ASDWA
Association of State Drinking Water Administrators

October 30, 2018

Kelly Collins
Legislative Clerk
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Ms. Collins:

As requested, as President of the Association of State Drinking Water Administrators (ASDWA) and Director of the Bureau of Safe Drinking Water for Pennsylvania's Department of Environmental Protection, attached are my responses to the questions posed by Chairman Shimkus and the Honorable Richard Hudson in your letter of October 16, 2018. The questions resulted from my testimony before the Subcommittee on Environment during the September 6, 2018 hearing titled "Perfluorinated Chemicals in the Environment: An Update on the Response to Contamination and Challenges Presented." Our thanks to Chairman Shimkus and the Subcommittee for the opportunity to testify and provide additional information.

Thank you again for inviting us to provide additional information on these important drinking water issues. If you have additional questions, or need any additional information, please feel free to contact me at [redacted], or Alan Roberson, ASDWA's Executive Director at [redacted].

Sincerely,

[redacted]

Lisa Daniels, ASDWA President and
Director, Bureau of Safe Drinking Water, Pennsylvania Department of Environmental Protection

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

1401 WILSON BLVD · SUITE 1225 · ARLINGTON, VA 22209
PHONE (703) 812-9505 · FAX (703) 812-9506 · info@asdwa.org · www.asdwa.or

Attachment-Additional Questions for the Record

The Honorable John Shimkus

1. Your testimony mentions obtaining toxicity values for newly manufactured PFAS chemicals. I understand we don't have those kinds of values on the majority of existing PFAS compounds.

a. If true, how should we treat them?

Answer: The information requested during EPA's approval process for newly manufactured chemicals is inadequate for PFAS compounds. ASDWA recommends that manufacturers be required to develop toxicity values and provide public health and environmental data before any new chemicals are approved by EPA and start production and distribution. Toxicity values are only a starting point for evaluating the environmental safety of a chemical and the public health risks. EPA should also develop analytical methods for drinking water and other media (e.g., ambient water, wastewater, and solid waste) as well as assuring adequate laboratory capacity, as part of the new chemical approval process.

Once new chemicals are approved, the information used by EPA for evaluation must be available to state primacy agencies upon request. This is especially critical for chemicals that are highly water soluble, mobile, persistent and bioaccumulative. As an example, the replacement chemicals for PFOA and PFOS, such as GenX, demonstrate where the new chemical approval process has failed.

For existing PFAS compounds, EPA should share data provided by industry on toxicity, environmental fate and transport, public health effects, bioaccumulation, and testing methods with state primacy agencies. Consideration should also be given for assessing toxicity values for groups of chemicals (long-chain vs. short-chain, etc.) where possible. The applied scientific processes for risk assessment of groups is still evolving, and that research needs to be a high priority.

2. Your testimony talks about the ATSDR's draft minimal risk level. Dr. Grevatt tried to differentiate between the lifetime level set with the EPA health advisory and the daily intake amount being suggested by ATSDR.

a. How does your State or other drinking water officials use that level in terms of setting its standards?

Answer: Most states do not set their own standards for contaminants. However, the ATSDR minimal risk levels (MRLs) that are used for screening purposes from all media could be used as one of several considerations for developing action levels or standards if states have the authority and desire to do so. In Pennsylvania, the drinking water program does not use ATSDR's draft minimal risk levels for its own standard-setting. Our authority is limited to using EPA's health advisory levels (HALs), which are expressed as a concentration over a lifetime.

3. How many states are prevented from being more stringent than the Federal government?

Answer: Pennsylvania has authority to be more stringent than federal standards and can set state MCLs, if warranted. According to a 2002 ASDWA State Regulatory Stringency Survey, only two (2) states that said they could not be more stringent than the federal government and were also restricted from developing their own standards. However, even if states are not restricted from developing their own standards, many states do not have the breadth and depth of scientific and technical knowledge for their own research and development programs, laboratory accreditation programs, or the ability to develop analytical testing methods. The standards development process is under EPA's purview and states have not developed the capacity to institutionalize this process on their own as part of the traditional state drinking water program responsibilities. It would be duplicative for states to develop these capabilities in lieu of EPA, as that's why the U.S. has National Primary Drinking Water Regulations (NPDWRs) and a defined SDWA regulatory development process.

a. Do they have other ways to try and tackle this issue'?

Answer: Pennsylvania and many other states are currently enforcing EPA's HAL of 70 parts per trillion (ppt) for PFOS and PFOA.

b. Is this- issue serious enough that they should ask EPA to issue an imminent hazard action under section 1431 of the Safe Drinking Water Act?

Answer: ASDWA does not recommend that EPA use a SDWA Section 1431 hazard action for PFAS, except for federal facilities. We do not believe Section 1431 hazard action is appropriate in this case because many states are acting based on best available science that they have, to meet the needs of their residents.

4. Your testimony argues that EPA should at sometime soon make a determination to regulate PFAS.

a. Are you suggesting this about PFOA and PFOS, or all 3,500 plus PFAS chemicals?

Answer: Currently, ASDWA recommends that EPA move forward with a regulatory determination for PFOS and PFOA, or possibly the group of similar long-chain PFAS. ASDWA recommends that more health effects, occurrence, and treatment data be collected prior to considering a regulatory determination for any of the remaining 3,500 plus PFAS compounds.

b. If you were asked to make an argument in view of the unregulated contaminant monitoring data that regulating PFAS should be done because it represents a meaningful opportunity for health risk reduction," what would your argument be?

Answer: From a survey by the Environmental Council of States (ECOS), PFAS have been found in 38 of 50 states. Historically, EPA has interpreted the SDWA terminology "meaningful opportunity for health risk reduction" to equate to a specific percentage of

impacted water systems. ASDWA recommends that, as an additional factor in its decision-making, EPA consider the number of states in which a contaminant occurs as a potential basis for such risk reduction – other numerical options besides a percentage of systems impacted need to be considered as part of EPA's regulatory development process. Because there are locations throughout the country that do not have drinking water impacts from PFAS, it may not be appropriate to require universal monitoring and sampling as part of a national regulation. Monitoring waivers will likely need to be a component of any national PFAS regulation.

5. How would you design the coordinated Federal framework of which you speak?

a. Does Dr. Grevatt's explanation of the PFAS Framework meet the needs of your concerns?

Answer: ASDWA cannot answer this question because EPA has not released their PFAS management plan. ASDWA recommends that EPA streamline the current process to expedite decision making or develop an alternative mechanism to address emerging and unregulated contaminants. The SDWA is designed for regulating contaminants that are found across the country, and 38 out of 50 states is certainly a high percentage (76%) of states that are impacted, and that percentage is likely to increase over time.

ASDWA recommends that EPA coordinate analytical method development to ensure methods are available for all media and coordinate treatment development and deployment to ensure removal and disposal from all media. All federal agencies should coordinate control measures to limit the public's exposure to these chemicals before they enter the environment. ASDWA welcomes the opportunity to work with EPA on these recommendations.

6. What do you mean when you testify that EPA should "take other steps to control and limit PFAS contamination of the environment and the public's drinking water"?

Answer: ASDWA recommends federal agencies take appropriate steps to control and limit the ongoing use of PFAS in commerce. ASDWA recommends reviewing the authorities under TSCA, FDCA, FIFRA, RCRA, CERCLA, CWA, CAA and other statutes to limit the public's exposure to PFAS and other potentially harmful chemicals. ASDWA believes EPA should be the lead agency on coordinating with the other federal programs, both regulatory and non-regulatory.

b. From a legislative perspective, how would you expand EPA's PFAS focus across all EPA programs?

Answer: EPA should work internally to share information across all relevant programs for potentially toxic chemicals that set off red flags – those that are highly mobile, persistent, and bioaccumulative. Legislatively, we would appreciate increase research funding to answer the myriad of questions on health effects, occurrence and treatment for the 3,500 plus PFAS chemicals.

7. Scientifically speaking, is PFAS the most significant drinking water concern facing state regulators?

Answer: In the context of emerging contaminants, yes, PFAS is the most significant issue based on both use and occurrence. The chemicals are still widely used and should be expected to be found everywhere. The science remains incomplete on human health effects. More studies and data are needed on both health effects and occurrence to inform regulation. However, the biggest health risks are from other more acute threats such as bacteria and viruses, as well as other chemicals such as lead. From a scientific standpoint, we know PFAS compounds are a problem, but we don't have enough information to elevate their priority above known risks.

Attachment 2-Membcr Requests for the Record

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Richard Hudson

1. During the first panel today, Dr. Grevatt from EPA mentioned the states could use their SRFs if they choose to address PFAS contamination. Do you know how many states already do this?

Answer: ASDWA does not have data on the number of states using their SRFs to address PFAS concerns. Pennsylvania used SRF state-only revolving funds to provide a grant (principal forgiveness) to Horsham Water & Sewer Authority to install GAC treatment.

We believe that federal SRF funds can be used for treatment, provided the levels are above EPA's HAL of 70 ppt. ASDWA does not believe that federal funds should be used to fund water system treatment for PFAS levels below 70 ppt. Any treatment costs to reach a target level below 70 ppt should be paid for by the customers who are making the choice to reach that target level.

Because there is no federal PFAS MCL, the SRF applications for PFAS treatment may not rank high enough to be funded. Use of the SRF is directed at water system needs that may be of greater concern than PFAS treatment. However, state SRF funds can be used to monitor for PFAS. Most states have already maximized the use of their SRFs that don't take PFAS into account. Use of the SRF for PFAS would constrain its use for other purposes.