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Massachusetts Coalition for
Water Resources Stewardship

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July 19, 2019

Ms. Elizabeth Callahan
Director of Policy & Program Planning
Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup, 6th Floor
One Winter Street
Boston, Massachusetts 02108

RE: Comments on Proposed changes to 310 CMR 40.0000 (Mass Contingency Plan Regulations)
Via email to bwsc.information@mass.gov

Dear Ms. Callahan:

The Massachusetts Coalition for Water Resources Stewardship (MCWRS) is a nonprofit organization committed to promoting watershed-based policies and regulations that effectively manage and conserve water resources. Members include municipalities; public agencies that transport and treat drinking water, wastewater and stormwater; quasi-government agencies; and private organizations whose members are committed to the principles of stewardship and sustainability in protecting the environment and public health. Find us at mcwrs.org.

MCWRS had previously recommended that the Massachusetts Department of Environmental Protection (MassDEP) pursue a state Maximum Contaminant Level (MCL) for Per- and Polyfluoroalkyl Substances (PFAS) if it intended to regulate this contaminant, rather than regulating via health advisory and guidance documents. MCWRS stands by this earlier comment but believes it is premature at this time to set an MCL or a Massachusetts Contingency Plan (MCP) standard for PFAS. As an alternative, MCWRS suggests that MassDEP continue to use the current federal health advisory of 70 nanogram per liter (ng/L), while evaluating or performing the science needed to arrive at a reasonable and achievable protective standard. The needed scientific investigation should also include a better understanding of occurrence and sources in Massachusetts. The United States Environmental Protection Agency (USEPA) appears to be following this approach and we encourage MassDEP to defer to and join with the federal agency in this endeavor. Only if USEPA shows a lack of commitment to seeing this through should MassDEP take on its own MCL-setting pursuit. MCWRS stands ready to partner with regulators to help gather data from member communities' clean water treatment facilities.

The following points have guided this recommendation from MCWRS relative to the proposed changes to the Massachusetts Contingency Plan (MCP) Regulations, 310 CMR 40.000, as they relate to Per- and Polyfluoroalkyl Substances (PFAS).

1. The proposed changes to the MCP regarding PFAS are intended to regulate this class of compounds for the purpose of waste site cleanup of soils and groundwater. It is

understood that the levels of PFAS being proposed as reportable concentrations in groundwater (GW1) will guide development of a drinking water Maximum Contaminant Level (MCL) in the near future. The greater concern for MCWRS and its members is the establishment of an MCL for PFAS and identification of wastewater, land applied or landfilled wastewater residuals, or stormwater as potential PFAS sources.

2. The MCWRS and its members share MassDEP's goals of public health and environmental protection. We believe these objectives are best achieved through the use of sound science based on objective research and data collection. The extremely low levels of PFAS proposed for reportable concentrations under the MCP and ultimately for a drinking water MCL strike us as being overly conservative. The desire to set standards that are all-protective and risk free from a health perspective has to be tempered by the reality of waste site cleanup and drinking water treatment costs and technical feasibility. The Safe Drinking Water Act includes many examples of contaminant MCLs that are generally protective of public health by reducing health risks to acceptable levels but not eliminating all risks (e.g., THMs, HAAs, Lead, Arsenic). Maximum Contaminant Level Goals are often set to a concentration of zero, but the MCLs are typically higher to recognize the feasibility of achieving desired levels and the diminishing health benefits derived as standards reach ever lower limits.
3. The science of PFAS fate and transport is still emerging. The Water Research Foundation (WRF) currently is soliciting proposals regarding the occurrence of PFAS compounds in U.S. wastewater treatment plants to determine the fate of PFAS compounds during wastewater treatment. Because of PFAS use in a wide variety of consumer care products, PFAS have been found in wastewater treatment influent and effluent, with municipal wastewater effluents and biosolids now being viewed as potential sources of PFAS to the aquatic environment. Given that approximately 55% of biosolids generated in the US are being land applied it is critical to first understand the fate and transport of these compounds before significantly disrupting how wastewater and biosolids are managed. Setting these MCP levels prematurely could markedly impact utilities across the Commonwealth.
4. The science of PFAS health effects is not clear or consistent. This is best demonstrated by the vast discrepancies in PFAS health limits (including drinking water standards) across the United States and internationally. New York is looking at a standard of 10 ng/L, Germany's limit is 100 ng/L, Canada has a 200 ng/L limit for PFOA, Australia has a limit of 560 ng/L and North Carolina is at 2,000 ng/L. Massachusetts appears to be moving to a standard of 20 ng/L; at the low end of the spectrum. MCWRS appreciates that public opinion, formed through media coverage and empowered interest groups, puts tremendous pressure on MassDEP to set standards at or near detection limits. It is understood that there are health impacts from PFAS at some low level but there remains significant uncertainty about what that level may be. MCWRS believes that the current federal health advisory of 70 ng/L is very protective and appropriate until gaps in scientific understanding are closed. Selecting the lowest possible levels may satisfy those with health-based concerns but the implications are enormous for ratepayers, who would fund water treatment and wastewater treatment upgrades, economic growth, which may be stymied by site cleanup costs, and the public at large, who will see failing infrastructure continue as limited funds are diverted to PFAS removal.
5. PFAS has been around for seven decades; it is not a new contaminant but we now know it bio-accumulates and much remains to be learned about long-term health effects. Today, through improved analytical methods, we also have the ability to detect PFAS at extremely low levels and are

finding it everywhere. It is ubiquitous and present in all media, including ground and surface waters, soil and air. The “discovery” of PFAS in many places provides good reason to learn more about its fate and transport, health effects, environmental impacts and treatment options. Discovery, however, is not in itself just cause to regulate and set overly cautious standards.

6. MassDEP is advancing the MCP PFAS limit and working toward a similar MCL for drinking water with limited PFAS occurrence data for the state. At today’s advanced detection levels there exists a strong likelihood that PFAS will be found at numerous locations in soil and water. While we all recognize that there are some industries and practices that represent clear and obvious “sources”, we are very concerned that cumulative impacts attributed to less obvious and regulated “sources” may trigger managers of waste site cleanup sites, drinking water treatment facilities and wastewater treatment facilities to be overwhelmed by new PFAS detections. PFAS will most certainly be found in many places, including unexpected occurrences, and cities, towns and state agencies will not have the resources to address these new “discoveries.” MCWRS believes MassDEP would be wise to hold off on establishing any new limits on PFAS until a comprehensive occurrence database is developed and additional sampling of various media and locations is completed. Before regulating, the occurrence, potential environmental sources and implications of regulation need to be better understood.

Recent, new discoveries include a bottled spring water source, believed to be in in Haverhill, with levels over 100 ng/L. Sampling of three recreational surface waters (non-drinking water) in Worcester found consistent levels of about 10 ng/L. These waters are all quite different in terms of contributing sources (groundwater or surface water), have differing watersheds, and lack a potential likely source of PFAS. The consistent results suggest a possible airborne or perhaps urban environment source, or may be due to sample contamination.

7. The costs to treat drinking water for PFAS removal have already been shown to be significant. The cost to remediate contaminated soil or groundwater or to modify wastewater treatment and biosolids management practices is much less quantified. While waste site cleanup typically falls on responsible parties, that designation may be difficult to assign when such low levels will trigger action. Costs for drinking water treatment and wastewater treatment will be borne by local ratepayers until some future time if a responsible party is identified and legal proceedings conclude; that could be decades away. If the Commonwealth believes that PFAS at 20 ng/L represents a reasonable threat to public health, then it must be ready to help pay the costs to protect its residents. That burden cannot fall solely upon local water and sewer ratepayers.

Thank you for the opportunity to comment on this important matter. MCWRS and its members stand ready to assist MassDEP in moving this issue forward in a way that is reasonable and effective and that does not unnecessarily burden communities, districts and state agencies.

Sincerely,



Philip D. Guerin
President & Chairman