August 16, 2018

Docket ID No. EPA-HQ-OA-2018-0259
Environmental Protection Agency
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Re: Strengthening Transparency in Regulatory Science

To Whom it May Concern:

The Association of State Drinking Water Administrators (ASDWA) appreciates the opportunity to offer comments on the notice for "Strengthening Transparency in Regulatory Science" as published in the April 30th *Federal Register* (Volume 83 Number 83). 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 supports and represents the collective interests of the states, territories, and the Navajo Nation in their administration of national drinking water program requirements within their states or territories. The following ASDWA comments are intended to broadly address the proposed rule, but they do not necessarily reflect the concerns of individual states.

Federal regulations are the basis for the actions of state drinking water programs in protecting public health. These regulations must be based on sound science to appropriately protect public health. The Safe Drinking Water Act (SDWA) has clear statutory language on the use of sound science, and states support the use of sound science in the SDWA regulatory development process. While states may disagree at times with details of the final regulations, states are generally comfortable with the transparency of the regulatory development process as practiced by the Office of Ground Water and Drinking Water (OGWDW). ASDWA does not recommend making significant changes in that process. In fact, if other environmental programs do not currently have a robust science-based regulatory development process, the process used by OGWDW would be a good model.

The SDWA statutory language in Section §1412(b)(3) requires the use of "best peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices". Therefore, a statutory requirement that the drinking water regulations have a strong scientific basis already exists. This section of the SDWA also outlines the way this information must be shared with the public, so the process is currently transparent. EPA has followed this statutory mandate since the 1996 SDWA Amendments and has relied not only on peer reviewed scientific studies but has also directly involved the scientific community in supporting rule

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development. States have also been active participants in this science-based process. The rule development currently underway for perchlorate is a good example of the process at work. Recommendations from the Science Advisory Board (SAB) helped guide the methodology to develop the Maximum Contaminant Level Goal (MCLG). EPA has held two peer reviews to help refine the models and determine how best to apply the modeling to determine the appropriate MCLG. The SAB and the peer review process are all open and the recommendations are public, providing full transparency to the deliberations and decisions.

The references listed at the end of the preamble of any proposed drinking water regulation, and any other supporting documentation, is currently shared on the Water Docket, and the Docket provides open access and transparency now for states to examine the basis for new rules. States can review what scientific studies were used in the preparation of the proposed rule and enough detail is provided to judge whether these studies support EPA's conclusions. Since only peer reviewed studies are used, states already have assurances that the results are valid.

Regardless of the pivotal regulatory science used to support a proposed rule, states can openly question the validity of these studies during the comment period for the proposed rule. During this time, states can also recommend additional studies that they believe EPA should consider in developing the final regulations. In the future, EPA can enhance the opportunity for input by consistently allowing a minimum 90-day comment period for new/revised rules. Early involvement by states, as co-regulators, in the early stages of the regulatory development process (pre-proposal) will allow states even more opportunity to provide input on the science used to support the new rules. Beyond the science, involving states as early as possible in the regulatory development process means the resulting regulations can be effectively implemented and public health protection enhanced.

Thank you for considering these comments. As always, ASDWA is willing to continue to work with EPA to develop the best possible drinking water regulations. We encourage EPA to continue the current open and science-based development process and continue to actively involve states. While ASDWA's comments are intended to capture the diverse perspectives of states and state drinking water programs, EPA should also consider the comments/recommendations that may come directly from individual states and territories.

If you have questions or would like to discuss these comments in more detail, please contact me at ldaniels@pa.gov or contact Alan Roberson, ASDWA's Executive Director at aroberson@asdwa.org .

Sincerely,

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