September 10, 2025

Joint Committee on Public Health
24 Beacon Street, Room 130
Boston, MA 02133

RE: NACWA and NEBRA Comments on the Commonwealth's H.2450 and S.1504: "An Act to Protect Massachusetts Public Health from PFAS"

Dear Legislators:

The National Association of Clean Water Agencies (NACWA) and the North East Biosolids & Residuals Association (NEBRA) appreciates the opportunity to provide written testimony on the proposed legislation H.2450 and S.1504 introduced in the Commonwealth of Massachusetts. These two legislative bills, if passed as drafted, have admirable goals to set up funding systems for PFAS mitigation and to establish outreach programs for education – provisions that are practical and positive for the Commonwealth. But NACWA and NEBRA have concerns that other provisions, such as banning the land application of biosolids without understanding the concentrations of PFAS in them or the risks to public health or the environment, are not practical or realistic and should be reconsidered and revised before being passed into law.

NACWA represents the interests of 360 public clean water utilities of all sizes across the United States, including 9 municipal wastewater utilities and stormwater agencies in Massachusetts. NEBRA, established in 1997, cooperatively promotes the environmentally sound recycling or beneficial use of wastewater biosolids in New England, representing the advocacy interests for numerous clean water utilities in Massachusetts. NACWA and NEBRA agree with and support the more detailed comments submitted by our sister-organization at the state level, including the Massachusetts Water Environment Association (MAWEA), and we offer this comment letter to help shed light on the severity of the issue if this legislation passes, on behalf of our members in the Commonwealth as well as nationally.

A remediation trust fund that is entirely funded through legal action against the manufacturers of PFAS and will be spent at the discretion of the Department of Environmental Protection Commissioner is a valuable and important goal to address PFAS concerns. It aligns with NACWA and NEBRA's polluter pays positions, that those who produced and profited from PFAS should bear the costs of control and remediation. However, we caution that such a fund will not provide the full financial relief sought or cover all of the necessary costs for PFAS contamination across environmental media.

But much more concerningly for the public clean water utility community, the proposed statutory language would require the Massachusetts Department of Environmental Protection (MA DEP) to promulgate regulations to effectively end the distribution and land application of biosolids within the Commonwealth. NACWA and NEBRA urge Massachusetts Representatives and Senators to fully reconsider this language, which would eliminate the beneficial reuse of municipal biosolids, without first conducting comprehensive sampling and analysis to understand existing PFAS concentrations in municipal biosolids produced in the Commonwealth, evaluating best management practices and source reduction, and conducting a thorough cost benefit analysis and landfill capacity study. NACWA and NEBRA's Massachusetts members recommend these steps as a common-sense approach that would provide a foundational understanding of PFAS in municipal biosolids, any risk posed to the Commonwealth from them, and a practical path forward before advancing legislation that would eliminate beneficial reuse outright.

NACWA and NEBRA's public utility members are vital members and partners in their communities. They provide the essential public services of treating billions of gallons of our nation's wastewater and managing the millions of tons of biosolids generated as a byproduct of the wastewater treatment process each year in a manner that ensures continued protection of public health and the environment. Our members are public health champions and environmental stewards that have invested billions of dollars to comply with stringent federal Clean Water Act provisions and consistently strive to rise to the occasion no matter what the pollutant of concern may be.

PFAS are perhaps the most challenging and complex suite of contaminants the public wastewater sector has ever faced. As awareness grows regarding the harm caused by high levels of PFAS exposure, the mere presence of PFAS, even at extremely low part per billion (ppb) or parts per trillion (ppt) levels, is leading some to prematurely conclude that any amount of PFAS exposure from any medium is harmful. This is creating a significant but unproven threat to how public clean water utilities sustainably manage the continual biosolids byproduct of the wastewater treatment process.

Municipal clean water utilities are passive receivers of PFAS from both industrial and domestic sources. Upstream industries and manufacturers use PFAS and discharge their effluent containing the chemicals into the sewer system. PFAS are also discharged from domestic use of consumer products, such as washing PFAS-coated cookware and clothing, using waterproof cosmetics, and flushing toilet paper.

Public clean water utilities, especially those with industrial pretreatment programs and with the assistance of state and federal regulatory agencies, are conducting upstream investigations into the possible industrial sources of PFAS reaching their facilities. Some states are developing monitoring and testing programs for significant industrial users with pretreatment permits that are using PFAS, which could be a helpful tool for clean water utilities, if designed appropriately and carefully with the help of the public utility's pretreatment program.

Wastewater utilities were not conventionally designed or constructed with PFAS in mind and there is no currently available technology that can effectively remove or treat PFAS in wastewater, especially when considering the millions – if not hundreds of millions of gallons – of wastewater that arrives as influent at a public utility daily.

Since PFAS are uniquely ubiquitous and indestructible, they are creating unprecedented challenges for both regulators and regulated entities in protecting public health and the environment. Federal and state regulatory agencies, wastewater utilities, and solid waste managers are currently discussing the future of the existing public-wastewater-waste management cycle, including the beneficial reuse (such as land application) of biosolids, given the PFAS challenge. The intention of these conversations is to maintain the continued safe use of each of the already heavily-regulated methods of managing municipally-derived biosolids available for public wastewater utilities and their partnered contractors.

The Act Fails to Recognize that Municipal Biosolids Management Options are Limited; Phasing Out Existing Methods Would Further Reduce Residual Management Opportunities

NACWA and NEBRA have serious concerns that the language offered in the bill unfairly targets municipally-derived wastewater residuals, even though PFAS can arrive on agricultural field crops through various means, including atmospheric deposition, irrigation with contaminated groundwater, the use of synthetic fertilizers and pesticides, and aqueous film-forming foams used to extinguish fires. The bill requires the MA DEP to set a timeline to phase out the land application of biosolids in the state and require municipal wastewater treatment plants to incinerate their residuals or send them to a solid waste landfill or hazardous waste landfill or sludge landfill. NACWA and NEBRA urge Legislators

to think through the immediate and long-term impacts this language would have on wastewater utility operations, communities, and individual ratepayers, as well as the limited benefit it would have for public health protection relative to other avenues of PFAS control.

The MA DEP recently started work on its *PFAS and Residuals Technology and Management Study*. Part 1 of the *Study* – Current and Near-Term Management of Massachusetts Wastewater Sludge is publicly available online. NACWA and NEBRA strongly advise that all committee members read Part 1 to see the dire state of biosolids disposal options in Massachusetts and the consequential impacts this legislation will have on local communities, contribute to increased greenhouse gas emissions, and a significantly raise the cost to clean water utilities and ratepayers.

Wastewater utilities only have three primary mechanisms for managing biosolids: land application, landfilling, and incineration. The ability to use each of these options is critical to the municipalities across the country that are managing the significant volume of biosolids generated daily. Losing one management pathway, especially the ability to land apply municipal biosolids for beneficial reuse, will have a detrimental and cascading impact on how local communities manage this byproduct of the wastewater treatment process. Public wastewater utilities will be left to either send tons of biosolids fertilizers to landfills or to incinerate them. There likely will not be sufficient landfill or incineration capacity available to utilities in the Commonwealth to manage all the biosolids that can no longer be land applied, leading to biosolids storage capacity issues and cost increases for utilities and their customers across the Commonwealth.

The Proposed Legislation Fails to Include an Appropriate Analysis of Biosolids Data and Actual Biosolids Risk

NACWA and NEBRA also oppose this bill as drafted because it does not include an appropriate analysis of existing biosolids data and actual PFAS risk from biosolids.

The federal Clean Water Act regulations that all municipal biosolids must comply with are based on extensive data, research, and risk assessment work that have resulted in standards that are both protective of human health and the environment and attainable by clean water utilities using pretreatment requirements and other tools. The proposed bill would require biosolids materials to be sampled and tested—an approach NACWA and NEBRA generally support as it can lead to land application approaches that take actual risks into account. However, it is important to note that it is impractical to set standards of "no measurable PFAS" since, through advances in testing methodology down to the part-

per-trillion level, these chemicals can now be detected ubiquitously anywhere you test for them. The bill's approach in this regard is impractical.

Another key flaw underlying the bill as drafted is that there is no reliance on risk-based evidence that municipally-derived biosolids contain PFAS in a widespread occurrence and at levels of human health or environmental harm. The proposed rulemaking also usurps the role of the U.S. Environmental Protection Agency (EPA) and the MA DEP tasked with assessing risks of pollutants and pathogens in biosolids.

EPA is currently assessing the risks of PFOA and PFOS in biosolids to human and ecological health and is reviewing public comments on its draft Sewage Sludge Risk Assessment for PFOA and PFOS before it decides how to move forward. The risk assessment will provide a critical first step in potential regulations for PFOA and PFOS in biosolids, providing insight into the health and environmental risks these two chemicals may pose in biosolids through a number of different exposure pathways. NACWA and NEBRA raised serious concerns with EPA's draft risk assessment particularly because the risk scenarios are not representative of the general public or typical farming practices and the assumptions were overly conservative to begin with. If the EPA deems there is risk and whether it revises its draft risk assessment for PFOA and PFOS or moves forward, the second step is to complete the risk management piece – which includes collecting information on PFAS occurrence data in biosolids and then developing pollution minimization plans, best management practices and Clean Water Act Part 503 Standards. EPA's draft risk assessment is not a regulation itself and clearly states it should not be used as one.

Massachusetts acting to prevent the land application of biosolids ahead of EPA finalizing its risk assessment and determining that standards are necessary is simply setting the Commonwealth, its communities, and its ratepayers up to face alternative and costly management options for a problem they didn't even create.

Prohibitions based on the mere presence of PFAS in residuals that are not developed pursuant to a risk-based determination, as this proposed legislation aims to do, could leave municipal clean water utilities with no other option but a direct-to-landfill requirement that will be more burdensome logistically, less environmentally-friendly, and exponentially more costly.

Unfortunately, on top of all of these negative impacts to utilities, this bill will ultimately not resolve the issue over PFAS contamination in the Commonwealth. A growing body of peer review science indicates different ways that PFAS can be introduced into the environment

including from active and inactive pesticide ingredients that are directly applied to land.[1] The bill also makes no effort to assess or mitigate PFAS concentrations from other products typically relied upon and used by the agricultural community, like pesticides and fertilizers.

NACWA and NEBRA recommend Massachusetts consider how other states are assessing PFAS concerns in the environment, including land applied biosolids. States like Michigan have taken a proactive tiered approach to addressing industrially-impacted biosolids (e.g., biosolids with concentrations at or above 100 ppb) by establishing additional regulations, sampling, and notification requirements. Biosolids that contain PFAS below 20 ppb—which is most common—can be land applied with notification to the farmer and no additional requirements. This tiered interim strategy, rather than an all-out ban on land application, is becoming more and more popular for states, farmers, and utilities alike as we learn more about industrial sources of PFAS coming into the wastewater treatment works and greater steps are taken to mitigate industrial PFAS sources in the first place.

The state of Washington also passed a law that requires a comprehensive PFAS sampling and monitoring plan for municipal biosolids and tasks the state environmental agency, the Department of Ecology, to draft a state-wide plan on how to proceed with biosolids management after it has a chance to review and assess the analytical results.

These are practical strategies that NACWA and NEBRA support and encourage Massachusetts to consider before moving forward with the proposed bill.

The Bill Must Consider Alternatives and Costs to Clean Water Utilities and Their Customers

NACWA and NEBRA believe the bill must include a landfill capacity and cost assessment, with sufficient public review and input opportunities from stakeholders. The costs associated with biosolids management are often the second or third largest expense a clean water utility incurs, and this study must be done before the bill is enacted to fully understand its impacts.

NACWA and NEBRA urges the Joint Committee on Public Health to recognize the shortcomings of this bill and consider a more practical and strategic approach to dealing with PFAS concerns and protecting public health and the environment in the Commonwealth. One option as a next step could be to have the MA DEP conduct a

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[1] *See* Donley, N et al., Forever Pesticides: A Growing Source of PFAS Contamination in the Environment 132 Environmental Health Perspectives (2024) (analyzing pesticide contaminate data found in wadable streams from a 2013-2017 U.S. Geological Survey collection effort and finding "nearly a quarter of all US conventional pesticides active ingredients were organofluorines and 14% were PFAS, and for active ingredients approved in the last 10 years, this had increased to 61% organofluorines and 30% PFAS.")

comprehensive assessment of PFAS concentrations in municipal biosolids as well as an economic cost analysis of eliminating one management pathway for municipal biosolids. NACWA and NEBRA recommend these be completed prior to passing any legislation restricting land application.

If you have any questions or comments, please contact me at eremmel@nacwa.org or 202/533-1839, or contact Janine Burke-Wells at janine@nebiosolids.org or 401/2070-2664.

Sincerely,

Emily Remmel
Senior Director, Regulatory Affairs

Janine Burke-Wells
Executive Director, NEBRA