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Dedicated to protecting our nation's ground water

Date: May 30, 2023

To: U.S. Environmental Protection Agency
Docket ID No. EPA-HQ-OW-2022-0114

Re: Per- and Polyfluoroalkyl Substances (PFAS) Proposed PFAS National Primary Drinking Water Regulation for Six PFAS

The Ground Water Protection Council (GWPC) appreciates the opportunity to provide comments and feedback to the U.S. Environmental Protection Agency (EPA) on the proposed National Primary Drinking Water Regulation (NPDWR) for six PFAS.

The GWPC's membership consists of representatives of state groundwater and underground injection control (UIC) regulatory agencies that mutually work toward the protection of groundwater nationwide. Our focus is specifically on protecting groundwater supplies, conserving groundwater resources for all beneficial uses, and recognizing groundwater as a critical component of the ecosystem. The GWPC is unique among state associations in that its members are the state officials who set and enforce regulations on groundwater protection and UIC.

The GWPC comments on the proposed rulemaking express the concerns of its state agency members, including anticipated impacts to UIC programs and facilities as well as groundwater quality concerns. A primary tenet of the federal UIC rules is its non-degradation standard for underground sources of drinking water (USDWs). Per the federal UIC rules in 40 CFR § 144.1 (g):

All owners or operators of injection wells must be authorized either by permit or rule by the Director. In carrying out the mandate of the SDWA, this subpart provides that no injection shall be authorized by permit or rule if it results in the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may adversely affect the health of persons (§ 144.12).

- If the proposed MCLs and HIs for the 6 PFAS are adopted, these rules will impact the regulation and operations of UIC Class V injection wells, many of which inject into or above USDWs. UIC Class V injection wells include stormwater drainage wells, groundwater remediation wells, aquifer storage and recovery (ASR) projects, managed aquifer recharge (MAR) facilities, and non-hazardous waste disposal wells, among other subtypes. While federal rules allow Class V injection wells to be authorized-by-rule, many states review applications and issue permits for these wells. State agency UIC programs will need definitive guidance from EPA on how to address the new

water quality standards in the context of authorizing/permitting and regulating UIC facilities, particularly UIC Class V facilities. There are an estimated 580,000 UIC Class V injection wells distributed across the nation, according to EPA's 2021 nationwide UIC well inventory. The financial impact of recharacterizing injected fluids for PFAS and monitoring potential impacts to injection zone groundwater for even 20% of these wells is mind-boggling. Agencies administering the UIC Class V program would need funding for additional staff and activities to address any new programmatic requirements related to PFAS that may be detected in the injection streams or the receiving groundwater.

- The GWPC is concerned that the proposed PFAS rulemaking will affect permitted operating ASR and MAR projects. Already, states are assessing whether existing ASR and MAR projects have measurable PFAS in the injected water and in the injection zone aquifer. GWPC is aware that in North Carolina, one operating ASR project storing public drinking water has been terminated and the operator had to extract all the injected water, treat the water, and discharge the treated water back into the original surface water source (Cape Fear River). The rulemaking also has the potential to make new ASR/MAR projects infeasible due to costs associated analytical testing and with pre-injection and/or post injection (recovery) water treatment and disposal costs for the treatment residuals.
- The GWPC is concerned with the potential loss of reused treated municipal wastewater as a viable water source for ASR and MAR projects because of the costs associated with treating for and removing PFAS, as well as the costs of disposing the treatment residuals.
- Until cost-effective destruction technologies are in place for PFAS removal, the volume of PFAS-laden liquid wastes that are likely to be disposed into deep UIC Class I injection wells will increase, which will affect current disposal capacity.
- In conjunction with the proposed drinking water regulation, the GWPC has concerns that EPA's proposed CERCLA hazardous substances rulemaking and the anticipated EPA Resource Conservation and Recovery Act (RCRA) rulemaking for these PFAS wastes may result in new regulatory steps, extra time, and additional costs to the permitting process for UIC Class I wells receiving water/wastewater treatment plant residuals and other PFAS-laden wastes. If, upon promulgation of the proposed PFAS rulemakings, these PFAS-laden wastes are considered hazardous under RCRA, it is presumed that EPA will include disposal of these wastes under the RCRA hazardous waste land disposal ban. Because EPA is the administrator of the RCRA hazardous waste land disposal restriction (LDR) program, its region office UIC staffs would be consumed with work to process new UIC Class I hazardous waste disposal well no-migration permits to allow Class I wells to dispose of PFAS laden wastes. The same EPA Regional UIC Programs that would evaluate LDR no-migration petitions are currently backlogged with the ramp up of UIC Class VI carbon sequestration projects, both as a permitting agency and in the process of evaluating UIC Class VI primacy applications from states.

Thank you for the opportunity to provide these comments. Our members will be tasked with meeting all regulatory requirements and standards related to this rulemaking if it is adopted. We ask that EPA address our concerns prior to finalizing the proposed regulations.

If you have any questions or would like to follow up on any of these items, please contact Dan Yates, GWPC Executive Director, at (405) 516-4972 or dyates@gwpc.org.

Sincerely

A handwritten signature in cursive script that reads "Dan Yates".

Dan Yates
Executive Director
The Ground Water Protection Council