



May 21, 2019

The Honorable John Barrasso
Chairman
Senate Environment & Public
Works Committee
Washington, D.C.

The Honorable Thomas R. Carper
Ranking Member
Senate Environment & Public
Works Committee
Washington, D.C.

**Re: May 22, 2019 Senate Environment and Public Works Committee Hearing
Entitled “Examining Legislation to Address the Risks Associated with Per- and
Polyfluoroalkyl Substances (PFAS)”**

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of the National Association of Clean Water Agencies (NACWA) and the Water Environment Federation (WEF), we appreciate the opportunity to provide the Committee with some insights and recommendations from the clean water community on the emerging and highly complex issue of per- and polyfluoroalkyl substances (PFAS) and the potential impacts proposed legislation may have on the communities our members serve¹. Our members include public agencies and clean water professionals providing clean water services in communities nationwide.

The PFAS family constitutes a suite of more than 3,000 known chemical varieties that have been in production and in the environment since the 1940s. Recently, these chemicals have been detected in elevated concentrations in groundwater in certain parts of the country, especially near airports and military bases where aqueous film forming foams (AFFF) were used as well as near industrial manufacturing sites.

These synthetic chemical substances are engineered and utilized specifically for their strong carbon-fluorine bonds which are enormously effective at resisting heat, water, and oil. As such, PFAS chemicals are commonly found in everyday consumer products including fast food containers, nonstick cookware, stain resistant coatings, water resistant clothing and personal care products. Due to their chemical structure and their commercial value and use, PFAS are ubiquitous in the environment. They are also persistent, bioaccumulate, and do not readily degrade.

NACWA and WEF submitted comments to the U.S. Environmental Protection Agency (EPA) in 2018 urging the Agency to develop a federal response that appropriately reflects the risks posed by PFAS, close the unresolved scientific gaps—including fate, transport, and toxicity of PFAS using a science based approach—and evaluate the appropriate regulatory response to target the sources of PFAS and responsible disposal techniques.

¹ NACWA & WEF, PFAS ISSUE BACKGROUND AND ADVOCACY ASKS (2019), *available at* <https://www.waterweek.us/wp-content/uploads/2019/04/pfas-3-onepager-1-FINAL-web.pdf>

Building on those comments, NACWA and WEF support legislative approaches that utilize existing environmental statutes as tools to address current, and mitigate future, PFAS contamination. We believe that an important priority for Congress is to prioritize and stop these chemicals at their source through appropriate controls on industrial and other uses—before PFAS enters a public sewer system or the environment. We further believe that added protections under the Toxic Substances Control Act (TSCA) and the Emergency Planning and Community Right-to-Know-Act's (EPCRA) Toxic Release Inventory (TRI) would be extremely useful in expanding the knowledge of industrial sources and identifying specific PFAS chemicals entering commerce and ultimately the environment.

Congress can also empower the Clean Water Act's pretreatment program. NACWA and WEF's POTW members are the primary implementers of the national pretreatment program and are charged with controlling commercial and industrial discharges to the sewer system. Limiting the amount of PFAS discharged into the sewer system will prevent PFAS from passing through the wastewater treatment process and into the environment. Congress can direct EPA to complete its current study of industrial dischargers containing PFAS and to develop appropriate PFAS pretreatment standards for high-priority industrial sectors.

NACWA and WEF believe the above recommendations are critical first steps to protect public health and mitigate environmental contamination. However, NACWA and WEF have concerns regarding legislation that aims to address PFAS contamination through designation of PFAS chemicals as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Public clean water utilities receive and treat a broad range of wastewater influent from heterogeneous sources including domestic, industrial, and commercial sources. Our members are responsible for treating and managing billions of gallons of wastewater and stormwater everyday but are typically not equipped or designed to remove synthetic industrial chemicals such as PFAS. It is imperative that Congress and EPA recognize that municipal clean water utilities are not sources of PFAS themselves, but because they were not designed to remove these chemicals, they can convey PFAS from their actual source to the environment.

Removing PFAS chemicals from wastewater influent/effluent at the large volumes received by publicly owned treatment works (POTWs) would require the installation of very costly advanced treatment techniques such as granular activated carbon, ion exchange, or reverse osmosis. These technologies would only transfer the PFAS to another medium where it would still need to be managed. POTWs will face considerable operational and technical challenges as well as substantial costs if required to treat for or otherwise address the presence of these substances in wastewater.

Should the Committee and Congress move to designate all PFAS (as proposed in S. 638) or a select subset of PFAS chemicals as hazardous substance under CERCLA, NACWA and WEF strongly urge the inclusion of clear, unambiguous statutory language excluding municipal wastewater residuals from potential CERCLA liability. While we understand that designating PFAS constituents as hazardous substances could provide the necessary monetary relief for states seeking to hold parties responsible and to adequately clean up contaminated PFAS sites, Congress must ensure this designation does not have broader, significant unintended consequences for public clean water utilities.

As part of managing and treating the nation's wastewater each day, our public utility members are actively engaged in resource recovery, including the treatment and management of nutrient-rich biosolids for use on farmlands and other soil applications. Biosolids are highly beneficial for

our environment and our economy because they not only enhance soil health, recycle nutrients, reduce fertilizer and pesticide use, but they also put to productive use the wastewater treatment residuals that every community in the United States must manage.

A CERCLA designation for PFAS could potentially open liability for public clean water utilities that have been beneficially land applying their biosolids for decades. The majority of the biosolids generated in the US is land applied and a clear municipal wastewater exclusion from CERCLA hazardous substances designation would ensure that efforts to address PFAS do not have unintended consequences for the POTWs who must receive these chemicals from their sources. Once the science has been fully developed on the extent to which PFAS levels must be further managed, the clean water utility community stands ready to find an appropriate path forward.

Typical biosolids with no direct large industrial inputs are unlikely to impact ground and surface waters at levels above EPA's existing health advisory levels for drinking water (70 ppt). Only in a few worst-case scenarios have wastewater and biosolids been found to contribute to PFAS water contamination at levels of concerns. These are rare and involve large discharges to the sewer system from industrial facilities using significant volumes of PFAS. In these situations, PFAS concentrations have been greatly reduced by stopping discharges through industrial pretreatment requirements and other source control methods.

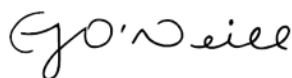
As public and environmental stewards of their communities, NACWA and WEF members want to continue working with Congress, the federal and state regulatory authorities, and stakeholders to address PFAS contamination and how PFAS may be entering wastewater treatment systems. We believe it is imperative to identify potential sources of PFAS and mitigate these chemicals from entering water resources. To achieve our common goals of protecting public health and the environment, it is critical that we continue to build upon our scientific understanding of these emerging contaminants and their potential risks. Additional research on these issues is necessary, and NACWA and WEF fully support EPA's ongoing efforts to better understand the fate and transport of PFAS, and their ultimate impact on the environment and public health.

NACWA and WEF appreciate your consideration of these comments and the impacts current legislation could have on the operations of public clean water utilities, their ratepayers, and the constituents you serve. We all share a goal of protecting the health and safety of the communities we serve and welcome further discussions with the Committee on this issue.

Sincerely,



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