



June 8, 2022

The Honorable Shalanda Young
Director
Office of Management and Budget
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Health Advisories issued by the Environmental Protection Agency's Office of Water under Section 1412(b)(1)(F) of the Safe Drinking Water Act

Dear Director Young:

The American Chemistry Council (ACC) wants to express its concern with the Environmental Protection Agency (EPA)'s current approach to issuing Health Advisories under its Safe Drinking Water Act (SDWA) authority. As you may be aware, EPA's Office of Water has announced its intent to issue Health Advisories for several per- and polyfluoroalkyl substances (PFAS), based on toxicity assessments that were revised significantly prior to finalization without additional review. In addition, the Water Office has announced its intent to revise the existing Advisories for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) despite announcing its intent to promulgate drinking water standards in 2023. While EPA has characterized Health Advisories as "informal technical guidance" that are not legally enforceable,¹ recent experience with the Advisories issued for PFOA and PFOS in 2016 confirm that they have been used as the basis for standards in several states.²

In addition to state-level standards the Health Advisories are also being used by other programs within EPA to establish levels that are then adopted by the states. For example, PFOA and PFOS Health Advisories have been adopted as interim groundwater cleanup recommendations by the Superfund program in the Office of Land and Emergency Management.³ The toxicity assessments that form the basis of the Health Advisories have already been adopted by OLEM as a screening and removal management levels, which are ultimately used to determine removal actions under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

¹ 81 *Federal Register* 33250, May 25, 2016.

² These states include Alaska, Colorado, Delaware, Maine, New Mexico, and Ohio. See the Interstate Technology and Research Council PFAS Technical and Regulatory Guidance Document for a comprehensive list of state activities based on the Health Advisories. Available at <https://pfas-1.itrcweb.org/fact-sheets/>

³ OLEM Directive No. 9383.1-47, December 19, 2019.



In its guidance on the Information Quality Act (IQA), OMB determined that a science document is considered influential if “the information will have or does have a clear and substantial impact on important public policies or important private sector decision.” It is clear, therefore, that the Health Advisories, per OMB’s IQA Bulletin, are influential scientific information⁴ with clear and substantial impact on regulations and policies at the state and federal level. As such, they fall under Executive Order (EO) 12866 and should be subject to formal interagency review prior to their final issuance as well as being subject to public review and comment per the requirements of the Administrative Procedures Act.⁵ While drafts of the Advisories are subject to review, influential changes made in the final document are not. These changes can significantly impact other federal agencies and overall policy and should be subject to review prior to issuance. For example, the Agency’s recommendation to combine the levels of PFOA and PFOS that was added after interagency review of the draft Advisories has had a major influence on the current debate on approaches to PFAS.

In light of the significance of the Health Advisories, we urge OMB to ensure that future Advisories be subject to robust interagency review, per OMB’s EO authority and guidance documents. Please do not hesitate to contact me at risotto@americanchemistry.com or at (202) 249-6727 if you have any questions on the above information.

Sincerely,

Steve Risotto

Stephen P. Risotto
Senior Director

cc: Dr. Kazi Sabeel Rahman, OMB
Dominic Mancini, OMB
Brenda Mallory, CEQ
Matt Lee-Ashley, CEQ
Radhika Fox, EPA
Victoria Arroya, EPA

⁴ 67 *Federal Register* 8451, February 22, 2002. Influential scientific information is where “the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.”

⁵ 5 U.S.C. Sections 551-559.

