

January 22, 2019

Comment Clerk

ID: EPA-HQ-OW-2018-0614

Water Docket, Environmental Protection Agency

EPA Docket Center (WJC West), MC 28221T

1200 Pennsylvania Ave. NW

Washington, DC 20460

**RE: Draft Human Health Toxicity Assessments for Hexafluoropropylene Oxide Dimer Acid and its Ammonium Salt (GenX Chemicals) and for Perfluorobutane Sulfonic Acid (PFBS) and Related Compound Potassium Perfluorobutane Sulfonate, Docket #EPA-HQ-OW-2018-0614**

The Association of State Drinking Water Administrators (ASDWA) is the independent, nonpartisan, national organization representing the collective interests of the drinking water program administrators in the 50 states, five territories, the District of Columbia, and the Navajo Nation who implement the Safe Drinking Water Act (SDWA) every day to ensure the protection of public health and the economy. ASDWA appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) "Draft Human Health Toxicity Assessments for GenX Chemicals and PFBS" (as published in the November 21st *Federal Register* (83 FR 58768)). The following comments are intended to broadly address the draft assessments and toxicity values, but they do not necessarily reflect the concerns of individual states.

***Overarching Comments:*** [EPA's draft toxicity assessments for GenX and PFBS](#)

ASDWA is providing these overarching comments on the value to state drinking program administrators (as co-regulators) of EPA issuing these toxicity assessments rather than the science and technical approaches used in the derivation of the draft toxicity assessments and toxicity values for GenX and PFBS. Multiple state drinking water programs have expressed concerns about the value of issuing these assessments versus the value of developing health advisories or regulatory standards for unregulated contaminants such as GenX and PFBS that are persistent in humans and in the environment.

Some states believe that it is helpful to get as much information as quickly as possible about the potential human health impacts of unregulated contaminants such as GenX and PFBS, and have the authority and ability at the state level, along with the necessary resources to conduct feasibility analyses, technical evaluations, and cost/benefit evaluations; and develop and implement action levels, health advisories, or regulatory standards for these compounds in the absence of a federal health advisory or standard. However, other states do not have the authority, ability, or resources to assess and address these compounds in drinking water without a federal health advisory or standard and are unable to take actions to protect public health and the environment based on these toxicity assessments. This leads to variation in state actions across the country to address these compounds that subsequently creates public confusion about what levels are safe in drinking water and what states should be doing to appropriately address the risks.

In addition, the use of different factors, assumptions, and conclusions by states (if the states are able to) in calculating the risk to public health can result in the development of different reference doses and toxicity values. Therefore, different states will likely derive different drinking water action levels, guidelines, or standards using the toxicity assessments for GenX and PFBS, as we have seen previously with different state drinking water action levels and guidelines and standards for PFOA and PFOS and other per- and polyfluoroalkyl substances (PFAS) compounds.

***State Challenges:*** State drinking water programs are having to take primary responsibility for ensuring that water systems respond to and address high levels of unregulated contaminants such as PFAS, including GenX and PFBS. This responsibility includes working with their water systems to respond to and address high levels of GenX and PFBS based on these toxicity assessments.

In addition, state challenges with EPA issuing toxicity assessments or health advisory levels (HALs) versus regulatory standards, i.e., Maximum Contaminant Levels (MCLs), extend beyond water system response actions and include, but are not limited to the following:

- EPA toxicity values and HALs create “de-facto” MCLs where states must ask water systems to monitor for these contaminants and respond to high levels and exceedances by installing additional treatment, issuing public notices, providing bottled water, and/or taking other actions without state regulatory enforcement authority.
- Without regulations for these contaminants, water systems that have high levels of GenX or PFBS are unable to get extra points on DWSRF loan applications to purchase and install additional treatment technology to address the contaminant, as they would with a contaminant that has an MCL.
- State drinking water programs are having to divert resources from core programs to address other regulated chronic and acute drinking water contaminants, such as lead and disinfection byproducts, which can subsequently increase risks to public health.
- Without the certainty of timing that coincides with the development of federal regulations for initial monitoring, preparation, implementation, and a compliance date; and without advance knowledge and a clear plan from EPA with information about health risks and water system actions in advance of the release of toxicity assessments, HALs, and UCMR sample results, state drinking water programs and water systems do not have time to prepare in advance for responding to detections of these compounds at significant levels and are forced into a position of being reactive versus proactive. State drinking water programs and water systems do not have adequate resources, staff, programs, policies, and messages in place for responding to contamination incidents that can turn into an emergency response crisis and divert attention and resources away from core program functions.
- The Department of Defense (DoD) does not recognize this type of assessment as an Applicable or Relevant Requirement (ARAR) under CERCLA, and thus will not act to modify new or existing cleanup activities to reflect these levels of concern.

### ***Recommendation for Selecting Compounds for Future Toxicity Assessments***

ASDWA recommends that EPA move forward in a timely manner to assess the health risks from additional PFAS beyond GenX and PFBS, and that any future toxicity assessments for PFAS and/or unregulated compounds be prioritized through a stakeholder process. The prioritization should be based on criteria that consider the prevalence of the compounds throughout the entire U.S., and potential health impacts, and that includes stakeholder engagement. ASDWA believes that the occurrence and

prevalence of GenX and PFBS are not likely to be significant from a public health perspective for many states and water systems across the nation, and that perhaps it may have been more helpful if EPA had instead conducted these toxicity assessments for other PFAS compounds such as PFNA, PFHxS, and PFHpA, as determined by input from a broad group of stakeholders.

***Recommendations for the Release of the GenX and PFBS Toxicity Assessments***

ASDWA recommends that EPA provide additional information and risk communication messaging in conjunction with the release of these toxicity assessments for GenX and PFBS. The additional information should include water system recommendations for sampling and confirmation of results; timeliness of response; public notice language; and some consideration of auxiliary water uses beyond direct consumption. The risk communication messaging should include safety or uncertainty factors in these values based on human health versus animal health studies and a relative risk comparison to known health issues from other drinking water contaminants or to more general health hazards such as smoking.

While ASDWA's comments are intended to capture the diverse perspectives of states and state drinking water programs, EPA should also consider the recommendations that will likely come directly from individual states and territories.

Thank you for your considering the recommendations provided in this letter that are needed to ensure safe drinking water and public health protection. We welcome your continued engagement with state drinking water programs in the development of EPA plans for assessing and addressing contaminants that have the potential to cause significant health impacts.

If you have questions or would like to discuss these comments in more detail, please contact Alan Roberson, ASDWA's Executive Director, at [aroberson@asdwa.org](mailto:aroberson@asdwa.org) or (703) 812-9507.

Sincerely,

A handwritten signature in black ink that reads "Mark S. Mayer". The signature is written in a cursive, flowing style.

Mark Mayer, ASDWA President and  
Drinking Water Administrator,  
South Dakota Department of Environment and Natural Resources