MASSACHUSETTS WATER RESOURCES AUTHORITY

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July 19, 2019

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

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

Dear Commissioner Suuberg:

The Massachusetts Water Resources Authority (MWRA) appreciates the opportunity to submit the following comments on the Massachusetts Department of Environmental Protection's (MassDEP) proposed changes to the Massachusetts Contingency Plan (MCP) regulations, 310 CMR 40.0000. MWRA provides wholesale water and sewer services to 3.1 million people and more than 5,500 businesses in 61 communities in eastern and central Massachusetts. MWRA's mission is to provide reliable, cost-effective, high-quality water and sewer services that protect public health, promote environmental stewardship, maintain customer confidence, and support a prosperous economy. As MassDEP works to address the very important issue of per- and polyfluoroalkyl substances (PFAS) in water and wastewater, there are some issues that are of interest and concern to the MWRA which are summarized in the comments below.

- MWRA understands that MassDEP intends to use information received during the public comment process on the MCP regulations to inform potential revisions to the current Office of Research and Standards Guideline (ORSG) for PFAS and toward the development of a Maximum Contaminant Level (MCL) for PFAS. MassDEP should be commended in its efforts to construct an approach that is consistent across media. In previous regulatory processes related to the development of drinking water standards, MWRA has found that DEP's practice of sharing data and methodologies with the Safe Drinking Water Act advisory committee before final decisions or proposals have been made, to be extremely beneficial. It is unclear if decisions made during this MCP regulatory process will be finalized in such a way that the information exchange related to drinking water will be precluded. Related to this, MWRA suggests that DEP consider publishing more detailed information about the benefits and impacts of the proposed approach for establishing regulatory clean-up and drinking water standards for PFAS. Further, identifying the expected treatment processes necessary, the means for how residuals from those treatment processes would be expected to be handled, and the likely energy and greenhouse gas implications, would be helpful. These are the type of disclosures that any water system would have to provide in their environmental review process under MEPA and having a generic preview at this stage will provide important information for individuals and

officials in affected communities as they consider DEP's proposals. This approach is consistent with that utilized by US EPA under the Safe Drinking Water Act.

- MassDEP has requested comments "on which PFAS should be summed, if any" as well as "comments regarding analytical issues relating to quantification thresholds and data reproducibility at the proposed low parts-per-trillion levels." In response to these specific questions, MWRA notes that, currently, there are no methods approved by the Environmental Protection Agency (EPA) for PFAS in matrices other than finished drinking water. The Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, a compendium of methods that EPA has developed in support of the Resource Conservation and Recovery Act, commonly known as SW-846 methods, are normally the default standard for MCP related determinations. EPA recently released a draft of SW-846 Method 8327 for public comment. However, it does not appear to be sufficiently sensitive to support the 20 ng/L standard that MassDEP has proposed. The suggested Lower Limit of Quantitation (LLOQ) in Method 8327 is only 40 ng/L for PFHxS and PFHpA before even considering the other four compounds that MassDEP has proposed summing together with these two. This method as written is not sufficient to support the cleanup standard that MassDEP has proposed and it is therefore unclear how determinations would be made absent an applicable method.

- The method that EPA has approved for drinking water is Method 537, which was updated to Method 537.1 in November, 2018 and MassDEP currently accepts data from either version. The accuracy and precision in drinking water methods at low levels is defined by the Lowest Concentration Minimum Reporting Level (LCMRL). The LCMRL is the lowest true concentration that laboratories can expect to recover with an uncertainty between 50% and 150%. The sum of the LCMRLs published in Method 537 for the six PFAS compounds that MassDEP is proposing to sum is 32.7 ng/L. This is also problematic for demonstrating compliance with a cleanup standard of 20 ng/L due to the large analytical uncertainty that could be present at this level. The published LCMRLs in EPA 537.1 are much improved, however they still sum to only 10.7 ng/L. Since some laboratories may occasionally see recoveries up to 150% of this value, it is impractical for MassDEP to implement a cleanup standard of 20 ng/L for the sum of six PFAS compounds. MWRA recommends that MassDEP set the cleanup standard at a level that has been demonstrated to be reasonably free of analytical uncertainty and sampling artifacts.

- As DEP is finalizing its MCP changes and beginning the public process of developing drinking water standards, MWRA recommends that DEP consider providing additional clarity and context for the toxicology and epidemiology support for the proposed standards. As currently presented, reviewers cannot determine the specific uncertainty (safety factors) used by DEP's Office of Research and Standards in moving from each toxicology "point of departure" based on an effect to a particular laboratory animal to the standard to be applied to people. A more explicit account of this process for each contaminant would provide helpful context to reviewers.

MWRA is committed to helping address PFAS and other pollutants that cause public health and environmental concerns. We look forward to on-going coordination with MassDEP as we continue to implement sampling programs for PFAS in our drinking water system and research initiatives related to identification of PFAS in biosolids. As various state and federal legislative initiatives as well as proposed federal regulations, evolve and advance, MWRA remains committed to our partnership with MassDEP on these important issues.

In addition to MWRA's interest in the sections of the MCP that relate to PFAS, please also consider the following comment related to a reporting exemption.

- DEP has proposed an additional reporting exemption for trihalomethanes found in leakages to groundwater from chlorinated water supply treatment systems. MWRA recommends that in 310 CMR 40.0317 (20): the list of exempted compounds should be expanded to include haloacetic acids, another class of disinfection byproducts found in chlorinated drinking water. The Massachusetts Oil and Hazardous Material List found in Subpart P of the MCP contains one such compound: trichloroacetic acid and this compound should be added to the list of exempt compounds.

On behalf of the MWRA, thank you for your consideration of these comments. Please do not hesitate to contact me at 1-617-788-4359, with any questions or concerns.

Sincerely,

David W. Coppes, P.E.
Chief Operating Officer