

Organizations Around the Country Oppose EPA's Flawed Drinking Water Proposal



The American Chemistry Council has provided a detailed critique of the Environmental Protection Agency's proposed Per- and Polyfluoroalkyl Substances (PFAS) National Primary Drinking Water Regulation (NPDWR).

Broadly, ACC argues that the NPDWR must be based in sound science and realistic economic data, which the proposal currently fails to do. Among additional points raised, ACC argues: EPA has relied on an assessment of potential health effects that is fundamentally flawed; overstates the non-cancer risks associated with PFOA and PFOS exposure; fails to demonstrate that the benefits of the proposal justify the costs as required by the Safe Drinking Water Act; and significantly underestimated the costs of complying with the proposed standard and the number of systems that will be impacted.

Around the country, many organizations have also commented on the proposed NPDWR and raised many of the same concerns presented by ACC. Below are a small sample of comments taking issue with the proposal and detailing the negative impacts that could result if enacted.

NATIONAL AGENCIES AND ORGANIZATIONS

American Water Works Association

"A recent analysis by Black & Veatch estimated that the costs of the proposed standards could exceed \$2.5 to \$3.2 billion annually. The Administrator will need to determine if these costs are justified by the benefits, estimated to be \$0.8 to \$1.2 billion annually, and whether it is a meaningful opportunity to protect public health when this investment will divert water systems investments from other needs to assuring compliance with any final PFAS rule requirements."

American Water Works Company

"The estimated national cost to install treatment facilities and processes to remove PFOA and PFOS at drinking water facilities to levels required by EPA's proposal exceeds \$47 billion, which is approximately \$35 billion above what would be required to meet current state established PFAS limits. Further, it will require, on a national basis, more than \$700 million annually for operating costs, which is approximately \$500 million more than what would be required to meet current state established PFAS limits. These dollar values are significantly higher than EPA's cost estimates."

Association of Metropolitan Water Agencies

"EPA's cost analysis vastly underestimates the real-world costs that this rulemaking will impose on public water systems, and ratepayers will bear those costs. Even worse, those costs will disproportionately affect economically disadvantaged and underserved communities. ... Given the numerous pressing priorities that public water systems are already grappling with, including challenges posed by aging infrastructure, compliance with various regulations, the impacts of climate change, and the current difficulties stemming from inflation, labor shortages, and disruptions in the supply chain, it is evident that more time than what is proposed in this rulemaking will be necessary for the implementation of PFAS treatment technologies."

Association of Public Health Laboratories

"APHL has significant concerns that the national testing needs are underestimated and that there will be insufficient analytical capability and capacity without investment in laboratory infrastructure related to the addition of skilled analysts, acquisition of dedicated laboratory instrumentation (LC/MS, LC/MS/MS), training of laboratory scientists on the new technology and

PFAS drinking water methodology and informatics solutions to support the proposed reporting requirements. ... It will be a challenge for the commercial market to meet these demands.”

Association of State and Territorial Solid Waste Management Officials

“[ASTSWMO] recommends that EPA evaluate classes of PFAS that have common characteristics [and] provide more careful consideration of PFAS functional groups, chain length, and toxic endpoints, and the use of a more-refined approach for the combined regulation of these chemicals.”

Del-Co Water Company

“Based on the actual average capital expense received by Del-Co Water’s preliminary engineering study (i.e., \$67 million), the EPA range appears to significantly underestimate the potential costs to PWSs [public water systems]...Del-Co questions whether this funding could be allocated to other priorities (e.g., replacing lead service lines, upgrading cybersecurity, replacing aging infrastructure, and assuring sustainable water supplies) which would provide greater benefit, risk reduction, and public health protection to the ratepayers.”

National Association of Clean Water Agencies

“NACWA’s comments include concerns over EPA’s severe underestimation of cost impacts to public water systems (PWSs), EPA’s shortsightedness in not fully considering laboratory capacity and the guaranteed backlog that will occur when tens of thousands of PWSs and clean water utilities are trying to monitor and comply simultaneously, the likelihood of treatment equipment and carbon supply shortages, and, lastly, the potential impacts on greenhouse gas emissions due to energy consumption at PWSs and clean water utilities.”

National Ground Water Association

“Groundwater-supplied community water systems, typically serving small communities, are most impacted in incidence and in concentration for PFAS found previously. ... Small communities typically do not have the expertise and financial resources to manage their water systems sustainably for the delivery of safe drinking water.”

National Rural Water Association

“Regulation, civil enforcement, and liability under the Superfund Law (CERCLA) are not the appropriate federal remedies for addressing this problem for local governments. Small and rural communities are not responsible for introducing PFAS into the environment or the public’s drinking water. Most of the public water systems impacted by PFAS are small and face more challenges complying with federal regulations than more complex water treatment systems.”

The U.S. Conference of Mayors, National League of Cities, and National Association of Counties

“We have serious concerns that not only will local governments be unable to afford the required costs to comply with this regulation, but also that the Agency has underestimated the cascading impacts this regulation will have on local communities, primarily in the form of higher water bills.”

REGIONAL AGENCIES AND ORGANIZATIONS

The California-Nevada Section of the American Water Works Association

“The Hazard Index MCL for the group of four contaminants will presumably increase the number of water systems incurring costs for construction and operation of water treatment, exacerbating the very high cost and adding to an affordability crisis for drinking water. ... The regulation lacks sufficient data on occurrence of PFAS in water sources of small systems for its economic analysis, relying instead on assumptions and statistics to cover acknowledged gaps. EPA further failed to conduct meaningful consultation with small business advocates.”

Eastern Municipal Water District

“EPA’s cost assessment does not fully capture the costs that will be borne by water agencies and ratepayers.... EPA’s Proposed Rule discusses replacement water as an alternative to treatment, which is not a viable option. Replacement water is not readily available to most agencies in the arid west, and when additional supplies can be developed, those new projects are very expensive.”

Harris County Attorney’s Office

“By EPA’s own estimates, the total annual cost per household for the various potential compliance technologies is notably higher for the systems that serve a population of 25-500 than those that serve 501-3,300 and 3,301-10,000. Some residents in states that have enacted their own drinking water standards for PFAS have faced notable hikes in their water bills.⁸ **The possibility that low-resource and overburdened communities served by PFAS heavy systems could face additional economic damage is especially troubling.** HCA is concerned that a nationwide spike in demand for PFAS removal technologies will cause the price of compliance to rise drastically, and expensive drinking water bills will impact vulnerable members of the community living on fixed incomes.”

Los Angeles County Sanitation Districts

“EPA has proposed a three-year compliance time for water systems to address the presence of PFAS in their water supply above the proposed MCLs; however, this timeline is unrealistic and infeasible for compliance....we are concerned about the potential impacts of the proposed rule on wastewater treatment, water recycling and solid waste management facilities, and we urge the EPA to comprehensively consider these impacts when assessing costs and feasibility of the proposed rule and finalizing the MCLs.”

New England Water Works Association (NEWWA)

Further, we are concerned that EPA has vastly underestimated the cost of implementation. A recent comprehensive study found that per-household costs would range from hundreds to thousands of dollars annually.”

Western Urban Water Coalition

“EPA has not issued a primary drinking water standard for a new contaminant on its own volition for the past twenty-six years. The drinking water standards adopted through this rulemaking have the potential to set a new precedent for further regulation of additional PFAS. Given the significance of this moment, WUWC urges EPA to adopt a rule only after assuring that the standards it selects are based on best available peer-reviewed science and are feasible, as required by the Safe Drinking Water Act. WUWC [has] concern that EPA has not yet fully analyzed the legal, practical, or economic feasibility of the Proposed Rule.”

STATE AGENCIES AND ORGANIZATIONS

Arkansas Department of Health

“It is imperative that the final Rule provides clear and achievable requirements for PFAS levels in drinking water without being overly burdensome on public water systems and the users they serve. ... The capital and operation costs of installing treatment for PFAS are very high compared to the conventional water treatment processes currently being used. The financial capacity of these water systems will be at significant risk to address the financial burden related to the installation of special treatment equipment, increased costs of labor, power, and waste disposal for operation of the treatment.”

Greater North Dakota Chamber et al.

“The broad impact of this proposal by EPA’s own accounts may raise water bills for households

in our communities by as much as \$1,000 per month. These are real costs of our employees and customers that are avoidable should EPA select a more reasonable and defensible approach.”

The Groundwater Resources Association of California

“It is unclear from our reading of the report what statewide datasets were used to evaluate the occurrence, impacts, and costs of PFAS. The text states that data from 23 States was collected but the tables only show data from 10 States. We recommend that PFAS statistics from data collected across all 23 States be included.”

Illinois Farm Bureau

“Rural communities and/or underserved communities have far less resources to address expensive federal regulatory requirements. Drinking water utilities in rural areas will undoubtedly experience more challenges in meeting the 4ppt standard outlined in this proposed rule. Rural communities will incur extensive costs to obtain and install new technology. Then, uncertainty with testing availability/costs and lack of clarity with disposal methods/costs only exacerbate our concerns. It will be infeasible for many rural communities to meet the standards outlined in the short timeframe identified and the exorbitant costs will inevitably be handed down to the water users. While federal funding may be available, our concern is there is not enough money to go around to cover the costs.”

Maine Water Utilities Association

“EPA needs to carefully consider implementation challenges for PWS [public water systems] caused by regulatory efforts related to PFAS. MWUA is questioning whether EPA has invested enough time into this effort before moving forward with the proposed drinking water regulations. Without adequate consideration regarding these implementation challenges, **public confidence in drinking water could be further jeopardized.**”

Massachusetts Coalition for Water Resources Stewardship

“While it is agreed that PFOA and PFOS need to be regulated in drinking water through an MCL, **the proposed limits are far too extreme, not supported by science, too costly, reactionary and fraught with unintended consequences** that may lead to greater threats to drinking water quality and public health than are posed by the contaminants being regulated.”

The Massachusetts Municipal Association

“The requirements to comply with the EPA’s National Primary Drinking Water Regulation proposal go beyond the normal operating budgets of our cities and towns. Because of the tax-limited environment in Massachusetts cities and towns, many communities would be forced to consider an override to **increase local property tax burdens, or be compelled to reduce funding for existing programs and services.** That is the simple reality caused by unfunded mandates.”

Missouri Department of Natural Resources

“The cost of the rule for Missouri will be significant. For the state, implementing this rule will require additional staff, equipment, laboratory capacity, and new tools for tracking and reporting all of the required elements included in the rule.”

New Hampshire Water Works Association

“Public water system customers already face both real and perceived affordability issues. The substantial costs required to meet the proposed 4 ppt MCL **will adversely impact individual and regional economies, especially in more financially disadvantaged communities.** As noted above, EPA has underestimated the full life-cycle costs of treating PFAS to the proposed MCLs.”

Pennsylvania Municipal Authorities Association

“The Proposal is complex and presents many issues that the regulated community has never had to address (e.g. a Hazard Index for a Safe Drinking Water Act initiative). Moreover, there are over 5,000 pages of supporting documentation that need to be reviewed in order to provide thoughtful and comprehensive comments on a number of issues related to the Proposal. As EPA is aware, many states, including the Commonwealth of Pennsylvania, have enacted various PFAS initiatives in advance of EPA’s Proposal. ... EPA’s Proposal, when finalized, may require Pennsylvania to revise its program and MCLs to meet what appears to be a more stringent EPA regulation. The practical problem is that PMAA member authorities are or will be required to meet the mandates of Pennsylvania’s regulation before EPA’s PFAS regulation is finalized and, in so doing, will spend significant money to meet requirements that may no longer be applicable once EPA’s PFAS regulation is finalized.”

Wyoming Department of Environmental Quality

“The proposed rule provides some exemptions for PWSs [public water systems] serving a population under 3,300 and for PWSs that need financial assistance for necessary improvements. However, WDEQ is concerned that even with these exemptions, it is not financially feasible for the 379 PWSs in Wyoming that serve a population under 3,300 people to implement any necessary modifications to their infrastructure.”

MUNICIPALITY AGENCIES AND ORGANIZATIONS

City of Tulsa Water and Sewer Department

“CoT WSD has concerns that there was little discussion in the preamble regarding timeline for compliance if initial monitoring data showed non-compliance with the MCL, and installation of new treatment is required to achieve compliance with the NPDWR [National Primary Drinking Water Regulations]....EPA states (88 FR 18689) that it will not provide a two-year extension allowed by SDWA [Safe Drinking Water Act], but States can issue extensions on an individual basis. This will increase the burden on states in the implementation of this rule. Given a conservative estimate of 3.5-4 years for a capital project to reach completion, a two-year extension would not be sufficient.”

Las Cruces Utilities

“Given the lack of comprehensive data, there is uncertainty regarding the extent of increases in capital and annual operating costs associated with achieving compliance. It is also difficult to assess our timeline to obtain compliance if conditions warrant.”

Philadelphia Water Department

“EPA should reevaluate the proposed MCL values for PFOA and PFOS and must consider more factors in evaluating technical and economic feasibility.”

Plymouth Village Water & Sewer District, New Hampshire

“With several thousand systems impacted by the proposed Maximum Contaminant Levels (MCLs) and roughly three-quarters of them serving 10,000 customers or less, **the proposed MCLs will disproportionately affect small systems [which] lack the financial, staff and management resources to implement the proposed rules.** EPA has not accurately estimated costs associated with treating PFAS to the proposed MCL. EPA’s annualized costs for treatment are \$772 million per year, which contrasts with an American Water Works Association estimate of \$3.8 billion per year. A growing body of actual cost data indicates EPA’s operation and maintenance estimates may be even further off, by up to an order of magnitude. It is important that projected and actual costs be accurate to develop an MCL that balances health risk reduction, technical feasibility, and cost.”
