



Conservation
Law Foundation

May 28, 2024

Via www.regulations.gov

Deborah G. Nagle
Office of Science and Technology, Office of Water
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Proposed Information Collection Request; Comment Request; POTW Influent PFAS Study Data Collection (Docket ID No. EPA-HQ-OW-2023-0580)

To whom it may concern:

Conservation Law Foundation (“CLF”) and the undersigned organizations write to provide comments on the proposed Information Collection Request (“ICR”) for the POTW Influent PFAS Study. CLF is a member-supported, nonprofit environmental advocacy organization that works throughout New England to protect the environment for the benefit of all people. CLF has a long history of advocacy to protect water resources.

We support EPA’s proposed ICR and the development of effluent limitations guidelines and standards (“ELGs”) and sewage sludge management guidance and regulations for per- and polyfluoroalkyl substances (“PFAS”). However, we urge that EPA take swift regulatory action in response to the ICR results, underscore that EPA should collect and use for rulemaking PFAS data that POTWs have already gathered, and offer suggestions for further improvement.

I. Background

PFAS—also known as “forever chemicals”—refers to a family of synthetic organic chemicals that persist in the environment for up to thousands of years.¹ PFAS have been linked to cancer and other serious health harms.² Humans can become exposed to PFAS through contaminated drinking water, food (including fish), or air.³ PFAS often disproportionately impact environmental justice communities. For example, sources of PFAS—including wastewater

¹ *Per- and Polyfluoroalkyl Substances (PFASs)*, UN ENVIRONMENT PROGRAMME, <https://www.unep.org/topics/chemicals-and-pollution-action/pollution-and-health/persistent-organic-pollutants-pops/and> (last visited May 28, 2024).

² See 87 Fed. Reg. 36848, 36849 (June 21, 2022); 89 Fed. Reg. 8606, 8613–8615 (Feb. 8, 2024); *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, EPA, <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas> (last updated May 16, 2024).

³ *Per- and Polyfluoroalkyl Substances (PFASs)*, UN ENVIRONMENT PROGRAMME, <https://www.unep.org/topics/chemicals-and-pollution-action/pollution-and-health/persistent-organic-pollutants-pops/and> (last visited May 28, 2024).

treatment plants and manufacturing facilities—disproportionately impact communities of color because of inequitable siting.⁴ Moreover, many residents of EJ communities eat locally-caught fish at higher rates for cultural, recreational, and/or economic reasons, which can increase their exposure to these dangerous chemicals.⁵

Industrial users with PFAS-contaminated wastewater either directly discharge into surface waters—contaminating downstream drinking water sources and wildlife habitat—or discharge into a publicly owned treatment works (“POTW”). As EPA recognized in its ICR notice, most POTWs do not reduce, remove, or destroy PFAS.⁶ To the contrary, studies have observed total PFAS concentrations increasing during the wastewater treatment process.⁷ In addition to discharging PFAS chemicals, POTWs create sewage sludge, which often contains high levels of PFAS.⁸ PFAS re-enter the environment when sewage sludge is land applied, incinerated, or landfilled.⁹ Thus, reducing and eliminating industrial sources of PFAS is an essential component of addressing the PFAS crisis, as EPA has recognized in its PFAS Strategic Roadmap.¹⁰

II. Detailed comments

The ICR would require approximately 400 large POTWs to provide information about industrial users, PFAS sources, and management practices for wastewater and sewage sludge.¹¹ The ICR would also require approximately 200 to 300 large POTWs to conduct one-time sampling for PFAS and adsorbable organic fluorine (“AOF”) in industrial user effluent, domestic wastewater influent, POTW influent, and POTW effluent, as well as one-time sampling for PFAS in sewage

⁴ *Communities of color disproportionately exposed to PFAS pollution in drinking water*, HARVARD T.H. CHAN SCHOOL OF PUBLIC HEALTH (May 15, 2023), <https://www.hsph.harvard.edu/news/press-releases/communities-of-color-disproportionately-exposed-to-pfas-pollution-in-drinking-water/>.

⁵ Nadia Barbo et al., *Locally caught freshwater fish across the United States are likely a significant source of exposure to PFOS and other perfluorinated compounds*, 220 ENV'T RSCH. 1, 8 (2023); Ralph Jimenez, ‘Forever chemicals’ endanger health of anglers who eat what they catch,” N.H. BULLETIN (April 11, 2023), <https://newhampshirebulletin.com/2023/04/11/forever-chemicals-endanger-health-of-anglers-who-eat-what-they-catch/>.

⁶ 89 Fed. Reg. 20962, 20963 (March 26, 2024).

⁷ Brannon A. Seay et al., *Per- and Polyfluoroalkyl Substances Fate and Transport at a Wastewater Treatment Plant with a Collocated Sewage Sludge Incinerator*, 847 SCI. TOTAL ENV'T 1, 4 (2023).

⁸ Ting Zhou et al., *Occurrence, fate, and remediation for per- and polyfluoroalkyl substances (PFAS) in sewage sludge: A comprehensive review*, 466 J. OF HAZARDOUS MATERIALS 1, 14 (2024) (“The PFAS concentrations in sludge matrices across the world are up to thousands of ng/g [dry weight.]”)

⁹ *Id.* at 6 (“Sludge incineration, landfill, and agricultural reuse are the primary pathways for PFAS release from sludge.”)

¹⁰ See EPA, PFAS STRATEGIC ROADMAP: EPA’S COMMITMENTS TO ACTION 2021–2024, EPA-100-K-21-002 at 13 (2021), https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf.

¹¹ 89 Fed. Reg. 20962, 20963 (March 26, 2024).

sludge.¹² EPA seeks this information to inform development of ELGs and to “help inform future risk assessments and risk management options” for sewage sludge.¹³

While permit writers can establish effluent limitations without ELGs¹⁴ and, during the process of developing ELGs, should establish permit-specific PFAS effluent limitations where warranted, we support EPA’s data collection effort and the development of ELGs for industrial users, as they are an important tool for reducing industrial discharges of PFAS into surface waters and POTWs. We further support the development of guidance and enforceable regulations for PFAS in sewage sludge.

While we support EPA’s data collection, EPA must recognize that monitoring for PFAS without regulatory action is insufficient, and it should request existing POTW data on PFAS from states to speed up the rulemaking process. First, EPA must ensure that the POTW Influent PFAS Study results in regulatory action, at a swift pace that reflects the urgency of the PFAS crisis. EPA should not repeat the delays associated with proposing an ELG for the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) category.¹⁵ Second, many states have access to PFAS monitoring data from POTWs.¹⁶ Given the previous OCPSF ELG delay, the ample state data, and the urgency with which PFAS regulations are needed to protect public health and advance environmental justice, EPA should not wait to begin developing ELGs and sewage sludge management regulations until it has completed the ICR and POTW Influent PFAS Study. Instead, EPA should request that states share their POTW PFAS data and should use that data, in addition to ICR-responsive data, to develop ELGs and sewage sludge rules.

To further improve the ICR and ensure it “produce[s] a robust data set,”¹⁷ EPA should not arbitrarily limit the number of industrial users sampled for each POTW to ten. Instead, EPA should expand the list of industrial users sampled in Phase 1 of the ICR to all significant industrial users, all industrial users that are known or suspected to use PFAS, and all industrial users for which there is insufficient PFAS monitoring data available.

¹² *Id.*

¹³ *Id.*

¹⁴ See 40 C.F.R. §§ 122.44(a)(1), (d), 125.3(c)(2).

¹⁵ In 2021, EPA anticipated proposing an ELG for the OCPSF industrial category in summer 2023. EPA, PFAS STRATEGIC ROADMAP: EPA’S COMMITMENTS TO ACTION 2021–2024, EPA-100-K-21-002 at 14 (2021), https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf. EPA still has not proposed that rule.

¹⁶ See, e.g., *PFAS in Industrial Discharges*, MASS. DEP’T ENV’T PROT., <https://www.mass.gov/info-details/pfas-in-industrial-discharges> (last visited May 28, 2024); *PFAS in Wastewater*, WASH. DEP’T ECOLOGY, <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/addressing-priority-toxic-chemicals/pfas/wastewater> (last visited May 28, 2024); *Monitoring PFAS*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/air-water-land-climate/monitoring-pfas> (last visited May 28, 2024).

¹⁷ 89 Fed. Reg. 20962, 20963 (March 26, 2024).



Finally, in addition to informing future regulations and guidance for managing sewage sludge as biosolids, EPA should use this data to consider incorporating PFAS provisions in 40 C.F.R. section 503, Subpart E, which governs sewage sludge incineration.

Thank you in advance for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Heather Govern", with a stylized, flowing script.

Heather Govern, Vice President, Clean Air and Water
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

A handwritten signature in black ink, appearing to read "Jillian Aicher", with a stylized, flowing script.

Jillian Aicher, Equal Justice Works Legal Fellow
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

A handwritten signature in blue ink, appearing to read "Timothy Whitehouse", with a stylized, flowing script.

Timothy Whitehouse, Executive Director
Public Employees for Environmental Responsibility
P.O. Box 574
North Easton, MA 02356

A handwritten signature in black ink, appearing to read "Zeus Smith", with a stylized, flowing script.

Zeus Smith, Associate Attorney
Charles River Watershed Association
41 West Street, Floor 8
Boston, MA 02111