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July 2, 2019

Sally Gutierrez
Acting Director, Water Permits Division
Office of Water
US Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460
Via email: gutierrez.sally@epa.gov

Re: Sampling Requirements for Utility Pretreatment Programs

Dear Ms. Gutierrez:

The National Association of Clean Water Agencies (NACWA) requests your assistance in clarifying influent and effluent sampling requirements for pretreatment programs of publicly owned treatment works (POTWs). NACWA represents the interests of over 300 clean water agencies nationwide. NACWA members operate highly successful pretreatment programs and are actively involved in efforts to reduce the quantities of pollutants introduced into the sewer system.

One of NACWA's Texas members, the San Jacinto River Authority (SJRA), is in the final stages of obtaining approval of its pretreatment program from the Texas Commission on Environmental Quality (TCEQ). SJRA has raised concerns with TCEQ's initial recommendation to include a mandatory influent and effluent sampling requirement for SJRA's discharge permit. As described in more detail below, such concerns include the limited value of broad-sweeping and expensive sampling, particularly in the absence of a statutory or regulatory requirement for such provisions.

The same concerns about pretreatment permit requirements for periodic influent and effluent sampling for priority pollutants have been expressed by other NACWA members and are relevant to Publicly Owned Treatment Works (POTWs) throughout the US. These sampling requirements are not part of the National Pretreatment Program regulations and are not in response to a particular industrial discharge or environmental impact, but are instead a preemptive scan of the POTW influent and effluent. NACWA members report a wide range in how these preemptive sampling requirements are expressed in discharge permits, with the requirements seeming to depend primarily on the implementing state and not on individual characteristics of the POTW. Although some states have no

preemptive sampling requirements, other states have requirements including quarterly sampling, annual sampling, or sampling annually for three years within a five-year permit cycle.

NACWA members report that the required preemptive sampling very rarely provides any actionable information for the POTW. NACWA members also report that more effective methods are already part of pretreatment programs and are regularly used to identify industrial discharges, such as periodic Industrial Waste Surveys; collaboration with building, engineering, and other municipal departments; and sampling that is targeted for pollutants of concern at industrial discharge locations. These methods – along with regular effluent and biosolids monitoring – are effective in identifying and controlling industrial discharges. The high cost of preemptive sampling is therefore not justified by environmental benefits.

EPA guidance developed in 2004, *Local Limits Development Guidance*, explicitly states that the POTW has the flexibility to adjust its sampling frequencies based on local concerns and economics (US EPA, *Local Limits Development Guidance*, July 2004, at 4-5). Furthermore, when states require permit conditions for preemptive monitoring, such decisions reduce the flexibility that the *Guidance* states should apply for the POTW. EPA's *Best Practices for NPDES Permit Writers and Pretreatment Coordinators to Address Toxic and Hazardous Chemicals to POTWs*, published in 2016, identifies methods for identifying pollutants of concern and developing appropriate permit conditions. These methods include whole effluent toxicity (WET) tests, biosolids monitoring data, the Enforcement and Compliance History Online (ECHO) database, and census and industry databases. This guidance notably does not identify a need for preemptive priority pollutant scans, except for scans conducted as part of the permit renewal application.

NACWA asks that EPA provide clarification to the states and EPA Regions that preemptive influent and effluent sampling for priority pollutants is not required by federal pretreatment regulations. NACWA also asks that EPA clarify that if states and Regions require preemptive sampling in permits, the requirement should provide each individual POTW the flexibility to implement it based on local concerns and economics, and it should be consistent with the EPA guidance on identification of toxic pollutants discharged to POTWs.

Thank you for your consideration of this request. 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

cc: Marcus Zobrist, Chief, Industrial Branch
Jan Pickrel, National Pretreatment Program Coordinator