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Pennsylvania Independent Regulatory Review Commission
333 Market St, 14th Floor,
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RE: **Regulation #7-569: Safe Drinking Water PFAS MCL Rule
IRRC Number 3334**

Dear Commissioners:

The National Association of Water Companies, PA Chapter (NAWC-PA) represents all aspects of the private water service industry including ownership of regulated drinking water and wastewater utilities. NAWC-PA member companies provide safe and adequate drinking water service to over 3.1 million Pennsylvanians in 492 communities in 39 counties. In addition, NAWC-PA member companies provide wastewater service to approximately 195,000 Pennsylvanians in 34 communities across nine counties.

The NAWC-PA **supports** the above-mentioned final rulemaking which will improve public health protection by setting maximum contaminant level goals (MCLG) and maximum contaminant levels (MCL) for two per- and polyfluoroalkyl substances (PFAS) – perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) (Final PFAS MCL Rule).

The Final PFAS MCL Rule is intended to protect public health by setting state MCLs for contaminants in drinking water that are currently unregulated at the federal level. If the Final PFAS MCL Rule is adopted, Pennsylvania would move ahead of the federal Environmental Protection Agency (EPA) in addressing PFOA and PFOS in drinking water and join a small group of states that have set MCLs for select PFAS in drinking water.

It is also important to note that EPA is also moving forward with the MCL process as outlined in the federal Safe Drinking Water Act (SDWA) for PFOA and PFOS. EPA expects to publish a proposed rule by Fall 2022 with a final rule expected Fall 2023. Therefore, Pennsylvania may need to adjust the Final PFAS MCL Rule if the EPA were to put forth its own rulemaking with conflicting or more stringent MCLs for PFOA and PFOS.

On July 14, 2022, the Pennsylvania Department of Environmental Protection (DEP) presented its “Chapter 109 Safe Drinking Water: Draft-Final PFAS MCL Rulemaking” to the Public Water System Technical Assistance Center

(TAC) Board which includes representation from the drinking water industry. The TAC voted unanimously to approve the “Draft-Final PFAS MCL Rulemaking” as presented by DEP.

Moreover, on October 12, 2022, the Environmental Quality Board adopted the Final PFAS MCL Rule by a vote of 15 to 3.¹

Prior to June 2022 EPA’s health advisory limit (HAL) was 70 parts per trillion (ppt) for the combined concentrations of PFOS and PFOA. However, EPA recently came out with new “interim” HAL “reporting levels” of 0.004 PPT for PFOA and 0.02 PPT for PFOS. Since PFAS are unregulated, there is no MCL. However, our ability to detect has outpaced our ability to understand the significance.

DEP conducted a statewide sampling plan which began in June 2019. DEP identified 493 public water system sources as potential sampling sites because they met the criterion of being located within a half mile of a potential source of PFAS contamination, such as military bases, fire training sites, landfills, and manufacturing facilities.

Of those, DEP tested 372 targeted sites and 40 additional sites (412 total) that were not located within a half mile of a potential source of PFAS contamination to establish a baseline.

Of the PFAS chemicals sampled, PFOS and PFOA were most common, being detected at 103 and 112 sites, respectively. Of the sites with detections, only eight PFAS were detected. The eight PFAS that were detected are: PFOS, PFOA, Perfluorononanoic acid (PFNA), Perfluorohexane sulfonate (PFHxS), Perfluoroheptanoic acid (PFHpA), Perfluorobutane sulfonate (PFBS), Perfluorohexanoic acid (PFHxA), and Perfluoroundecanoic acid (PFUnA). The other 10 PFAS that were tested were not detected.

Of the 412 total samples, **two of the results** were above the EPA’s prior HAL of 70 ppt for the combined concentrations of PFOS and PFOA: State of the Art, Inc. in Centre County, and Saegertown Borough in Crawford County.

The Final PFAS MCL Rule includes a **PFOA MCL of 14 ppt**, which represents a 90% improvement in health protection as compared to the prior EPA HAL of 70 ppt.

In addition, the Final PFAS MCL Rule includes a **PFOS MCL of 18 ppt**, which represents a 93% improvement in health protection as compared to the prior EPA HAL of 70 ppt.

Public water systems can treat source water with granular activated carbon (GAC), anion exchange (IX), and reverse osmosis (RO) (e.g., high-pressure membrane systems) to remove PFOS and PFOA from drinking water.

In addition, the MCL compliance will be based on a running annual average (RAA) for each entry point (EP). If any quarterly result causes the RAA to exceed the MCL, a violation is generated for that quarter.

With respect to monitoring, the Final PFAS MCL Rule clarifies the following:

- Monitoring applies to all community, nontransient noncommunity, bottled, vended, retail and bulk hauling water systems.
- Initial monitoring is quarterly at each EP (based on your plan).
- EP must stay on quarterly frequency if detected results are not reliably and consistently less than the MCL.
- Repeat monitoring is annual if detected results are reliably and consistently less than the MCL.
- Repeat monitoring is triennial if initial results are all non-detect.
- A confirmation sample is required if on annual or triennial monitoring and result > MCL; must resume quarterly testing.

Other key provisions of the Final PFAS MCL Rule include:

- Tier 2 public notice (notice within 30-days)ⁱⁱ is required for MCL violations.
- Results must be reported in the Consumer Confidence Report.ⁱⁱⁱ
- Samples must be analyzed by an accredited lab using an approved method.
- Labs must achieve reporting limit of 5 ng/L.
- Approved treatment technologies are GAC, IX, RO or other technologies approved by DEP.

Finally, the following are the changes to the PA DEP Final PFAS MCL Rule:

- A provision was added to accept UCMR5 data if it meets DEP criteria.
 - Samples must be analyzed by a PA-accredited lab that is also an EPA-approved lab for UCMR5.
 - Lab can meet PA reporting limits and data is reported to the Drinking Water Electronic Lab Reporting web application.^{iv}
 - Systems may need to request sampling schedule change.
 - Systems may still need to conduct some of their own sampling.
- It deletes the requirement for sample collectors to be trained by an accredited lab (information necessary to prevent cross contamination can be done through a guidance document).
- It clarifies that entry points with PFAS treatment are not eligible for monitoring waivers.
- It clarifies that performance monitoring may be required at least quarterly because some permits require monthly monitoring at initial start-up.
- Clarification was added to the Order that the field blank need not be analyzed unless PFOS or PFOA is detected in the sample.

The NAWC-PA **supports** the revisions and appreciates the clarifications that were made by DEP and believes that the Final PFAS MCL Rule strikes a balance between public health protection and costs.

Respectfully submitted,

Erik A. Ross

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ⁱ October 12, 2022, Environmental Quality Board Meeting Materials

<https://www.dep.pa.gov/PublicParticipation/EnvironmentalQuality/Pages/2022-Meetings.aspx>

ⁱⁱ “General Information About Public Notification,” Pennsylvania Department of Environmental Protection

<https://www.dep.pa.gov/Citizens/My-Water/PublicDrinkingWater/pages/public-notification.aspx>

ⁱⁱⁱ “Consumer Confidence Reports,” Pennsylvania Department of Environmental Protection

<https://www.dep.pa.gov/Citizens/My-Water/PublicDrinkingWater/Pages/Consumer-Confidence-Reports.aspx>

^{iv} “Drinking Water Electronic Lab Reporting Systems,” Pennsylvania Department of Environmental Protection

<https://www.dep.pa.gov/Citizens/My-Water/PublicDrinkingWater/pages/electronic-reporting-system.aspx>