



October 5, 2021

Lauren Zeise, PhD
Director
Office of Environmental Health Hazard Assessment
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Sacramento, CA 95814
Submitted by e-mail: PHG.Program@oehha.ca.gov

Re: Proposed PHGs for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS)

Dear Dr. Zeise:

The Community Water Systems Alliance (CWSA) appreciates the opportunity to submit these comments on the proposed Public Health Goals (PHGs) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). CWSA represents municipal utilities, special districts and mutual water companies that serve disadvantaged communities as well as regional water systems that help them. We work in the interest of safe drinking water and viable water systems for public health and sustainable communities.

Our first comment concerns the drinking water regulatory process followed in California and the paradoxically negative public health consequences that flow from a flawed process. In theory, regulation should follow a pure, scientifically sound procedure with abundant, peer-reviewed and universally accepted data, resulting in a clear message that is understood and trusted by the regulated community and the public. In California, however, the process creates underground regulation, confuses the public, reduces confidence in the drinking water supply, and imposes an impossible burden on communities least capable of meeting the regulations. Public Health Goals, along with Notification and Response Levels, and how they are misused, are partially to blame for this. The PHGs for these two PFAS will perpetuate this cycle.

The preface to the First Public Review Draft describes the relationship of PHGs to the rest of the regulatory process.

PHGs published by OEHHA are for use by the State Water Resources Control Board (SWRCB) in establishing primary drinking water standards (California Maximum Contaminant Levels, or CA MCLs). Whereas PHGs are to be based solely on scientific and public health considerations without regard to economic cost considerations, MCLs adopted by SWRCB consider economic factors and technological feasibility.

State law requires that MCLs be set at a level that is as close as feasible to the corresponding PHG, placing emphasis on the protection of public health. PHGs established by OEHHA are not regulatory and represent only non-mandatory goals.

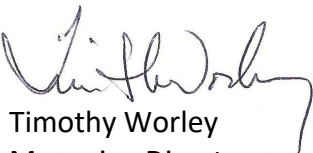
PHGs “represent only non-mandatory goals,” and “provide estimates of the levels of contaminants in drinking water that would pose no significant health risk to individuals consuming the water on a daily basis over a lifetime” (PHG Draft, p. 2). Significantly, the Notification Levels adopted by OEHHA two years ago are set at 0.0051 µg/L (PFOA) and 0.0065 µg/L (PFOS). While the Maximum Contaminant Level to be set by the State Water Board should consider technological and economic feasibility, in practice Notification Levels and Response Levels are treated as *de facto* enforceable standards by some state agencies. For example, the Division of Drinking Water has refused to approve operating permits for some new water treatment systems if treatment for PFAS is not also included, despite having no Maximum Contaminant Level for the substances. Conversely, the California Public Utilities Commission prohibits investor-owned utilities from recovering costs for PFAS treatment, since there is no enforceable MCL.

Adding to the regulatory muddle and public confusion, water agencies are required to report exceedance of PHGs on their Consumer Confidence Reports, and to hold public hearings.¹ This in turn is often misconstrued, raising alarm in an unwitting public and undermining trust in the drinking water supply.² Low-income consumers, who may have lower educational attainment, are most affected and harmed by mistrusting the safety of tap water.³

Finally, laboratory testing at the very low levels of these PHGs are at the very edge of what is possible, difficult to perform, not widely available, and expensive. Setting a PHG at 0.007 parts per trillion implies that such measurements are routine and widely accessible, but in fact they are cost-prohibitive for many small systems. OEHHA should consider real-world consequences of setting this numerical level.

Thank you for the opportunity to provide these comments.

Sincerely,



Timothy Worley
Managing Director

¹ https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/CCR.html accessed 8/31/21.

² Sydney Evans, David Andrews, Ph.D., Tasha Stoiber, PhD., and Olga Naidenko, Ph.D., “PFAS Contamination of Drinking Water Far More Prevalent Than Previously Reported,” <https://www.ewg.org/research/national-pfas-testing/>

³ Leila Family, PhD, MPH, Guili Zheng, PhD, MPH, Maritza Cabezas, DDS, MPH, Jennifer Cloud, MPH, Shelly Hsu, MPH, Elizabeth Rubin, MPH, Lisa V. Smith, MS, DrPH, Tony Kuo, MD, MSHS, “Reasons why low-income people in urban areas do not drink tap water.” <https://doi.org/10.1016/j.adaj.2018.12.005>