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Barry N. Breen
Principal Deputy Assistant Administrator
Office of Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Interim Guidance on PFAS Disposal and Destruction [EPA-HQ-OLEM-2020-0527; FRL-11611-01 OLEM]

Dear Assistant Administrator Breen:

The National Asphalt Pavement Association (NAPA) appreciates the opportunity to comment on The Environmental Protection Agency's (EPA's) proposed Interim Guidance on per- and polyfluoroalkyl substances (PFAS) Disposal and Destruction [EPA-HQ-OLEM-2020-0527; FRL-11611-01 OLEM, April 14, 2024]. EPA should consider asphalt pavement recycling as a viable alternative to the destruction or long-term disposal of PFAS-containing pavements.

NAPA has a long track record of recycling various waste materials by encapsulating and beneficially using them in new pavement mixtures. We are currently conducting research, in partnership with the Federal Aviation Administration (FAA), to better understand whether pavements that contain remnants of PFAS chemistries, primarily through decades-long use of firefighting foams, can be recycled and beneficially used, similar to other current EPA pavement initiatives. EPA should consider the results of this research and ensure that any final decision would not foreclose or rule out the potential beneficial use of asphalt pavement materials containing PFAS. The following comments provide additional background, information, and possible impacts of this issue on the pavement industry.

Introduction to the asphalt pavement industry

NAPA and state asphalt pavement associations represent over 1,000 companies across the nation associated with the production and application of asphalt pavement mixtures. More than 94 percent of America's roadways and more than 80 percent of commercial, military, and private airfields are surfaced with asphalt. One of the reasons asphalt pavements remain cost-effective with an extremely low carbon

footprint is through extensive recycling of existing pavements, which are milled and incorporated into new asphalt pavement mixtures. Almost 100 million tons of reclaimed asphalt pavement (RAP) were reused in new asphalt pavement mixtures in 2022, which, according to the U.S. Federal Highway Administration (FHWA) makes asphalt pavement the most recycled material in the United States¹.

Recycling asphalt pavements is germane to industry

The asphalt pavement industry prides itself on the inert, environmentally safe nature of our pavement mixtures. We take great care in what materials are incorporated into manufactured asphalt pavements as required by strict specifications prescribed by the Department of Transportation (DOT) and the FAA, as well as ensuring any potential pavement-related environmental impacts are documented, researched, and minimized. Indeed, recycling asphalt pavements is both part of certain pavement rehabilitation contractual obligations (e.g., remove and replace) and germane to maintaining asphalt pavement's low carbon footprint and cost-effectiveness. While decades of research document the inert nature of typical road and highway asphalt millings, the increased focus on PFAS-containing firefighting foam warrants further examination on the potential beneficial reuse of pavements potentially containing such firefighting PFAS remnants.

Recycling PFAS-containing pavements may provide a safe, permanent storage solution

EPA should consider asphalt pavement recycling as a viable alternative to the destruction or long-term disposal of PFAS-containing pavements. It is well documented that many solid or hazardous waste materials incorporated into asphalt mixtures are rendered environmentally harmless due to the inert and waterproof characteristics of the asphalt binder. For example, agricultural and industrial byproducts can be safely and beneficially reused by encapsulating them into asphalt pavement mixtures, thereby avoiding placement of such waste materials in landfills.

EPA has long been a proponent of beneficially reusing otherwise discarded materials like slag, tire rubber, and plastics, all of which can be recycled into asphalt pavements in an environmentally safe manner. For example, in 2007 EPA finalized the [Criteria for the Safe and Environmentally Protective Use of Granular Mine Tailings Known as "Chat"](#) rule ([72 Fed Reg 39331](#)), identifying that the lead-based mining waste, Chat, "can be used safely when its particles are encapsulated in asphalt or concrete." Formulated correctly, asphalt pavement mixtures can encapsulate otherwise deleterious materials and render them environmentally safe, similar to the pavement matrix itself. NAPA stands ready to explore these alternatives to perpetual storage, with EPA and other stakeholder agencies.

Devoting resources to beneficially reusing PFAS-containing pavements while ensuring liability protection or assurances

NAPA is facilitating recently awarded research, sponsored by FAA's Airfield Asphalt Pavement Technology Program (AATP), for funds up to \$250,000, to better understand and ensure environmental inertness associated with beneficially reusing PFAS-containing pavements, similar to EPA's 'Chat Rule.' We

¹ <https://highways.dot.gov/public-roads/marchapril-2010/reclaiming-roads>

encourage the EPA to partner with pavement industry stakeholders, like NAPA and its asphalt producer members, to ensure such beneficial reuse practices minimize otherwise costly and potentially unnecessary destruction and disposal requirements.

NAPA stands ready to assist EPA, other agencies, and the Department of Defense to investigate whether beneficial use of PFAS-containing pavements is a viable method to reduce environmental impacts

NAPA encourages EPA to include beneficial use as an alternative to perpetual storage in landfills, as one viable and needed option. We look forward to working with EPA and other agencies and departments to explore additional research on how to best capture or stabilize PFAS chemistries that might leach into pavements, while maintaining environmental protection and state DOT performance specifications.

Recycling asphalt pavements to reuse them in new pavements, whether on our roadways or at airports, creates a sustainable, cost-efficient, and environmentally responsible circular economy. The incoming 119th Congress will create the next iteration of highway investments; it's important their policy initiatives continue to take full advantage of the valuable and decarbonized commodity that is reclaimed asphalt pavement. To that end, we must safeguard the proper and environmentally protective beneficial use of PFAS-containing pavements (from firefighting foam depositions) to prevent hampering the future of roadway construction.

Regards,



Howard Marks
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National Asphalt Pavement Association