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CHIEF EXECUTIVE OFFICER

Adam Krantz

1130 Connecticut Ave NW
Suite 1050
Washington DC 20036

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

www.nacwa.org

May 28, 2024

Sean Dempsey
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: Proposed Information Collection Request; POTW Influent PFAS Study
Data Collection, Docket ID EPA-HQ-OW-2023-0580**

Dear Sean:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on EPA's Proposed Information Collection Request (ICR) for the POTW Influent PFAS Study (89 FR 20962). NACWA represents the interests of 350 publicly owned wastewater and stormwater agencies of all sizes across the country. Each day, these public clean water agencies provide the essential service of protecting public health and the environment by managing and treating billions of gallons of our nation's wastewater and stormwater, as well as the millions of tons of biosolids generated as a byproduct of the wastewater treatment process.

NACWA appreciates and supports EPA's efforts to help identify and control industrial sources of per- and polyfluoroalkyl substances (PFAS). NACWA members share the concerns of their communities regarding the presence of these chemicals in the environment and believe that PFAS must be controlled at their sources. Public clean water agencies do not produce, manufacture, or intentionally use PFAS chemicals. They likewise do not profit from PFAS. Rather, public clean water agencies and stormwater systems encounter PFAS through three key means: (1) industrial and commercial wastewater streams sent to the sewer systems; (2) domestic household wastewater, as PFAS are used and washed off from everyday consumer goods; and (3) stormwater runoff.

Clean water agencies have limited control over the amount of PFAS substances they receive. EPA-developed pretreatment standards could be a useful tool for some utilities to control industrial discharges of PFAS to publicly owned treatment works (POTWs). Many of NACWA's utility members have

investigated which of their industrial users (IUs) may be discharging PFAS through sampling programs, either as part of state or EPA Regional requirements or on their own initiative. Now that EPA has finalized a preferred analytical method for PFAS, more clean water utilities are planning to conduct PFAS sampling, which will add to the collective knowledge about industrial PFAS sources. In addition, utilities are investigating PFAS discharges from domestic sources, and finding that domestic sources alone can often match or exceed industrial source contributions.

The POTW Influent Study could be a useful addition to the growing body of knowledge about PFAS sources beyond the industrial categories already identified in EPA's PFAS Strategic Roadmap. As stated in the ICR Supporting Statement, "the questionnaire and subsequent sampling program will provide information essential to identify and quantify sources of PFAS to POTWs so that the EPA can make informed decisions on appropriate actions to control PFAS... and prioritize industrial categories for potential regulation." NACWA supports the intention of this work but asks that EPA first collect and analyze existing data before requiring utilities to complete a time-consuming questionnaire and costly sampling for PFAS.

NACWA's recommendations for the wastewater portion of the study are explained in more detail below, along with specific recommendations for the questionnaire, followed by our comments on the biosolids sampling plan.

Leverage Data Already Available from Utilities and Create a Focused Sampling Approach

EPA states in the ICR Supporting Statement that "this data collection effort is necessary because there is limited publicly accessible data on PFAS discharges from many industrial categories to POTWs; the relative PFAS contributions from residential, commercial, and industrial sources to POTWs; and the fate and transport of PFAS in POTW influent and sewage sludge/biosolids." NACWA disagrees with this statement. Extensive state testing programs have already been conducted, such as in Michigan, California, and Maine. Research has also been conducted in certain regions, at individual utilities, and through research organizations, such as the Water Research Foundation. There is also a growing body of academic research identifying sources of PFAS.

Data collection efforts are continuing and expanding. EPA published a memo on December 5, 2022, "Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs." This memo encouraged EPA Regions and the states to update National Pollutant Discharge Elimination System (NPDES) permits to include quarterly sampling of specific IUs and POTW influent, effluent, and biosolids. EPA Region 1 has already begun implementing PFAS requirements in NPDES permits, and other states have done the same.

Although these data have not yet been compiled into a single database, their availability should not be characterized as "limited" by EPA. Prior to asking for information and sampling from utilities, EPA should analyze all existing data to determine what additional information is needed from a POTW study. While EPA collects this data, it can simultaneously launch the same database that it plans for the POTW Influent Study data to gather existing, voluntary data. NACWA's members have indicated a willingness to share the data they have collected with EPA, and some utilities have already posted their data on publicly available

websites. NACWA believes that, with the Association's encouragement, a substantial amount of PFAS sampling data will be submitted voluntarily by utilities to EPA. With this data, EPA can potentially mitigate the extensive and costly effort it is asking utilities to undertake.

Analysis of existing data will also help EPA maximize the utility of the information collected in the POTW Influent Study. The current approach proposed by EPA will include a large number of wastewater samples in total, yet it is a scattered approach that reflects a one-time snapshot of each participating sampling site. Since grab samples will only be taken once in the proposed study, the results may not be indicative of typical PFAS discharges. Additionally, taking up to ten IU samples per utility may include most or all of the IUs for small utilities, but for the many utilities that have tens or hundreds of IUs, choosing ten sampling points will not necessarily capture the most significant sources of PFAS entering their systems. Although EPA will use the questionnaire to help determine which IUs should be sampled, the most likely industrial sources of PFAS have already been investigated by many utilities and by EPA through its Multi-Industry PFAS Study. By considering existing data, EPA can more effectively identify the potential industrial sources of PFAS that have not yet been thoroughly characterized.

After analyzing this existing, voluntary data submitted to an online portal, EPA could develop a sampling approach to fill specific data gaps and help resolve uncertainty in the existing data. These gaps are likely to include data from certain types of IUs and domestic-only wastewater, and may also include other factors, such as geographic location and utility size. Focusing on the type of sampling that is needed to complete the dataset will result in better decisions about the need for source control measures. The relative magnitude of domestic PFAS sources can also be better characterized if sampling is focused on areas where data does not already exist.

EPA can further focus the data collection effort by staging the collection effort so that utilities first collect influent and effluent samples. If PFAS concentrations are low in the influent and effluent, it may not be necessary to sample any of the IUs discharging to a POTW. More useful data about PFAS sources can likely be collected at POTWs with higher concentrations of PFAS in the influent and effluent.

Include Data from Different Laboratory Analyses

A national dataset will be most useful if it includes all available data, including samples that were analyzed with different test methods. Before EPA Draft Method 1633 was available, Method 537.1 was commonly used at EPA's encouragement for PFAS analysis of wastewater. Although not specifically designed for wastewater and modified to a degree, this method still provides useful data about PFAS concentrations, and test results using this method should not be excluded from the database.

Data shows that Method 537.1 performs similarly enough to Draft Method 1633 to be used for source identification purposes. The state of Maine conducted a PFAS study that included sampling at 105 public facilities and 19 private facilities. Method 537.1 was used when the study began in September 2022. In July 2023, duplicate samples were taken so that both Method 537.1 and Draft Method 1633 could be used. Comparing the results of the duplicate samples, the average relative percent difference (RPD) between the two methods was 5.5%. Even when individual samples had a greater RPD, the order of magnitude of the

PFAS concentrations was still the same. This similarity in results between the two methods shows that PFAS concentrations found with Method 537.1 are valid for identifying IU sources for further study and should be included in the database, with a field in the database to indicate which method was used. After IUs are identified for potential source control measures, additional sampling will be required, and Method 1633 can then be used.

Use Toxic Release Inventory Data

Another source of data that should be considered by EPA is the Toxic Release Inventory (TRI). Since EPA made a critical update to the TRI regulations in October 2023 to remove the *de minimis* exemption for industrial PFAS reporting, the TRI will be a better source of information for PFAS releases to POTWs. Companies that manufacture, process, or use any of the 189 listed PFAS under the 2020 National Defense Authorization Act will now have to report to the Agency the quantities and concentrations of PFAS – a much more targeted fingerprint of where PFAS originates than requiring public utilities to conduct a costly sampling snapshot in hopes of identifying a rogue upstream industrial user.

The TRI rule takes effect for the reporting year that begins January 1, 2024, with reports due July 1, 2025. This timeline means that TRI information will be available at approximately the same time that EPA is planning for sampling data to be completed under the POTW Influent Study. Using the existing data from studies that are already completed, along with data voluntarily submitted by POTWs, EPA could phase in a focused sampling plan to fill the data gaps. The most obvious data gaps could be addressed first, then as TRI reporting data becomes available in mid-2025, additional targeted sampling could be conducted to fill remaining data needs.

Consider Cost and Existing Laboratory Capacity for PFAS Sampling

NACWA's members are supportive of EPA's objectives with this study, but they are concerned about the costs to utilities. When EPA first briefed NACWA members on the proposed study in May 2023, EPA's stated intention was to pay for the laboratory analyses of the samples. Utilities were willing to contribute their time to collect and prepare the samples, with the analytical costs covered by EPA. This plan has now changed so that utilities will be paying for all costs associated with sampling and laboratory analysis, creating a significant financial burden for utilities.

Current per-sample laboratory analysis costs are estimated as \$500-650 for EPA Method 1633 and \$1,000 or more for EPA Method 1621. For utilities that are asked to sample ten IUs, and utilities that have multiple treatment facilities in EPA's list of the 400 facilities that will be asked to participate in the study, these laboratory analysis costs will add up quickly. These costs are in addition to the cost of the staff time that will be borne by utilities.

EPA is proposing to stagger sampling geographically to address concerns over limited laboratory capacity. NACWA members have reported extended turn-around times for PFAS analyses at laboratories, and there is also a report of a laboratory refusing to accept additional samples for testing since it had no more analytical capacity for PFAS. Even if laboratories expand their PFAS analysis capabilities, PFAS testing requirements will also likely continue to expand, and capacity may continue to be an issue in the long term. The staggered

sampling approach might not be enough to alleviate laboratory capacity issues, and therefore EPA may need to consider additional flexibility with the timing of the sampling program. EPA must also consider the timing of the sampling at individual POTWs, since wet weather or periodic discharges from industrial sources may affect PFAS concentrations.

The focused sampling approach recommended by NACWA will help control the costs to utilities, while maximizing the value of the sampling that is conducted by collecting only the data that is needed to fill gaps. The focused approach should also help alleviate laboratory capacity issues. In addition, NACWA recommends that EPA consider a source of funding for utilities – especially smaller utilities – that may have a more difficult time absorbing the costs of sampling and laboratory analysis.

EPA should also consider whether samples should be analyzed with both Method 1633 and Method 1621. Method 1621 is typically used as an initial screening to give an overview of the total amount of organic fluorinated compounds, which may then be followed by a targeted analysis of individual PFAS compounds if indicated by high concentrations found with Method 1621. Rather than requiring both Method 1621 and the 40 specific compounds analyzed with Method 1633, EPA should require screening with Method 1621 first, then based on the results, inform POTWs of any targeted analyses needed. Alternatively, EPA could only require Method 1633 to collect data on individual PFAS compounds. If EPA requires both methods, it should provide justification for why both are necessary and explain the benefits derived from the additional expense for POTWs.

Another consideration is the potential for laboratories needing to dilute samples to obtain usable data. In this situation, the reporting limits will be increased and may not provide the EPA with true PFAS levels in an IU's waste stream, as the analysis may not be sensitive enough to provide usable data. Data qualifiers or flagged data are another potential issue. If a POTW is only collecting one sample from an IU and the laboratory has QA/QC issues, the laboratory will flag the data. EPA should determine in advance how it will evaluate data usability, and if the POTW will be required to spend more money and resources to collect additional samples if the contract laboratory encounters QA/QC issues.

Recommendations for POTW Questionnaire

NACWA appreciates that EPA is using a questionnaire to determine the POTWs and IUs that should be part of the PFAS sampling program. However, the questionnaire asks for information that POTWs may not have readily available and which is likely to be time-consuming and difficult to compile.

Question 9 of the questionnaire asks utilities to estimate the number of known IUs in each of the categories provided in Table 9. While POTWs may have many of these industries in their service areas, only those that qualify as significant industrial users (SIUs) are required to be inventoried under pretreatment program permitting requirements. This means that POTWs will need to create a new program to gather data on non-SIU industrial users in Table 9. EPA should assist with this effort by providing materials that outline the authorities under which the local utility can require information from industries that are currently not regulated by the utility under the pretreatment program or sewer use ordinance. Descriptions of the

categories, along with typical NAICS codes, would be beneficial for POTWs in determining the number of IUs in their service area in each category.

Additionally, Section 2(a) of the Supplemental Part A document asks for Information on SIUs and known/suspected sources of PFAS discharges to the POTW. The list of IU types includes sectors that are not regulated by utilities under pretreatment programs, such as car washes. The information and data requested in the questionnaire is not readily available from these IUs and POTWs will need to generate new information or data to complete the questionnaire, increasing the staff time required for the questionnaire.

EPA must recognize that it takes time and planning for these types of information gathering efforts. EPA must provide tools, strategies, and time for wastewater utilities to develop and implement a source identification program around PFAS compounds. This will assist wastewater utilities with the level of effort and research needed to identify, locate, and contact the IUs in the listed categories, and will result in better results from the POTW Influent Study. EPA should also be aware that POTWs may need more time to conduct the PFAS sampling, since POTWs may not have an established relationship with some or all of the IUs that are chosen for sampling. EPA should consider focusing its sampling on permitted IUs, since it will be much easier for POTWs to sampling at permitted IUs.

EPA should ask in the questionnaire if any portion of the POTW is a combined sewer system. If a POTW has a combined sewer system, then sampling should not be conducted during the wet weather season or after wet weather events, since PFAS concentrations will likely be diluted. The questionnaire should also ask for the treatment facility's influent flow as dry-weather season monthly average flow. This will allow EPA to compare the POTW's information on influent flow with the list that EPA has compiled, which appears to include erroneous data on flow or wet weather flows.

EPA should also understand that POTWs with multiple treatment facilities do not necessarily have clearly delineated basin areas flowing to them. For example, the City of Vancouver, WA, has two treatment facilities, and each facility has portions of the collection system (basins) that clearly flow to the respective plants. There is also a very large "diversion basin" to which some wastewater is routed to one treatment facility, and the remaining wastewater flows to the other treatment facility. Wastewater from an industrial user in the diversion basin will therefore go to both facilities. EPA should consider adding questions to the questionnaire to determine if a POTW has multiple treatment facilities, and if they have "diversion basins."

Biosolids Sampling Program

While NACWA supports the objectives of the POTW Influent Study to help identify industrial sources of PFAS discharges to POTWs, the Association has concerns about the objectives of the biosolids sampling plan, which is outside of the Effluent Guidelines Program. EPA's ICR Supporting Statement explains that "the data collection activities described in this ICR will provide a robust data set that will characterize the type and quantity of PFAS in POTW influent, effluent, and sewage sludge/biosolids as well as total organic carbon, metals, total solids, fixed solids, and volatile solids in sewage sludge/biosolids to inform future Agency actions to control PFAS." Collecting information on parameters other than PFAS is irrelevant to controlling PFAS; this part of the POTW PFAS Influent Study instead appears to have transformed into an

entirely separate sewage sludge survey. Since the biosolids sampling is part of EPA's broader PFAS source control study, EPA should remove the additional parameters and only require POTWs to sample their biosolids for PFAS using Method 1633.

Likewise, although NACWA appreciates that EPA has uncoupled the biosolids sampling requirements from the wastewater sampling, the Association still questions its utility for understanding PFAS sources. PFAS passthrough at POTWs can be most effectively studied by collecting the influent and effluent data – or by simply conducting a literature review – without the need to collect and report national biosolids data as a part of this study.

Should EPA continue to move forward with biosolids sampling requirements, the sampling should occur after EPA's biosolids risk assessment for PFOA and PFOS is complete in 2026 or later. EPA is currently developing its biosolids risk assessment framework and screening tool to appropriately evaluate risks from exposure to pollutants found in biosolids. The next step for the Agency is to complete the full risk assessment for PFOA and PFOS in biosolids, which is anticipated to be proposed later this summer. The biosolids data EPA seeks to gather through this POTW Influent Study, unless narrowly collected, will not inform EPA's work on risk and will only add to greater public uncertainty if PFAS is found in any concentration in municipal biosolids.

Given the recent hazardous substance designation for PFOA and PFOS under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as well as certain state legislative actions, NACWA is concerned that publication of any information on the mere presence of PFAS in biosolids could both directly and indirectly restrict critical biosolids management options before any Clean Water Act Part 503 standards are developed or efforts to mitigate PFAS entering the treatment works can be put into place.

After Maine's legislature broadly banned biosolids land application due to the mere *presence* and fear of PFAS, which are widely found throughout the environment, in biosolids – not necessarily over any scientific understanding that concentrations found in municipal biosolids posed risk to human health or the environment – NACWA has real concerns about how the public could misconstrue or misunderstand the data collected from biosolids sampling. Prior to moving forward with biosolids sampling requirements, EPA must have a straightforward and clear plan for communicating its study design, purpose for sampling biosolids, and what the known risks of PFAS in biosolids are to human health and the environment, as well as what the data collected from this study means broadly to the public, the media, and to legislators.

For example, even without industrial PFAS sources, public clean water agencies receive PFAS through domestic contributions. Without proper context provided by EPA, these concentrations may cause public concern about biosolids management even though the risk of exposure from PFAS in biosolids is very low. There could also be a negative indirect consequence on future land application of biosolids. NACWA believes EPA must communicate the everyday risks of exposure to PFAS the public faces from *all* sources, including PFAS found in consumer products that continue to be sold and used today.

If EPA is seeking to mirror Michigan's comprehensive biosolids sampling program, the Agency must narrow its scope. Michigan started a sampling program with a handful of wastewater utilities to better understand if effluent and biosolids were industrially impacted before scaling up the program to include 42 public wastewater agencies in the state. Michigan also conducted a robust stakeholder engagement program with utilities, landowners, and the public to help promote awareness of its strategy and to help communicate what the biosolids data may reveal. EPA must follow a similar path. If the POTW Influent Study reveals PFAS hotspots from new industrial sources, then EPA should complete a separate biosolids study to look more specifically at industrial impacts rather than conduct a costly, broad-sweeping PFAS investigation that will likely result in more public concern than value.

Alternatively, many public wastewater agencies and NACWA members have already collected or are beginning to assess PFAS concentrations in their influent, effluent, and biosolids. Some states have also started requiring public clean water agencies to sample biosolids. EPA could work collectively with utilities and state regulatory authorities that are gathering this information already, along with the data that will be submitted with through the TRI as explained above, to help inform the broader POTW Influent Study and understand the "pass through" to residuals.

Thank you for your consideration of these comments. NACWA looks forward to continued collaboration with EPA on the POTW Influent Study. If you have any questions, please contact me at cfinley@nacwa.org or 202-533-1836, or for questions related to the biosolids study, please contact Emily Remmel at eremmel@nacwa.org or 202-533-1839.

Sincerely,

A handwritten signature in black ink that reads "Cynthia A. Finley". The signature is written in a cursive style with a large, stylized initial 'C'.

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