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Adam Krantz

1130 Connecticut Ave NW
Suite 1050
Washington DC 20036

T (202) 833-2672
F (888) 267-9505

www.nacwa.org

March 25, 2024

Steve Whitlock
Engineering and Analysis Division
Office of Science and Technology
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460
Submitted via www.regulations.gov

RE: Clean Water Act Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (Docket ID No. EPA HQ-OW-2021-0736)

Dear Mr. Whitlock:

The National Association of Clean Water Agencies (NACWA) appreciates this opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed Clean Water Act Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category published in the Federal Register.¹

NACWA represents over 350 publicly owned wastewater treatment agencies nationwide, serving the majority of the sewer population in the United States. NACWA members operate highly successful pretreatment programs as co-regulators under the Clean Water Act (CWA) with EPA and the states and are actively involved in efforts to reduce the quantities of pollutants that are discharged into the sewer system.

Although the Meat and Poultry Products (MPP) category currently does not have pretreatment standards, publicly owned treatment works (POTWs) have successfully regulated the MPP industry as necessary through local limits. The approach of using local limits has been mutually beneficial to POTWs and the MPP industry. POTWs can set discharge limits for their MPP industrial users (IUs) that protect their treatment processes and ensure compliance with their National Pollutant Discharge Elimination System (NPDES) permits, while charging the MPP IUs appropriate sewer use rates and, in some cases, surcharges for their waste. Additionally, the biochemical oxygen demand (BOD) in MPP wastewater is often beneficial to wastewater treatment processes, and without the carbon source in MPP

¹ 89 Fed. Reg. 4474 (Jan. 23, 2024).

wastewater, some POTWs that perform nutrient removal would need to purchase a carbon source. The MPP IUs receive treatment for their wastewater while providing employment opportunities in their community and contributing to the nation's food supply, while at the same time benefiting POTW treatment processes.

EPA has proposed three different options for pretreatment standards for the MPP category, and NACWA does not support any of the options. NACWA recommends that EPA not establish pretreatment standards for this category and allow the current system of local regulation to continue. If EPA is concerned about the effectiveness of the current system, NACWA recommends that EPA address such concerns through guidance rather than categorical pretreatment standards. More details about NACWA's recommendation are provided below.

Option 1 - Pretreatment Standards for Conventional Pollutants

EPA's preferred option, Option 1, would establish pretreatment standards for the conventional pollutants BOD, total suspended solids (TSS), and oil & grease for large MPP facilities. As EPA states in the proposed rule, however, "the pollutants in MPP wastewater are similar to those in domestic wastewater," and POTWs were expressly designed to treat domestic wastewater and these conventional pollutants. POTWs also often need the BOD supplied by the MPP wastewater to keep their treatment processes functioning properly. Categorical pretreatment standards are therefore not the right approach to limiting these pollutants.

EPA states in the proposed rule that many of the utilities receiving MPP wastewater had permit violations for BOD, TSS, and oil & grease. Importantly, though, EPA did not demonstrate that these violations occurred because of the MPP wastewater. In fact, one NACWA utility member with four treatment plants noted that the utility had violations for BOD and TSS, but none of these violations occurred at the plant that receives wastewater from the utility's MPP IU. None of the violations were ultimately attributable to high levels of BOD or TSS coming into the plant, but rather by something interfering with the aerobic digestion processes, from internal or external sources.

Pretreatment standards for conventional pollutants from MPP facilities are unlikely to prevent these types of permit violations. Any POTW experiencing permit violations for conventional pollutants should examine their treatment processes and local limits to determine why the violations are occurring. The state or EPA Region should be helping to ensure that any underlying problems are identified and that solutions are found.

As with BOD and TSS, a pretreatment standard for oil & grease is unnecessary. Oil & grease is an issue for collection systems, rather than a treatment issue. Moreover, EPA's proposed limit for oil & grease of 1635 mg/L is so high that it would not be protective of collection systems, and it would be superseded by many existing local limits. While a large discharge of oil & grease could affect treatment processes, such a loading would more likely be caused by a dumping issue than a regular discharge from an MPP IU, and as such would not be prevented by application of MPP pretreatment standards.

Although the proposed pretreatment standards would only apply to large facilities, the size of an MPP facility is not necessarily a determining factor as to whether pretreatment standards are needed. If a large MPP facility is discharging to a high-capacity POTW, the MPP facility may not be a large portion of the POTW influent, and pretreatment standards will have little impact on the POTW's effluent.

Conversely, pretreatment standards for a large MPP facility discharging to a smaller POTW may seem appropriate to help limit discharges of these conventional pollutants, but the POTW's treatment processes may be disrupted by the reduction in BOD in the wastewater it is treating. In such a scenario, if the burden of pretreatment standards ultimately caused a large MPP facility to close, a small POTW would be disproportionately hurt by the change in its influent characteristics and the reduction of revenue.

Sioux City, Iowa, provides a good example of the important relationship between POTWs and MPP facilities. Sioux City is in the design and review phase for a new wastewater treatment plant. Failing equipment needs to be replaced and treatment capacity must be increased to allow the city to continue to grow. MPP facilities constitute 34 percent of the POTW's hydraulic loading, and also a large portion of the organic loading. The POTW needs this organic loading to function properly, and the MPP industry is charged appropriate fees so that the POTW recoups the cost of treatment of MPP wastewater. If categorical pretreatment standards are put in place for conventional pollutants, the POTW will lose this source of organics and revenue. The MPP industry also employs about 7.5 percent of the population in the Sioux City area, and the extra costs for pretreatment at MPP facilities would likely negatively impact jobs and the local economy.

NACWA members with MPP IUs have also reported that they receive higher levels of conventional pollutants from facilities belonging to other industrial categories, yet these categories do not have pretreatment standards for conventional pollutants. Establishing pretreatment standards for conventional pollutants for the MPP category could lead to the development of pretreatment standards for other categories with high discharges of these pollutants. NACWA is concerned that the combined resulting loss of loading to POTWs from such additional limits could have serious technical and financial repercussions for clean water utilities. Limits for conventional pollutants are therefore best decided on a local level by POTW pretreatment programs, since they best understand their treatment capabilities and capacity.

Option 2 and 3 - Pretreatment Standards for Conventional Pollutants and Nutrients

The proposed Option 2 would have the same pretreatment standards for conventional pollutants as Option 1, with additional pretreatment standards added for nitrogen and phosphorus for certain large MPP facilities. Option 3 would be the same as Option 2, but the nutrient limits would also be applied to smaller facilities.

NACWA agrees with EPA's reasons in the proposed rule for Options 2 and 3 not being the preferred pretreatment standard options. Requiring nutrient removal would hinder the Biden Administration's initiatives to expand independent meat and poultry processing capacity to improve the resilience of the food supply chain, as described in Executive Order 14036. EPA also cited the large number of

indirect discharging MPP facilities that would need to install nutrient treatment technology, with potential supply limits for this technology delaying implementation or forcing facilities to close temporarily.

Most importantly, NACWA opposes the nutrient controls included in Options 2 and 3 because of the financial impacts and physical challenges that MPP facilities would face in meeting these requirements, potentially leading to facility closures. Closures would hurt the local economy, reduce utility revenues, and adversely affect POTW treatment processes. In addition, nonpoint sources are generally a significant cause of nutrient problems, which the imposition of pretreatment standards for MPP facilities will not address. Requiring nutrient removal at these facilities would therefore be unlikely to significantly benefit the nation's waters. Instead, where necessary, POTWs should be permitted to address the amount of nutrients in their influent through the establishment of local limits.

Waivers and Conditional Limitations

EPA requested comment on "the concept of allowing POTWs, control authorities, or permit authorities to waive, under certain circumstances, the new conventional pollutant limits for large indirect dischargers." EPA recognizes that "it is possible that POTWs not experiencing passthrough and interference may be able to waive these pretreatment standards while continuing to prevent passthrough and interference. Additionally, POTWs that perform denitrification may want to waive BOD limits for their MPP industrial users..."

It is more than "possible" for POTWs to not have federal pretreatment standards for conventional pollutants and not experience passthrough and interference – this is exactly what most POTWs with MPP IUs are already doing. Utilities are already operating effective treatment systems that allow them to meet their NPDES permit requirements without these federal pretreatment standards. Utility pretreatment programs have reached a state of maturity that allows them to understand their own treatment operations and effectively regulate their IUs through local limits, best management practices, or other means, especially in the case of conventional pollutants that POTWs are designed to treat.

EPA states in the proposed rule that it "is unclear how this [a waiver] would work in practice." Rather than setting unnecessary federal pretreatment standards and then establishing a waiver process, EPA should simply not adopt the pretreatment standards. POTWs are already successfully regulating MPP facilities. Introducing a yet-to-be-determined process to waive pretreatment standards would only create uncertainty, confusion, and an unnecessary additional bureaucratic process.

EPA also asked for comments on conditional limitations for phosphorus and nitrogen discharges for indirect dischargers under Options 2 and 3. With conditional limitations, the nutrient pretreatment standards would not need to be met for MPP facilities discharging to POTWs with nutrient removal treatment technology. NACWA agrees that requiring MPP facilities to remove nutrients would be redundant where they are discharging to POTWs already employing nutrient removal technology, and therefore it is logical to not require nutrient limits for these MPP facilities. The same logic could be

applied to the proposed pretreatment standards for conventional pollutants: all POTWs are designed to remove conventional pollutants, and therefore the proposed categorical limits are not needed. `

Additional Comment Period is Needed

EPA's 60-day time period to submit comments on the proposed rule was inadequate, given the multiple options presented in the rule and the amount of supporting documents posted in the docket. With a consent decree deadline of August 31, 2025 for signing a decision taking final action on the proposed rule, EPA could easily have granted industry's request for a comment extension.

If EPA decides to move forward with pretreatment standards for conventional pollutants and allow waivers for the standards, another public review period will be necessary, since EPA has not explained how waivers would be approved or implemented and, given the realities outlined above, such a waiver process would be critical for many utilities. Should EPA take this approach, it must collect public comment on how to effectuate any waiver process.

Alternatives to the Proposed Pretreatment Standards

NACWA believes that pretreatment standards are not needed for the MPP category, and that the current local oversight of these facilities is sufficient. POTWs are designed to treat conventional pollutants, and BOD, TSS, and oils & grease are not inherently harmful to the treatment process. Since every POTW can handle a different amount of these pollutants, they should be controlled by the local POTW, which best understands its treatment capacity and processes.

If EPA is concerned that some POTWs are not controlling these pollutants at the local level, it can issue guidance for utilities, the states, and the EPA Regions to follow in cases of concern. The guidance can include information about setting local limits, charging appropriate fees for MPP IUs, and best management practices at MPP facilities. NACWA and its members would be willing to assist in the development of such a guidance document. Many NACWA members have successfully regulated their MPP IUs for decades, and they are willing to share their advice and experiences. This approach, rather than blanket pretreatment standards for every facility and a complicated waiver and conditional limit process, will preserve the mutually beneficial relationships that most POTWs and MPP IUs currently have.

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,

A handwritten signature in black ink, reading "Cynthia A. Finley". The signature is fluid and cursive, with the first name "Cynthia" being the most prominent part.

Cynthia Finley