March 20, 2017

Susanna W. Blair
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460
Submitted via *www.regulations.gov*

Re: Docket EPA–HQ–OPPT–2016–0654, Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act

Dear Ms. Blair:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the proposed *Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act* (TSCA) (82 FR 7562; January 19, 2017). NACWA represents the interests of nearly 300 publicly owned wastewater treatment agencies nationwide, serving the majority of the sewered population in the U.S.

Wastewater utilities serve the public by protecting human health and the environment, meeting increasingly stringent Clean Water Act (CWA) requirements for the treatment of wastewater. The CWA gives utilities the authority to regulate industrial and commercial discharges of pollutants that may interfere with the wastewater treatment process or that may pass through the facility untreated into the effluent or biosolids (the liquids and solids, respectively, remaining after wastewater treatment). However, utilities have no authority to regulate domestic discharges of pollutants, such as chemicals found in consumer products which may be rinsed or discharged down the drain and into the sewer system. Since wastewater treatment utilities were not designed to remove all chemicals from wastewater, regulation of chemicals by EPA is the most practical means of controlling their discharge into wastewater and preventing adverse impacts on wastewater utilities, human health, or the environment.

Overall, NACWA supports the proposed rule and its flexible approach to chemical risk evaluation. This approach is advantageous because it will allow the use of the

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latest scientific information and science-based risk assessment methods. In addition, it allows the use of improved modeling approaches as they are developed. NACWA offers the following comments and recommendations related to the evaluation of chemical impacts on wastewater utilities.

Addressing All "Conditions of Use" of a Chemical

Wastewater utilities treat discharges from multiple sources, and some chemicals are used in numerous products. Any one source or product might be a minor contribution to the chemical loading experienced by a utility, but the cumulative total may be significant. Risk evaluations should therefore include all "conditions of use" that result in direct or indirect utility discharges to accurately assess risks. If unreasonable risks do exist, then knowledge of all discharge sources will be necessary to develop effective, practical, and fair risk management measures.

Definition of "Aggregate Exposure"

The definition of "aggregate exposure" in Section 702.33 should be clarified to include environmental and wastewater utility risks, since CWA regulations account for multiple sources of the same pollutant and the impacts on human health and the environment from pollutants in a utility's effluent, recycled water, air emissions, and biosolids.

Approach to "Sentinel Exposures"

Small exposures with major consequences should be explicitly included within the definition of "sentinel exposure" in Section 702.33. Sentinel exposures should be determined not only by the magnitude of exposure, but also on effects thresholds, to adequately consider the risks associated with highly sensitive endpoints. For these sensitive endpoints, such as invertebrate toxicity, significant risks can occur at low exposure levels. Conditions of use associated with the highest quantity exposures may not be the same conditions of use that are associated with unreasonable risks.

Use of Conceptual Models in Scoping Documents

Conceptual models facilitate a quick screening of EPA's proposed risk evaluation approach and NACWA supports their use in scoping documents for chemical risk evaluation. This will improve our ability to provide useful scientific information and insights to EPA early in its risk evaluation process.

Public Participation Opportunities

NACWA recommends that the proposed 30-day comment periods for the initiation of the risk assessment process and the issuance of the draft risk assessment be changed to a minimum of 60 days. NACWA and its public agency members will need at least 60 days to review the complex documents and detailed scientific information involved with risk assessments and provide EPA with meaningful comments.

Redefining Scientific Terms

NACWA agrees with EPA that further defining terms such as "best available science" is unnecessary. The "best available science" changes as scientific information expands, and EPA should have the flexibility to incorporate and adapt to changes in scientific understanding of chemical risks. In addition, transparency in EPA's evaluation of available scientific information is useful, but should not be used to exclude scientific literature that may have "blind" participants. Wastewater utility monitoring studies on chemicals and contaminants of emerging concern often have "blind" participants due to reasonable concerns about adverse

publicity or regulatory or legal consequences related to the detection of pollutants in wastewater streams. These concerns exist even though POTWs may not have any reasonable method to control the discharge of some pollutants, such as those from consumer products.

NACWA also agrees that "unreasonable risk" should not be further defined. Determining unreasonable risk will involve many considerations that cannot be defined yet for each chemical. For example, a key consideration for determination of unreasonable risk should be whether exposures comply with the numeric and narrative standards set by the CWA and other national environmental laws.

Interference of Wastewater Treatment

NACWA recommends that EPA clearly specify that interference with wastewater treatment processes should be considered in risk assessments when appropriate. Interference with biological treatment processes and limitations on biosolids use options would be captured within the general description of human and ecological risk assessment in the proposed rule. However, other problems with treatment processes, such as aeration tank foaming, would not necessarily be captured in this general description. Specifically citing wastewater treatment process interference will ensure that all utility impacts are considered.

Interaction with Office of Water

To assist the Office of Pollution Prevention and Toxics in identifying and evaluating the chemical risks of concern for wastewater utilities, NACWA recommends that a process for communication and collaboration be established with EPA's Office of Water during the prioritization process.

Since wastewater utilities have limited control over the discharge of chemicals and contaminants of emerging concern into sewer systems, especially from consumer products, timely finalization of this proposed rule and initiation of the TSCA reform process will help protect wastewater treatment processes, water reuse, the beneficial use of biosolids, and the aquatic environment.

Thank you for your consideration of these comments. Please contact me at 202-533-1836 or *cfinley@nacwa.org* if you have any questions.

Sincerely,

Cynthia A. Finley, Ph.D.
Director, Regulatory Affairs