



ECOS

# Environmental Council of the States

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June 10, 2020

Mr. Richard Weisman  
Standards and Risk Management Division  
Office of Ground Water and Drinking Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Re: Comments on the Per- and Polyfluoroalkyl Substances Preliminary Regulatory Determinations for Contaminants on the Fourth Drinking Water Contaminant Candidate List (Docket ID No. [EPA-HQ-OW-2019-0583](#))

Dear Mr. Weisman,

The Environmental Council of States (ECOS) appreciates this opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) preliminary regulatory determinations on the fourth drinking water Contaminant Candidate List. ECOS supports EPA's actions for the two per- and polyfluoroalkyl substances (PFAS) that the Agency proposes to regulate under the Safe Drinking Water Act. ECOS also supports action on other PFAS and, in this letter, provides potential regulatory considerations.

ECOS represents the leaders of the state and territorial environmental agencies, many of which are actively engaged in numerous PFAS issues, especially the issue of PFAS in drinking water, about which these comments are primarily concerned. In the past couple of years, ECOS has led numerous PFAS coordination efforts among its members, as well as with federal partners and other stakeholders. While several states will submit individual comments on these preliminary determinations, ECOS believes it is important to share some collective feedback on behalf of its members to reiterate the importance of co-regulation and partnership on this crucial issue.

ECOS commends EPA for making its positive preliminary determinations to promulgate National Primary Drinking Water Regulations (NPDWRs) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). PFAS pose a number of complex challenges including: persistence in the environment and the human body; animal and health effects at low doses; a lack of toxicological data for most PFAS detected in the environment and used in commerce; ubiquitous detection in blood sampling; lack of routine analytical methods for many PFAS; and technical obstacles for remediation. Uncertainty about regulatory and policy development at the federal level, leading to and/or coupled with regulatory and policy landscapes that vary by state only compound these challenges. While the nature of PFAS means there will always be complexity, establishing NPDWRs and continued coordination with states and stakeholders will help reduce unnecessary complexity and protect public health and the environment.

ECOS, therefore, urges the Agency to consider evaluating PFAS other than PFOA and PFOS, for potential promulgation of NPDWRs. In particular, EPA should look at the long-chain PFAS compounds identified in the third round of the Unregulated Contaminant Monitoring Rule and others regulated in a handful of states. Doing so will mirror existing efforts and will help both state and federal regulators to bundle sampling efforts and apply existing data or approaches to their PFAS action plans.

As EPA develops the NPDWRs, ECOS asks that the Agency consider the array of established state standards and guidelines, many of which are set lower than EPA's Health Advisory Level (HAL) of 70 parts per trillion (ppt) for PFOA and PFOS, individually or combined, in drinking water. This will require the Agency to update its PFAS health assessments using studies, exposure models, and evaluations released after it published the

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HAL in 2016. As outlined in ECOS' February 2020 [white paper](#) on processes and considerations for setting state PFAS standards, at least:

- 15 states have a guideline for at least one PFAS analyte in at least one environmental medium;
- Six states have enacted or proposed enforceable maximum contaminant levels (MCLs) for PFAS in drinking water; and
- Seven states have standards or guidelines for PFAS in drinking water that are significantly lower than EPA's HAL.

The white paper suggests that many factors contribute to the establishment of PFAS guidelines, and that it is important to consider the risk assessment approaches and conclusions taken by some states, which have resulted in the development of standards that are more stringent than the federal standard and enforceable at the state level.

Furthermore, while many states regulate PFAS individually, the Agency should consult states as to whether a grouped regulatory approach is appropriate for PFAS with similar exposure and risk concerns. There are several long-chain PFAS that are often found together in the environment, have similar chemical structures, and have known health effects and occurrence data indicating similar toxicological effects and correlated human exposures. Ultimately, evaluating numerous PFAS individually is infeasible. If EPA learns that additional long-chain PFAS occur in concentrations similar to those that have established guidelines, then federal regulators will be able to prioritize research and group PFAS for standards development. ECOS recommends that EPA consult individual states, as well as organizations like the Association of State Drinking Water Administrators, for recommendations regarding specific grouping and treatment techniques for lesser known PFAS.

The positive regulatory determination demonstrates that EPA believes that PFOA and PFOS warrant regulation due to their adverse human health effects, frequent prevalence in public water systems, and opportunities for risk reduction. Therefore, ECOS encourages EPA to develop its NPDWRs for these and the other long-chain PFAS as indicated above as soon as possible and in continued coordination with its research and regulatory partners, including states, other federal agencies, academia, and industry. States with less capacity or resources to effectively regulate PFAS are relying on the establishment of enforceable federal standards, as well as on the financial support for monitoring and managing PFAS in rural systems and the agricultural sector. The sooner such standards are available and challenges are addressed, the less public confusion and regulatory complexity there will be.

Finally, while ECOS understands that EPA is only seeking comment on the NPDWRs at this time, states would like to re-emphasize the importance of other Agency efforts to develop criteria applicable to these and other PFAS compounds (e.g., "Gen-X") in other environmental media, including surface water, groundwater, soil, and air. ECOS urges the Agency to continue to use authorities granted under the amended Toxic Substances Control Act and other federal statutes to regulate PFAS and prevent entry of the compounds into the environment.

In conclusion, ECOS would like to reiterate the importance of EPA's consideration of state guidelines and their underlying toxicology and standard-setting processes, as well as the availability of states as partners in this process, before it develops its final NPDWRs. If you would like to speak with ECOS about these comments, please contact me at [dwelsh@ecos.org](mailto:dwelsh@ecos.org) or 202-266-4929.

Sincerely,



Donald Welsh