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Office of Resource Conservation and Recovery  
U.S. Environmental Protection Agency  
Washington, DC 20460

**RE: EPA-HQ-OLEM-2023-0278, Listing of Specific PFAS as Hazardous Constituents**

The Solid Waste Association of North America (SWANA) is a nonprofit professional association of 10,000 public and private sector professionals committed to advancing from solid waste management to resource management through a shared emphasis on education, advocacy and research. For more than 50 years, SWANA has been a leading professional association in the solid waste management field and represents owners and operators of waste management and recycling facilities across North America.

The Resource Conservation and Recovery Act (RCRA) provides the USEPA the authority to control hazardous waste from “cradle-to-grave.” This includes the generation, transportation, treatment, storage and disposal of hazardous waste. Hazardous waste is regulated under Subtitle C of RCRA. Subtitle C regulations set criteria for hazardous waste generators, transporters, and treatment, storage and disposal facilities. This includes permitting requirements, enforcement and corrective action or cleanup. Currently, PFAS compounds are not considered hazardous waste under Subtitle C of RCRA.

The proposed rulemaking will amend its regulation under RCRA by adding nine specific PFAS ((PFOA, PFOS, PFBS, HFPO-DA or GenX, PFNA, PFHxS, PFDA, PFHxA and PFBA), their salts, and their structural isomers, to its list of hazardous constituents. The scope of this proposal is limited as listing these PFAS as RCRA hazardous constituents does not make them, or the wastes containing them, RCRA hazardous wastes. This regulation and the companion regulatory revision for USEPA corrective action authority at hazardous waste transportation, storage, and disposal facilities (TSDFs) where releases of these PFAS compounds have occurred, do not apply to Subtitle D facilities but may have unintended consequences for RCRA D facilities including MSW landfills.

The proposed regulation is the first step to potential hazardous waste designation. Designating them as hazardous wastes would likely have an impact on leachate treatment residual streams that contain concentrated PFAS compounds and how they are managed. For instance, a granular activated carbon (GAC) reactivation facility may need to be permitted as a TSDF under RCRA C. In addition, residual streams from foam fractionation, reverse osmosis or ion exchange resin may not be able to managed on-site and require transport and disposal or destruction at a RCRA C facility.

While landfill sites receive municipal, commercial and special wastes that contain a number of the already listed hazardous constituents (arsenic, benzene, cadmium, chromium, lead, MEK, nickel and vinyl chloride to name a few), operations are not altered in response to these compounds. SWANA believes the same process should apply to the designation of these PFAS compounds. However, establishment of groundwater standards and corrective actions required by state regulatory agencies are likely to be based in part on this hazardous constituent listing.

While the EPA has attempted to clarify in the supporting regulatory narrative that these changes are to assist with corrective actions from Subtitle C TSDFs that have PFAS contamination, the likely hazardous waste designation as the regulations evolve will affect Subtitle D facilities ability to economically remove PFAS compounds from the leachate discharge if the processing and management needs to be completed at a RCRA C facility, and potentially create unintended public concern about PFAS pre-treatment and “hazardous waste management” at the site.

Removing PFAS from landfill leachate requires advanced treatment techniques which are prohibitively expensive at present. Estimated capital costs to implement leachate pretreatment at a moderate-sized landfill to the extent necessary to significantly reduce PFAS range from \$2 million to \$7 million, with nationwide costs totaling \$966 million to \$6.279 billion per year for the solid waste sector. These costs will be passed along to communities, water and wastewater treatment facilities, and biosolids management, all of which rely on the services of MSW landfills. Designation of these compounds as hazardous constituents and then as hazardous waste may impact the disposal of leachate treatment residue and increase the cost for leachate treatment and solid waste disposal.

RCRA designation of PFAS compounds to be considered in corrective action would impel landfills to restrict inbound wastes and/or increase disposal costs for media with elevated levels of PFAS, including filters, biosolids, and impacted soils. The prospect of regulation in this area is already disrupting the interdependence of the drinking water, wastewater, and solid waste sectors. In a transition period, this increases uncertainty and capital investments that may not align with final regulations.

Thank you for considering SWANA’s comments. If you have any questions about these comments, please contact the undersigned at [koldendorf@swana.org](mailto:koldendorf@swana.org).

Sincerely,



Kristyn Oldendorf

Director of Public Policy