

Rural Water Policy Advisory [11/19/2018]

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NRWA PFAS Comments to EPA: At the EPA PFAS National Leadership Summit in May 2018, EPA committed to work on initiating the steps to evaluate the need for Safe Drinking Water Act maximum contaminant levels for per- and polyfluoroalkyl substances (PFAS). EPA continues to seek PFAS related recommendations from state and local governments through a variety of public engagement and comment events. Next week, NRWA will be submitting the following comments to EPA regarding potential actions to address the PFAS compounds in drinking water.

(Docket ID No. EPA-HQ-OW-2018-0270) EPA's Request for Comment on Per- and Polyfluoroalkyl Substances (PFAS).

Dear Acting Administrator Wheeler,

Thank you for the opportunity to comment on regulatory considerations (including drinking water regulations, health advisories, or guidance) for per- and polyfluoroalkyl substances (PFAS).

Headquartered in Duncan (Oklahoma), the National Rural Water Association (NRWA) is the nonprofit association of the federated state rural water associations with a combined membership of over 30,000 small and rural communities. NRWA is the country's largest water utility association and the largest community-based environmental organization. State Rural Water Associations are non-profit associations governed by elected board members from the membership. Our member utilities have the very important public responsibility of complying with all applicable U.S. Environmental Protection Agency (EPA) regulations and for supplying the public with safe drinking water and sanitation every day.

We appreciate the many opportunities the Agency has provided to all stakeholders to participate in the development of Agency actions including the May 22-23, 2018, "PFAS National Leadership Summit and Engagement" forum and the many Community Engagement Events around the country. NRWA supports the Agency's outreach effort for seeking public and stakeholder participation in crafting PFAS-related federal actions.

The great majority of public water systems affected by any future Agency action for PFAS will be small water systems (typically administered by local governments). Local governments exist solely to protect and assist their citizens. The provision of safe drinking water is perhaps the most elemental purpose of local government as evinced by the PFAS Community Engagement Events where the local government presenters detailed how they were taking immediate action to remediate PFAS contamination in their drinking water regardless of a federally enforceable standard. It was also notable that this dynamic was not present in the privately owned water systems experiencing PFAS contamination.

Numerous stakeholders, including Members of Congress, have recently called the EPA to promulgate a federal regulatory standard or maximum contaminant level (MCL) under the Safe Drinking Water Act (SDWA) for PFAS compounds. NRWA urges the Agency to resist calls for a national SDWA MCL for PFAS and instead urges the Agency to rely on alternative federal initiatives to assist communities dealing with PFAS contamination as opposed to regulating them. MCLs are regulatory enforcement standards for local governments enforced by levying fines on local citizens (the ratepayers) for communities out of

compliance. What is actually needed in affected communities is assistance (i.e., funding for treatment, monitoring assistance, on-site technical assistance for emergency operations, credible public health information, emergency access to safe drinking water, and compensation from responsible parties).

The SDWA's mechanism of levying federal fines on local consumers for violations of MCLs is not a helpful solution for small and rural communities adversely affected by PFAS contamination. Federal civil enforcement fines of up to \$25,000 a day do not help a rural, low income community afford better water.

Alternatively, the federal government should identify the level where PFAS becomes unsafe in drinking water or acknowledge whether such a determination is impossible given the complexity of the analysis. MCLs are not based on public health levels, but rather are determined by what a large metropolitan community can "feasibly" afford. There is a level authorized in the Safe Drinking Water Act for EPA to identify a health base level, the so-called "*unreasonable risk to health*" level that has never been identified by EPA in the manner proposed under the SDWA.

The public wants to know what levels of PFAS in drinking water are safe or unsafe. The SDWA, as currently implemented, does not provide this essential information. Should a family feel safe if their drinking water concentration of PFAS is one part per billion under the current federal Health Advisory level or a future MCL? Conversely, are there any significant health effects in PFAS drinking water concentrations that are one part per billion above the health advisory or a future MCL? Every local government detecting PFAS contamination prefers to have all traces of contamination removed from their drinking water and likely all local governments are advancing plans and policies toward that goal absent a federal regulation or MCL. The promulgation of an MCL does not advance the goal of removal of all PFAS from community drinking water supplies in locally governed water utilities. It may advance such a goal, however, in privately owned water utilities where the local citizens have limited governing authority.

Local governments are not responsible for PFAS contamination and responsible parties should be held accountable for remediation, treatment and providing alternative sources of safe drinking water. The SDWA mechanisms function as if the local communities are the responsible parties for contamination with a remedy of civil penalties which actually further penalize the communities whose drinking water was contaminated. This dynamic is especially acute and problematic for economically disadvantaged communities and populations.

Thank you for the opportunity to comment and participate. We are very appreciative of the Agency's many public outreach opportunities, and we believe that our recommendations will result in greater public health protection than the MCL regulatory alternative.

National Rural Water Association

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The National Rural Water Association is the country's largest public drinking water and sanitation supply organization with over 30,000 members. Safe drinking water and sanitation are generally recognized as the most essential public health, public welfare, and civic necessities.

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