ASDWA
Association of State Drinking Water Administrators

October 31, 2019

Comment Clerk
ID: EPA-HQ-OLEM-2019-0229
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

RE: Notice of Intent to Develop a Policy on the Determination of a Harmful Algal Bloom (HAB) and Hypoxia as an Event of National Significance in Freshwater Systems
Docket# EPA-HQ-OW-2019-0463

The Association of State Drinking Water Administrators (ASDWA) appreciates the opportunity to comment on the "Notice of Intent to Develop a Policy on the Determination of a Harmful Algal Bloom (HAB) and Hypoxia as an Event of National Significance in Freshwater Systems" as published in the September 16th *Federal Register* (84 FR 4861). 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. The following comments are intended to provide recommendations on the development of an EPA policy, but they do not necessarily reflect the concerns of individual states.

Cyanotoxins from HABs are occurring with increasing frequency in drinking water sources and negatively impacting drinking water treatment facilities throughout the US. We have seen these impacts in multiple states along the Ohio River, and in Toledo, Ohio and in Salem, Oregon where the water systems had to shut down their system and issue "do not drink" notices to their customers. These drinking water treatment facilities face a difficult task of not only addressing water quality changes from HABs and removing cyanotoxins but doing so in a safe and cost-effective way to protect public health. State drinking water programs play a key role in helping water systems monitor for and treat cyanotoxins and respond to HAB events.

Our detailed comments in response to EPA's questions are below*:*

- ***EPA is soliciting public comments on how to define, quantify, and weigh the following statutory parameters for HAB and hypoxia events of national significance:*** ASDWA recommends that EPA consider using the following factors for determining HAB and hypoxia events of national significance related to:
    - **Toxicity:** Consider using a baseline threshold value to multiply intensity of the exceeded threshold value by the length of the event. This value could be based on state recreational water quality criteria and EPA drinking water Health Advisory Levels (HALs) for cyanotoxins (i.e., microcystin and cylindrospermopsin), as well as for other contaminants that can impact drinking water aesthetics, treatment system filter performance, effectiveness of disinfection, and equipment. For example, where these impacts occurred from elevated concentrations of ammonia and manganese during the Clear Lake, California HAB event. Additional toxicity factors could be based on whether a public water system (PWS) must

shut down their treatment plant and issue "do not drink" notices to the community, as well as reports of human and animal illnesses or deaths.

- **Severity:** Consider monitoring source waters and using integrated dissolved oxygen values and cyanotoxin levels in the middle of the event to measure the highest level of severity. It would also be helpful to consider drinking water and recreational waters impacts on public health, the environment, recreation, and the economy as factors of severity.
- **Potential to spread:** Consider using historical information to determine the potential for a HAB or hypoxia event to spread. If events are recurring, then site specific criteria should be developed that include looking at the contributing factors and cause of the event, such as nutrient loads and climate scenarios.
- **Economic impact:** Consider using an assessment of additional costs incurred by PWSs due to the event; shoreline property value shifts as compared to county averages; and differences in revenues from tourism during the event in comparison with previous years.
- **Relative size of an event** (in relation to the past 5 occurrences of HABs or hypoxia events that occur on a recurrent or annual basis): Consider examining the size and circumstances of any past event (even if only one) in the same area, as well as the source and cause of the event. This should include analyzing water quality trends, nutrient loads, and climate scenarios to determine the major contributing factors to the event and whether it is likely to reoccur in the same area. For example, when there was a period of drought followed by a period of intense rainfall.
- **Geographic scope:** ASDWA recommends that both multi-state and local events within one state such as those in Toledo, Ohio and Salem, Oregon be determined as events of national significance, depending on the severity of the impacts to drinking water and the size of the population served, as well as the severity of impacts to recreational waters. This would be particularly helpful if it allows EPA and NOAA to provide additional funding and technical assistance to the state and local community.

- ***Should EPA develop additional criteria and establish procedures for making determinations such as considering:***
  A. The state's access to critical resources and metrics to measure capacity?
     - ASDWA recommends that EPA consult with states and territories to discuss capacity and assistance needs and work with the state water programs to address each specific event, regardless of whether the event is determined to be nationally significant.
  B. Factors when an event impacts or threatens drinking water?
     - ASDWA recommends that additional criteria and procedures for determinations of HABs and hypoxia events should include a consultation with state primacy agencies that examines monitoring data and considers the duration, magnitude, and toxicity of HAB impacts on public water supplies including:
       - The size of the population affected by the event such as an event that affects a PWS (or multiple PWSs) that serve(s) a major population area either within one state or across state lines. For example, this would include events like those that happened in Salem, Oregon that affected 170,000 people.
       - Capacity of affected public water supplies to adequately and successfully monitor and treat the water
       - Exceedances of EPA Health Advisory Levels for cyanotoxins in drinking water and recreational water quality criteria
       - Shutting down the water system, issuing "do not drink" notices, and having to supply bottled water

        - Reports of human illnesses or deaths
        - Additional costs incurred by public water supplies due to the event
C. Factors when an event impacts or threatens recreational waters?
    - ASDWA recommends that EPA consider using the following information for making determinations:
        - State recreational water quality criteria, monitoring data, and water quality trends
        - Reports of human and animal illnesses or deaths
        - Environmental, ecological, and economic impacts
D. Should a determination of national significance be made only if funding has been appropriated to the agencies?
    - For EPA to be able to provide assistance, and to help demonstrate national needs, ASDWA recommends that determinations of national significance for HAB and hypoxia events should still be made, even if HABHRCA funding is not appropriated for EPA and NOAA and the Inter-agency Task Force.
E. What information should an impacted state provide to EPA when requesting a determination of a freshwater event of national significance or a request to make sums available to the impacted state or local government to assess and mitigate an event of national significance?
    - ASDWA recommends that when requesting a determination of national significance, an impacted state could provide EPA with the information listed in (B) and (C) above on public water supplies and recreational waters impacted by HABs.
F. Should the EPA consider whether a state or local government that requests a determination concurrently requests other Federal relief for the same event or occurrence?
    - ASDWA recommends that EPA work with the state to understand their needs for funding and assistance and fill gaps that are not addressed by a concurrent request for funding, such as a disaster declaration under the Stafford Act.
G. Should the EPA require that an affected state or local government request a determination of a freshwater event of national significance within certain timeframes with respect to the start or end of the event or occurrence?
        - ASDWA recommends that these timeframes be flexible, as states' needs for requesting a determination may vary, depending on the specific circumstances and duration of the event. This would also depend on the immediate response and longer-term recovery needs for state and water system assistance.
H. Other than funds, what tools and methods should the EPA make available after a determination of a freshwater event of national significance is made?
        - ASDWA recommends that EPA consult with the state directly about the tools and methods they may need, based on the site-specific circumstances for each event.
        - It would be helpful if EPA could assist states by providing on-site staff and technical assistance to take samples, provide transport for taking samples to the lab, conduct lab analysis, and any other assistance identified by the state.

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. If you have questions or would like to discuss these comments in more detail, please contact to contact me at aroberson@asdwa.org or (703) 812-9507.
Sincerely,

Alan Roberson
Executive Director
Association of State Drinking Water Administrators (ASDWA)