

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

June 10, 2019

VIA FEDERAL RULEMAKING PORTAL

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Comments on Proposed Draft Interim Recommendations for
Addressing Groundwater Contaminated with PFOA and PFOS;
EPA Docket Number EPA-HQ-OLEM-2019-0229

Dear Administrator Wheeler:

As the Attorney General for the State of Michigan, I am responding to the United States Environmental Protection Agency's (EPA) invitation to provide comments on the EPA's draft interim screening and cleanup standards for per- and polyfluoroalkyl substances (PFAS). The EPA's recommendation is a screening level of 40 parts per trillion (ppt) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), individually, and a preliminary remediation goal of 70 ppt for PFOA and PFOS combined for groundwater that is or may be used as a source of drinking water.

I am encouraged that the EPA is making progress toward setting uniform standards, which is a step that states like Michigan have been seeking for over a year. However, there is room for improvement in the scope and protectiveness of the interim standards recommended by the EPA. I urge the EPA to commit to revisiting these interim standards by a date certain, and also to commit to analyzing and incorporating the work of other federal agencies on PFAS into the EPA's review so that any final standards reflect the best available information. Indications from state and federal agencies working on PFAS issues are that screening levels and cleanup numbers should be lower than the proposed 40 ppt and 70 ppt to protect public health. For example, the Agency for Toxic Substances and Disease Registry has issued minimum risk levels for PFOA and PFOS that are roughly 7–10 times lower than the proposed reference dose that the EPA used to

generate the health advisory for drinking water.¹ A scientific working group commissioned to analyze Michigan's standards by the Michigan PFAS Action Response Team (MPART) also recommended development and implementation of cleanup standards lower than the existing 70 ppt for PFOA and PFOS.²

In addition to anticipating and committing to consideration of lower standards, I also urge the EPA to set a timeframe for addressing prevalent PFAS contaminants other than PFOA and PFOS, given the emerging consensus that adverse health impacts are linked to other PFAS chemicals, and further that their effects are additive. These interim screening and cleanup levels—if only in place for PFOA and PFOS—will not sufficiently protect against the risks from the PFAS class of chemicals.

My duties as Attorney General include representing the state agencies that implement our laws, including the Michigan Department of Environment, Great Lakes and the Environment, and the Michigan Department of Health and Human Services, both of which are on the front lines investigating, regulating, and protecting against unacceptable exposures to PFAS. Because of this leadership, the State of Michigan is one of the few states to have issued enforceable PFAS standards. Our standards include water quality standards, cleanup criteria for groundwater used for drinking water, and criteria for the groundwater-surface water interface. In addition, Governor Gretchen Whitmer has directed state agencies to develop drinking water standards for PFOA, PFOS, and other PFAS compounds, a process that is underway but not completed. My office is currently enforcing these state standards against entities that are liable under state statutes, and the state is working with users of PFAS chemicals to prevent further releases of PFAS into the environment and to address impacts from past releases.

Even with these regulatory tools in place in Michigan, the absence of enforceable federal standards has been an obstacle to pursuing PFAS mitigation and cleanup, particularly when dealing with federal facilities. These draft interim standards represent progress toward development of enforceable standards, which would add efficiency in addressing sites that look to federal law when dealing with contamination. But to show meaningful protection of public health and the environment, on behalf of the State of Michigan in my role as Attorney General, I respectfully request that the EPA include a commitment to timely review these interim standards and incorporate the PFAS toxicity work from other sources to get

¹ Agency for Toxic Substances and Disease Registry, 2018. Toxicological Profile for Perfluoroalkyls. Draft for Public Comment, June 2018.

² Michigan PFAS Science Advisory Panel, 2018. Scientific Evidence and Recommendations for Managing PFAS Contamination in Michigan, December 7, 2018.

The Honorable Andrew Wheeler

Page 3

June 10, 2019

to lower final standards, and that the EPA include a commitment to develop standards for more than two PFAS chemicals.

Sincerely,

A handwritten signature in blue ink that reads "Dana Nessel". The signature is written in a cursive, flowing style.

Dana Nessel
Attorney General

DN:rh