



**ASSOCIATION OF
METROPOLITAN
WATER AGENCIES**

LEADERS IN WATER

1620 I Street NW, Suite 500
Washington, DC 20006

P 202.505.1565
amwa.net

April 8, 2024

Narendra Chaudhari
Office of Resource Conservation and Recovery
Environmental Protection Agency
Mail Code: 5304T
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Submitted via Regulations.gov

RE: Comments on Proposed Listing of Specific PFAS as Hazardous Constituents (Docket ID No.: EPA-HQ-OLEM-2023-0278)

Dear Mr. Chaudhari,

The Association of Metropolitan Water Agencies (AMWA), an organization representing the largest publicly owned drinking water utilities in the United States, appreciates the opportunity to comment on EPA’s Proposed Listing of Specific PFAS as Hazardous Constituents (Docket ID No.: EPA-HQ-OLEM-2023-0278).

AMWA has previously commented on EPA’s many efforts related to PFAS, noting in various ways that the burdens of pollution remediation should not be placed on community water systems or ratepayers, but rather on the polluters. AMWA urges EPA to focus its resources on incentivizing pollution prevention and regulating per- and polyfluoroalkyl substances (PFAS) pollution where it is manufactured and/or used, rather than putting the entirety of burdens on passive receivers. It is easier and more cost effective to prevent chemical discharges from entering the nation’s waterways than trying to remediate pollution downstream. EPA must do more to hold polluters accountable and implement the “polluter pays” principle, where those causing pollution are responsible for the cost of clean-up.

BOARD OF DIRECTORS

PRESIDENT

John Entsminger
Las Vegas Valley Water Dist.

Julie Anderson
Denver Water

Edward Campbell
Portland Water Bureau

Yann Le Gouellec
Newport News Waterworks

Timothy Thomure
Tucson Water

VICE PRESIDENT

Jeffrey Szabo
Suffolk County Water Authority

Verna Arnette
Beaufort-Jasper Water & Sewer Authority

Shane Chapman
Metropolitan Water District of Southern California

Angela Licata
New York City Department of Environmental Protection

TREASURER

Calvin Farr
Prince William County Service Authority

Cathy Bailey
Greater Cincinnati Water Works

Scott Dewhirst
Tacoma Water

Holly Rosenthal
Phoenix Water Services Department

SECRETARY

Lindsey Rechten
Northern Kentucky Water District

Tad Bohannon
Central Arkansas Water

Randy E. Hayman
Philadelphia Water Department

Brian Steglitz
Ann Arbor Water

CHIEF EXECUTIVE OFFICER

Tom Dobbins

Chris Browning
Oklahoma City Water Utilities Trust

Ghassan Korban
Sewerage and Water Board of New Orleans

Todd Swingle
Toho Water

AMWA applauds EPA for its proposal to list nine PFAS (perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), perfluorobutanesulfonic acid (PFBS), hexafluoropropylene oxide-dimer acid (HFPO-DA or GenX), perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), perfluorodecanoic acid (PFDA), perfluorohexanoic acid (PFHxA), and perfluorobutanoic acid (PFBA,)) under RCRA but asks EPA to make clear its intentions to identifying PFAS compounds as hazardous waste and more thoroughly consider the implications of this listing across the RCRA program. For example, although EPA says in its preamble that the addition of the nine PFAS constituents to the list in 40 CFR 261 Appendix VIII would have little impact on the RCRA Program other than with respect to Corrective Action, the Appendix VIII list is also referenced in the Land Disposal Restrictions language in 40 CFR 268.2(b) and in the RCRA requirements for hazardous waste Incinerators in 40 CFR 264 Subpart O and 40 CFR 265 Subpart O.

The listing of nine PFAS as hazardous constituents under RCRA will likely increase the pressure on waste management facilities and subsequently the water systems that rely on them for management of PFAS-containing treatment waste. EPA must recognize that the current uncertainty related to the disposal of water treatment residuals containing PFAS is affecting the cost of drinking water treatment. Drinking water utilities may generate waste contaminated with PFAS via drinking water treatment, and without clear guidance on how PFAS-containing wastes should be handled, many disposal facilities are increasing tipping fees or refusing to accept water treatment residual wastes with PFAS, given this uncertainty about potential RCRA liability and/or permitting applications for PFAS compounds. The impacts of this uncertainty in turn affects the overall costs to households and communities for drinking water treatment.

As noted in [AMWA's May 30, 2023 comments](#) on EPA's proposal for the National Primary Drinking Water Regulation for PFAS, it is incorrect for EPA to assume that the designation of PFAS compounds as hazardous substances will result in insignificant impacts to the affordability of drinking water. EPA's own analysis in the NPDWR proposal (tables 22 and 23 in the preamble) estimates that the total annual household cost could increase as much as 9.4% to 14% to cover the cost of new granular activated carbon filtration treatment systems, up to \$100 more a year, if PFAS are designated as hazardous substances under CERCLA and hazardous constituents under RCRA. To say such increases are insignificant disregards hardships the public faces and the difficult financial situations many households are in, particularly in rural and less advantaged communities that will see the highest of these increases.

In closing, AMWA reiterates the importance that EPA take actions to better identify sources of PFAS in the environment and work to limit these discharges. The agency has recognized the persistent nature of these chemicals; therefore, it should be working toward prevention, as disposal is not a viable long-term option. Considering a systems approach for how all the environmental laws under EPA's authority can be used to mitigate PFAS pollution is paramount.

If you have any questions about these comments, please contact Erica Brown, Chief Policy and Strategy Officer at brown@amwa.net.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Dobbins".

Tom Dobbins
Chief Executive Officer

Cc: Bruno Pigott, EPA OW
Jennifer McLain, EPA OGWDW
Zach Schafer, EPA OW