persistent compounds leaves utilities without sufficient direction on appropriate management, disposal, or destruction practices.

Relationship to Drinking Water Treatment

As public water systems implement treatment technologies to comply with the PFAS NPDWR and reduce concentrations of PFOA and PFOS to the Maximum Contaminant Level of 4 parts per trillion (ppt), they will generate a range of PFAS-containing residuals that require appropriate management. The most common residuals will include spent granular activated carbon (GAC), which many utilities are selecting as their primary treatment technology because of its demonstrated effectiveness and compatibility with existing treatment infrastructure. Additionally, GAC systems require backwashing of the media, requiring eventual treatment by downstream wastewater treatment facilities. Drinking water systems using ion exchange treatment will generate spent ion exchange resins that accumulate PFAS over time and require regeneration, destruction, or disposal. Utilities employing reverse osmosis or nanofiltration technologies will produce concentrated liquid waste streams, including brines and reject water, which contain elevated PFAS concentrations that present distinct disposal challenges. In addition, some systems may generate PFAS-containing residuals from alternative water treatment processes, including lime softening sludges, membrane cleaning wastes, and other solids produced through conventional treatment operations that capture or concentrate PFAS. The quantity and characteristics of these spent media and residuals will vary depending on source water quality, treatment configuration, and operational practices. Importantly, all residuals represent secondary waste streams that water systems have acquired due to their obligation to remove PFAS from drinking water to meet federal regulatory requirements.

Once public water systems generate PFAS-containing spent media as a result of treatment to comply with the PFAS NPDWR, they must determine how to manage these residuals throughout their entire lifecycle. Depending on the treatment technology employed and the disposal options available, utilities may temporarily store spent materials on site while awaiting transport, arrange for shipment to off-site facilities for reactivation, disposal, or destruction, or, in limited circumstances, pursue on-site destruction if technically and economically feasible. Storage of spent materials can also trigger regulatory requirements for storing hazardous waste. The challenges of on-site disposal are particularly acute for geographically isolated systems, including those located in Alaska and Hawaii and other remote areas. In addition, some utilities may encounter public opposition to transporting PFAS-containing residuals off site, resulting in pressure to manage these materials locally, while other utilities face opposition to local or onsite incineration due to concerns about impacts to local air quality. Each of these options presents distinct operational, logistical, and financial considerations, including access to appropriately permitted facilities, transportation requirements, available destruction capacity, and long-term liability concerns. As a result, water systems require practical and protective guidance from EPA to inform decisions regarding the storage, transport, and ultimate

management of PFAS-containing residuals, which the Agency has not fully provided in its Interim Guidance or other such guidance for water systems.

EPA could address uncertainty faced by water systems by creating supplemental user-focused guidance in addition to the Interim Guidance. For example, in 2024 the U.S. Government Accountability Office (GAO) found that utilities currently disposing of PFAS-containing wastes and those developing disposal plans would benefit from additional information regarding available disposal options and applicable regulatory requirements.[6] The report further noted that drinking water systems require greater clarity regarding the proper destruction and disposal of these materials to manage operational and liability risks effectively. Given the complexity of EPA's 158-page Interim Guidance and the implementation of the PFAS NPDWR, EPA should supplement the guidance with concise, user-oriented resources tailored to drinking water systems of varying sizes.

Feedback on Updates to the Interim Guidance

AMWA supports EPA's increased emphasis on site-specific risk assessment and appreciates the Agency's recognition of significant data gaps related to PFAS destruction and disposal. However, the risk assessment frameworks described in the Interim Guidance do not adequately account for the diversity of waste streams generated by drinking water treatment. Future iterations of the Interim Guidance should give additional consideration to PFAS-containing waste streams from drinking water treatment processes, such as reverse osmosis (RO) brines, conventional treatment residuals, and those from alternative treatment approaches, including lime softening.

Furthermore, the Interim Guidance does not present options that can adequately respond to the volume of PFAS-containing wastes from water systems and other sectors. EPA has previously recognized the substantial volume of PFAS-containing wastes already entering the nation's hazardous waste management system. In its National Capacity Assessment Report, EPA estimated that approximately 4.8 million kilograms (5,307 tons) of hazardous wastes likely to contain PFAS were transferred to commercial RCRA hazardous waste facilities for management in 2021.[7] The current Interim Guidance suggests that EPA anticipates a significant increase in demand for these disposal pathways as additional sectors generate PFAS-containing residuals. Specifically, in the draft Interim Guidance, the Agency identifies disposal in permitted Class I industrial or hazardous waste injection wells, placement in RCRA Subtitle C hazardous waste landfills, and thermal treatment using permitted hazardous waste combustors operating under specified conditions as management approaches that may present a comparatively lower potential for environmental releases of PFAS than other available methods, while addressing that these facilities are relatively low in number and geographically dispersed across the nation. This anticipated increase in reliance on a limited number

[6] GAO. (September, 2024). Report to Congressional Requesters. Persistent Chemicals Additional EPA Actions Could Help Water Systems Address PFAS in Drinking Water. https://www.gao.gov/assets/gao-24-106523.pdf.
[7] EPA. (January 24, 2025). *National Capacity Assessment Report Pursuant to CERCLA Section 104(c)(9)*. https://www.epa.gov/system/files/documents/2025-01/capacity_assessment_-report.pdf

of disposal and destruction options has important implications for drinking water systems as they evaluate PFAS treatment technologies.

Given the substantial volumes of PFAS-containing residuals expected to be generated nationwide and the limited number and geographic distribution of facilities capable of managing such wastes, these recommendations present significant feasibility and cost concerns for drinking water systems and other affected entities. Against the backdrop of CERCLA liability concerns, utilities may increasingly seek to minimize future exposure by directing wastes toward hazardous waste landfills and combustors, thereby placing additional strain on already limited disposal capacity.

Importance of Clear, Interim Decision Criteria for PFAS Disposal and Destruction

EPA states in the Interim Guidance that it "does not establish what concentrations of PFAS in wastes, spent products, or other materials or media would necessitate destruction or disposal," noting that regulatory mechanisms are more appropriate for establishing such thresholds. While regulatory action may ultimately be the appropriate venue for setting enforceable concentration limits, such mechanisms do not currently exist, and it remains uncertain when the Agency may propose them. In the absence of regulatory criteria or interim decision thresholds, drinking water systems lack clear direction for determining when PFAS-impacted materials generated through routine treatment operations and construction activities, and dewatering processes warrant destruction or disposal.

This gap in guidance creates significant uncertainty in operational decision-making and can lead utilities to adopt overly conservative disposal practices, including the use of Subtitle C hazardous waste landfills for materials with comparatively low PFAS concentrations, resulting in substantial financial and logistical burdens. Clear interim guidance identifying the factors EPA considers relevant to disposal or destruction decisions, including indicative concentration ranges or decision triggers, would improve consistency across utilities and support more risk-informed management of PFAS-containing wastes. Providing such clarity would help ensure that stakeholders can appropriately apply EPA's recommended destruction and disposal options while avoiding unnecessary escalation of disposal pathways in the absence of regulatory thresholds.

Limitations in Hazardous Waste Disposal Capacity

AMWA is concerned that the Interim Guidance's recommendations regarding RCRA Subtitle C disposal facilities may not reflect current capacity constraints. As demonstrated by EPA's Incident Waste Decision Support Tool, there are only 33 RCRA Subtitle C landfills operating nationwide, and these facilities are unevenly distributed geographically. [8] Conventional drinking water treatment residuals, in combination with biosolids and other PFAS-containing waste streams, could quickly overwhelm this limited capacity. While drinking water systems serve communities in every state, hazardous waste landfills remain relatively few in number and are often located considerable

[8] EPA. (2026). *Incident Waste Decision Support Tool (I-WASTE DST): Treatment and disposal facilities*. https://iwaste.epa.gov/treatment-disposal-facilities.

distances from the utilities expected to rely upon them; these availability issues will only be compounded as wastewater treatment facilities treat and dispose spent materials. Furthermore, the lack of PFAS hazardous waste threshold guidance from the EPA impacts the capacity concern among RCRA Subtitle C landfills as well as the disposal options for waste generators. This lack of guidance forces landfills and waste generators to determine their own acceptable disposal threshold criteria, which could drive an unwarranted increase in hazardous waste streams, especially for low PFAS-impacted wastes.

EPA Should Further Clarify Recommendations and PFAS Concentrations for Disposal at Various Landfill Types

EPA should clarify the decision criteria underlying its landfill disposal recommendations and define what constitutes "relatively high" PFAS concentrations in waste. The draft Interim Guidance recommends RCRA Subtitle C landfill disposal when PFAS levels in waste are "relatively high," while discouraging municipal solid waste (MSW) landfill disposal for media containing relatively high concentrations of soluble or volatile PFAS. However, EPA does not provide quantitative thresholds, screening levels, or comparative benchmarks for water systems to operationalize these terms. This lack of definition is particularly important given that PFOA and PFOS are not currently listed as hazardous constituents under RCRA,[9] raising questions regarding the regulatory or risk-based basis for directing certain PFAS wastes to Subtitle C facilities in the absence of a hazardous waste designation.

The absence of quantitative criteria limits the practical utility of the guidance for drinking water systems managing spent treatment media. Although the Interim Guidance references "relatively low" conditions in other contexts, the Guidance does not similarly define PFAS concentration ranges for disposal decisions, leaving utilities without a consistent basis for distinguishing among landfill types. In addition, Figure 3-2, the disposal decision framework, is not sufficiently detailed for operational use because it does not indicate whether disposal pathways are intended to be qualitative or tied to measurable concentration thresholds.

The update guidance should therefore establish clear concentration ranges or screening levels to define "relatively high" PFAS concentrations, explain the risk-based rationale for recommending Subtitle C disposal in the absence of a RCRA hazardous waste listing for PFOA and PFOS, and revise Figure 3-2 to include explicit, operational decision criteria that can be consistently applied by water systems managing PFAS-containing residuals.

[9] EPA. (2024). *Proposal to list nine per- and polyfluoroalkyl compounds as Resource Conservation and Recovery Act hazardous constituents (RIN 2050-AH26)*. https://www.epa.gov/hw/proposal-list-nine-and-polyfluoroalkyl-compounds-resource-conservation-and-recovery-act

Thermal Treatment Considerations

AMWA supports EPA's recognition that effective thermal treatment requires conditions sufficient to achieve complete destruction of PFAS. Future guidance should continue emphasizing best practices necessary to ensure full thermal destruction. However, the practical limitations associated with existing combustion capacity warrant further consideration.

EPA's National Capacity Assessment Report indicates that there are only 22 commercial hazardous waste combustor facilities currently operating in the United States for small and very small hazardous waste generators.[10] If drinking water systems and other entities are expected to direct PFAS-containing wastes to these facilities, existing capacity constraints may significantly limit the feasibility of this recommendation. Similarly, in the draft Interim Guidance, EPA notes that approximately a dozen large-scale companies and utilities currently reactivate substantial quantities of spent GAC using roughly 17 commercial furnaces.[11] These limitations highlight the need for realistic expectations regarding the implementation of preferred disposal practices.

Concerns Regarding Deep Well Injection

AMWA remains concerned about the use of deep well injection as a management strategy for PFAS-containing wastes. The Interim Guidance identifies Class I non-hazardous industrial and hazardous waste wells as relatively low-risk options for managing high-concentration liquid PFAS wastes. While AMWA recognizes that this approach may offer a disposal pathway under certain circumstances, concerns remain regarding its long-term viability and implications for groundwater protection.

For drinking water systems, deep well injection would primarily apply to certain waste streams generated through reverse osmosis treatment. AMWA is concerned about the long-term fate and transport of PFAS in Class I hazardous waste wells and continues to express a preference for management approaches that achieve complete destruction of these compounds where feasible. EPA should continue evaluating the long-term effectiveness and potential environmental consequences associated with underground injection before further promoting this option as a preferred management strategy.

[10] EPA. (January 24, 2025). Exhibit A-1a Commercial Hazardous Waste Energy Recovery Facilities – Demand. *National Capacity Assessment Report Pursuant to CERCLA Section 104(c)(9)*. https://www.epa.gov/system/files/documents/2025-01/capacity_assessment_-report.pdf

[11] EPA. (April 20, 2026). *Interim Guidance for Public Comment: Technologies for the Destruction and Disposal of PFAS and PFAS-Containing Materials*. https://www.epa.gov/system/files/documents/2026-04/2026-interim-guidance-on-pfas-destruction-and-disposal.pdf/.

Conclusion

AMWA appreciates EPA's efforts to address the complex challenges associated with PFAS destruction and disposal and thanks the Agency for the opportunity to comment on the Interim Guidance. As drinking water systems continue implementing treatment technologies necessary to comply with the PFAS NPDWR, it is essential that EPA provide practical, scientifically grounded, and implementable guidance that reflects existing infrastructure limitations, acknowledges utility liability concerns, and supports the continued protection of public health and the environment.

Sincerely,

Tom Dobbins
Chief Executive Officer

cc: Jonathan J. Tso, Office of Superfund and Emergency Management