



December 4, 2018

Docket EPA-HQ-OW-2018-0594
Water Docket
Environmental Protection Agency
Mail Code: 2822T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

To Whom it May Concern:

In response to the notice in the *Federal Register* of October 5, 2018 (83 FR 50364), the Association of State Drinking Water Administrators (ASDWA) is offering recommendations to the U.S. Environmental Protection Agency (EPA) for the Fifth Contaminant Candidate List (CCL5). ASDWA is the professional Association that represents the collective interests of the drinking water programs in the states, territories, Navajo Nation, and District of Columbia that are responsible for implementation of the Safe Drinking Water Act (SDWA). The regulatory determinations that will ultimately be made on the contaminants on this list can significantly impact the future activity of state drinking water programs as they continue to implement the SDWA. The path to optimal regulatory decisions in the future begins with this list and the contaminants that are included in the final CCL5 need to be carefully selected. ASDWA asks that you carefully consider these recommendations as the Agency finalizes CCL5.

Contaminants to Include on CCL5:

Because of the challenges states are currently facing with per- and polyfluoroalkyl substances (PFAS), ASDWA recommends that PFAS, as a group, should be included in the final CCL5. Although perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) were included on the final CCL4 and monitored (with four other PFAS) under the third Unregulated Contaminant Monitoring Rule (UCMR3), PFAS, as a group, should be included in the final CCL5 to provide a potential path for a holistic solution to this vexing environmental problem. Precedent exists for listing groups on CCLs with the inclusion of cyanotoxins as a group on the Final CCL4 in 2016 (83 FR 81099).

The Agency has recently updated EPA Method 537.1 to include an additional four PFAS, including GenX, hexafluoropropylene oxide dimer acid (HFPO-DA). Besides GenX, EPA Method 537.1 can now test for three additional PFAS [11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS), 9-chlorohexadecafluoro-3-oxanone-1-sulfonic acid (9Cl-PF3ONS), and 4,8-dioxa-3H-perfluorononanoic acid (ADONA)]. EPA Method 537.1 can now test for 18 PFAS in drinking water, which is an important step in

assessing the public's exposure to a broader range of PFAS and providing holistic solutions to the PFAS problems. In prior informal input to EPA for the Fifth Unregulated Contaminant Monitoring Rule (UCMR5), ASDWA has also recommended the inclusion of PFAS in the final UCMR5, using updated PFAS EPA Methods that will be available at that point in the future.

While some individual PFAS could be easy additions for various reasons, ASDWA recommends that PFAS be included in the final CCL5 as a group. For example, PFHxS appears to have significant occurrence, GenX has generated much media attention, and PFBA will not necessarily be removed by treatment installed for PFOA and PFOS. However, there are literally thousands of potential drinking water contaminants in this group and adding them one by one is not going to be constructive for the long-term. Including the group on the final CCL5 (in addition to individual PFAS that can be analyzed for currently) will help EPA maintain focus on these emerging contaminants together, at least initially, and begin to consider what regulatory actions may be appropriate. Finally, with health-based values in the parts per trillion range, emphasis should also be placed on achieving the lowest reliable quantitation limits possible.

Comments on the CCL Process:

ASDWA continues to support the regulatory development process (CCL, UCMR, Regulatory Determination, 6-Year Review) established in the 1996 SDWA Amendments. A science-based process that uses the best-available, peer-reviewed science to make regulatory determinations only after considering health effects, analytical methods, occurrence, and treatment data will ultimately lead to a national regulation that can improve public health protection. ASDWA strongly supports this process, as it is vastly preferable to regulating based on arbitrary target numbers or focusing on contaminants with high media profiles. However, that doesn't mean the process can't be improved or optimized from its current state. Many have pointed out that the process has not yet produced any new regulated contaminants since 1996. ASDWA does not necessarily assume this is a bad thing, as some have suggested, as many contaminants that were found to NOT have national occurrence and NOT warrant a national regulation have NOT been regulated. But because the CCL/Regulatory Determination process has not resulted in a national primary drinking water standard, it does indicate that the process needs some scrutiny, with attention to streamlining.

Streamlining and/or optimizing the current regulatory development process is critical as the current process is not meeting the public's expectation of EPA and ASDWA's members as drinking water regulators. The public expects a timely and systematic process for identifying potential contaminants that need regulation and for developing an appropriate national regulation. States are being forced by state-level laws and/or public pressure to develop their own state-level regulations in the absence of national regulations. Resources at the states are being diverted from their core drinking water programs into their own regulatory development processes. This resource drain is being replicated in multiple states, and that's not an effective use of limited resources.

One starting point may be reducing the size of the CCL. While ASDWA recommends at least one addition (PFAS as a group) for CCL5, we believe a shorter, more focused list might help move high priority contaminants forward more efficiently. ASDWA recognizes that resources at EPA for regulatory development are limited and not likely to increase in the near term. EPA should focus on gaining the highest effectiveness and efficiency in the regulatory process - starting with prioritizing the CCL. Although a case could be made for potentially making regulatory determinations for all 109 contaminants on CCL4, prioritizing contaminants with the strongest case and focusing efforts on a smaller pool would increase efficiency and progress. EPA should work to identify the candidates which have growing evidence of significant health effects and/or have indicators which point to increasing occurrence in drinking water and remove contaminants that do not meet that criteria. Undertaking a process to reduce the length of the CCL will take some effort but it will have long term benefits and eventual savings. ASDWA and states are willing to help with this process, and other industry stakeholders will likely have a similar interest. By reforming and improving the CCL, EPA will strengthen the regulatory development process and signal to stakeholders and the public that the CCL process is effective, science-based, and working to increase public health protection.

In closing, ASDWA is pleased to provide input on CCL5 and appreciates the Agency's consideration of our recommendations. We also ask that you pay particular attention to the recommendations on reforming the regulatory process and involving states in this process. Please contact me at 703-812-9507 or aroberson@asdwa.org if we can provide additional information or if any clarification of these recommendations is needed.

Sincerely,



J. Alan Roberson, P.E.
Executive Director

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