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VIA ELECTRONIC FILING

The Honorable Michael Regan, Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

May 26, 2023

RE: Proposed PFAS National Drinking Water Regulation (Docket ID: EPA-HQ-OW-2022-0114)

Dear Administrator Regan,

On behalf of the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy organization in the Commonwealth, thank you for the opportunity to present comments with respect to the United States Environmental Protection Agency's (EPA) proposed National Primary Drinking Water Regulation for six PFAS compounds: PFOA, PFNA, HFPO-DA, PFHxS, and PFBS.

The PA Chamber represents nearly 10,000 members of all sizes and industry sectors. The PA Chamber and our members recognize that the development, use and stewardship of the water resources are essential to the health, success and vitality of every community, industry and enterprise. With that recognition, we understand that stewardship of our water resources requires a delicate, but essential, balancing of environmental and economic considerations.

With this in mind, we respectfully offer the following comments for your consideration.

1. EPA Should Recognize the Substantial Challenge a Federal Approach Will Present to Industry in States that Have Already Established an MCL for These Compounds

On January 14, 2023 the Pennsylvania Department of Environmental Protection published a final rulemaking establishing state drinking water maximum contaminant levels for PFOA at 14 ng/L and PFOS at 18 ng/L. These MCL's were established after an extensive, multi-year statewide sampling across hundreds of drinking water sources in the state, and, importantly, after a multi-year regulatory development process that, per state law, requires a demonstration that the regulation is effective with respect to costs and benefits. A federal MCL beneath these levels will, by our state environmental regulator's own evaluation, result in costs in excess of benefits for the state. Further, a federal MCL that is more stringent than Pennsylvania's will also result in

significant challenges for the disposal of PFAS compounds, as well as challenges for industry with stormwater and discharge permits and the remediation and reuse of industrial sites. Such challenges will impede the stated policy goals of the administration and Congress to reshore and expand domestic manufacturing.

2. There Are Significant Laboratory Testing Constraints

There is a dearth of laboratory testing capacity to handle the volume of water and soil testing that will be needed for industries across the state and country to evaluate compliance with respect to PFAS. At the extremely low levels being proposed, it will be extremely difficult for commercial and public laboratory testing facilities to keep the testing areas, as well throughout the chain of custody, pure of any residual PFAS contamination that will result in inaccurate testing.

3. EPA Will Need to Provide Additional Resources to States for Compliance and Permitting Support

As discussed, the stringent MCL's being proposed will present a significant compliance burden on industry and will also present a major imposition on the staff and resources of state environmental agencies, who are already have significant challenges with respect to hiring and retaining qualified workers. This proposed rulemaking will have secondary regulatory impacts to brownfields cleanups, NPDES discharge permits, industrial stormwater permits, waste management permits for hauling, storage, and disposal at landfills, among others – all of which will require more staffing and resources for state and local agencies. States will need a substantial increase in federal funding to accommodate this mandate.

4. The PA Chamber Reiterates Our Concern with Listing These Substances Under CERCLA

In a joint letter with other state chambers filed with the EPA last November¹, the PA Chamber expressed its concern adding these compounds to CERCLA, given the costs and uncertainties with respect to storage and disposal, as well as the fact that the World Health Organization's report on PFOS and PFOA in drinking water calls into question EPA's approach on this matter. This move would also impose significant liability for domestic manufacturers, again in conflict with the stated policy goals of this administration and Congress on shoring up supply chains.

5. EPA's Novel and Unprecedented Hazard Index Approach for PFAS Presents Significant Questions and Should be Reconsidered

In stark contrast to how all other MCLs have been established, which is determined in reference to health advisory limits, EPA is proposing in this rulemaking to regulate four PFAS

¹ <https://www.pachamber.org/wp-content/uploads/2022/11/State-Chamber-Coalition-Comments-on-CERCLA-Designation-OLEM.pdf>

combinations using a hazard index that may produce subjective determinations with conflicting interpretations between utilities and regulators. It is likely this approach will produce significant uncertainty to regulated communities and may be inconsistently applied across the country and not well understood by the public. As such, EPA should develop a workable MCL using traditional approaches.

6. For These Reasons, We Request EPA Withdraw This Rulemaking for Future Consideration

As we noted in joint comment letter co-signed by 21 other state chambers of commerce and business groups, a durable, workable national framework on this issue can avoid a costly and complicated patchwork of state-level regulatory approaches. However, the rules as proposed will impose substantial costs and challenges to the regulated community, and we urge a withdrawal of this rule for further consideration on these issues.

On behalf of the Pennsylvania Chamber of Business and Industry, thank you for the opportunity to comment on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Sunday". The signature is written in a cursive style with a large, stylized initial "K".

Kevin Sunday
Director, Government Affairs