

Water Supply District of Acton

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Mr. Michael S. Regan, Administrator
U.S. Environmental Protection Agency
EPA Docket Center, OLEM Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Docket ID No. EPA-HQ-OW-2022-0114 - National Primary Drinking Water Regulation Rulemaking for per- and polyfluoroalkyl substances (PFAS)

Dear Administrator Regan:

I am writing on behalf of the Water Supply District of Acton (District) to provide comments on the Environmental Protection Agency's (EPA) proposed National Primary Drinking Water Regulation Rulemaking for per- and polyfluoroalkyl substances (PFAS). Our utility fully supports efforts to expand verified public health protections, but EPA needs to consider the challenges associated with its proposed rulemaking and address the concerns regarding implementation before finalizing any standards. The District has a long track record of dealing with emerging contaminants dating back to the discovery of Volatile Organic Compounds (VOCs) in our water supply during the 1970s and 1980s. We believe our experience is extremely valuable and should be considered as the EPA intends to act relating to the newest class of emerging contaminants, PFAS.

The District provides drinking water and fire protection to approximately 95% of homes and businesses in Acton, MA, a suburb of Boston with almost 24,000 residents. All our supply is sourced from a network of groundwater wells located within the community. Through extensive sampling, we have identified PFAS at varying concentrations in every well we operate. A definitive source, or more likely sources, has yet to be identified. Our utility is aware that EPA will receive comments from other utilities and water works organizations that are submitting more comprehensive comments. I would urge EPA to pay close attention to the points raised by these associations as they are comprised of individuals and companies with expertise in designing and operating Public Water Systems (PWS) and they have additional understanding of the challenges which will be associated with implementing any final rule EPA adopts. The District's major concerns about the proposed rulemaking are as follows:

- Adequate funding has not yet been identified to help address our basic infrastructure needs, let alone to comply with these new PFAS standards. Our rate payers have already committed \$35 million since 2009 to address water treatment upgrades to comply with state and federal requirements. EPA's most recent estimate for Massachusetts was recently released, the 7th Drinking Water Infrastructure Needs Survey and Assessment¹, and it shows \$15 billion in need over the next 20 years to

¹ https://www.epa.gov/system/files/documents/2023-04/Final_FAQ_DWINSAs_4.4.23.v1.pdf

maintain public health protections. This estimate doesn't include any costs associated with complying with the proposed PFAS standards. Congress and the Biden Administration need to fully fund the treatment and ongoing operations and maintenance costs necessary to remediate PFAS in our nation's drinking water and seek reimbursement from the generators who have caused this problem. The federal government has far more resources and abilities to pursue legal actions and seek reimbursements from PFAS manufacturers than do individual PWS or groups of PWS. Our actions to treat PFAS are a long-term commitment that will forever change our operating costs; any existing financial assistance available to the District is in the form of capital financing and limited principal forgiveness. EPA must look at the full cost implications of PFAS treatment and establish a fund to assist with the remedial costs in perpetuity.

- EPA must address laboratory capacity issues before finalizing the rule. Certified labs have been challenged with analyzing the number of samples that Massachusetts PWS send them. PWS can wait upwards of three weeks for sample results and then our primacy agency, MassDEP, must perform quality assurance evaluations, which can take several more weeks. Our experience has shown that there can be a wide range of results when different labs analyze the same source of water. We question whether we are pushing the sensitivity of the equipment to a point where analyte values cannot be reliably quantified. Additionally, the interference of non-drinking water samples being processed on the same equipment at the lab, along with other chemicals and constituents in the water, may cause inaccurate results that overstate the PFAS concentrations in samples. These overstatements cause costly treatment upgrades, premature media replacement, and erosion in the public trust of public water systems. The analytical variability we routinely see in Massachusetts can be well over what EPA is proposing as the MCL. PWS could be subject to noncompliance and enforcement actions due to analytical variability alone. For this reason, EPA should not go to two significant figures to determine compliance values.
- EPA should abandon its plans to have any trigger level below the MCL and revert to the Standard Monitoring Framework which considers all results below the Practical Quantification Limit to be considered 0 ppt.
- EPA's timeline for compliance with the rule is not reasonable, and likely not even achievable, given the work that goes into designing, constructing, and funding new treatment systems. Our experience has been that a permanent solution takes approximately 5 years to complete. A temporary PFAS treatment system underway in our system began with pilot testing in the fall of 2020 and is not anticipated to produce treated water until at least March 2024. This process was undertaken during a period when competition for similar services and equipment was not yet a national concern. The water sector, including operators, design engineers, and construction workers, is challenged with workforce issues like many other sectors of our society. More sophisticated treatment will likely cause a change in PWS classification and may require a higher-grade operator license. In Massachusetts, it can take years to complete the required training to be able to sit for a higher-grade exam. EPA does not appear to have given any thought to issues such as these when they crafted the rule and its three-year implementation timeframe. EPA must adjust the compliance timeframe to be more realistic.

- EPA needs to rapidly work toward finding permanent destruction technologies or we will continue to face the prospect of a never-ending cycle of moving PFAS around our environment. EPA must address the water sector's concerns about potential liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA is proposing to regulate PFOA and PFOS as hazardous substances, which may impact the available media disposal methods such as landfilling. EPA should not move forward with any proposed CERCLA designation until exemptions are granted to water utilities who are passive receivers of PFAS substances. The requested exemption must be embedded in law or regulation, not just through an enforcement discretion policy. Managing backwash and media disposal poses financial and sustainability concerns in a market that is already constrained.
- Finally, the District wishes to acknowledge that the proposed PFAS regulations will impact other aspects of our community. The funding for our PFAS response is currently the sole responsibility of our rate payers. If utility bills continue to rise due to inflation, energy costs, and further regulation, we may see unintended consequences. The community may not support funding requests for PFAS treatment. Other priority projects in the community such as roadway safety improvements may garner support instead. The current model of local users paying the costs for a global PFAS issue is unreasonable and must be fully addressed in EPA's regulatory response and the federal government's financial assistance model.

Thank you for the opportunity to provide these comments. As a public utility, our staff and elected officials work hard to always follow the laws and regulations put forth by our regulatory agencies. I am sounding the alarm that I do not think this rule is reasonable, nor easily achievable. EPA has an obligation to address the water sector's implementation concerns and craft a final rule that is more realistic in its expectations of implementation and schedule and comes with a guarantee of the requisite funding to ensure PWS can comply.

Sincerely,



Matthew L. Mostoller
District Manager