



January 29, 2021

VIA ELECTRONIC MAIL

CWC@dep.nj.gov

Clean Water Council

ATTN: Anthony McCracken, CWC Chair

RE: COMMENTS FOLLOWING JANUARY 21, 2021 CLEAN WATER COUNCIL PUBLIC HEARING ON PERMITTING OF PFAS COMPOUNDS IN NJPDES DISCHARGES TO SURFACE WATER

To Mr. McCracken –

On behalf of our members, the Chemistry Council of New Jersey (CCNJ) and the Site Remediation Industry Network (SRIN) appreciate the opportunity to provide the following comments to the Clean Water Council in response to their request for recommendations regarding how best to control the discharge of per- and polyfluoroalkyl substances (PFAS) to surface waters of New Jersey.

CCNJ/SRIN are deeply concerned about the New Jersey Department of Environmental Protection (NJDEP)'s comprehensive approach in adopting PFAS standards. At the start of the January 21, 2021 Clean Water Council public hearing, Shawn LaTourette, NJDEP Acting Commissioner, stated that New Jersey needs to reach *reasonable, science-based* positions during this effort, which we support. However, in the same breath, Acting Commissioner LaTourette shared that the NJDEP's "goals" include positioning New Jersey as the national leader in regulating PFAS and taking every measure possible to adopt the most protective standards. These are not goals but, rather, political statements, and directly conflict with both his previous point about the need for *reasonable, science-based* positions and the NJDEP's commitment to use the *best available science* to protect public health and the environment.

There are currently no widely accepted analytical methods for surface water and effluent matrices, which is due to the United States Environmental Protection Agency (USEPA) not yet establishing an analytical method for non-drinking matrices. The USEPA's Method 537.1 is a drinking water method that has not been developed and validated for the analysis of surface water and effluents. These matrices are prone to interferences from other natural or manmade constituents. The regulated community will not be able to provide reliable data of known quality in the absence of appropriate analytical techniques. The analytical determination error resulting from the application of inappropriate analytical techniques will render compliance with any discharge limit impossible, and the NJDEP should wait until the USEPA has published appropriate analytical methods, expected in 2021.

Once the USEPA establishes an analytical method for testing, CCNJ/SRIN would, at that point, support a PFAS source identification/minimization and discharger tracking effort. Implementing an effective track-down program will take time, but it is a critical step in the process. As part of the track-down program, CCNJ/SRIN recommend that the NJDEP develop a survey to assist the publicly owned treatment works (POTWs) and wastewater treatment facilities in identifying significant industrial users of PFAS. We would like to highlight that this may only provide a partial picture of significant users since there may also be PFAS contributions from commercial sources and households, which would not be covered by the pretreatment program of a POTW. In addition, PFAS can be found in water supplies used by various facilities and households, and that source may be inappropriately held responsible for any PFAS found in the discharge. PFAS have been used in numerous

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consumer and industrial applications and have been identified in municipal drinking water systems and municipal wastewater treatment systems. Therefore, these compounds can be detected at facilities where they have never been generated, used, or introduced by their own processes/equipment, but where they could have been introduced by use of contaminated municipal water, exfiltration from sewer lines, etc. All of these factors add to the challenges of implementing track-down systems, therefore, it is important to ensure that there is adequate time to implement these programs in a careful, *scientific*, and effective manner.

If the NJDEP proceeds to establish NJPDES permit monitoring and effluent limit requirements for PFAS, CCNJ/SRIN recommend that the Department not require monitoring or effluent limit requirements if these compounds may only be expected due to their presence in source waters (i.e. none added through the actual manufacturing process). The water supply companies must comply with New Jersey's Maximum Contaminant Levels (MCLs) for perfluorononanoic acid (PFNA), perfluorooctanoic acid (PFOA), and perfluorooctanesulfonic acid (PFOS), and this will address the PFAS in the water source.

It is critical for New Jersey to take the time to thoroughly research all *best available science* before implementing any discharge limit, which would be very premature at this time. In view of the possibility that PFAS may be present from sources other than the permitted discharge, establishment of background concentrations of these compounds should also be considered and incorporated as appropriate into NJPDES permits. In addition, the cost of addressing PFAS detections that are in no way related to facility operations can be significant and can result in hardship or even closure for small businesses.

The PFAS treatment technology is evolving over time. There are a number of technologies, such as granular activated carbon and ion exchange resins, which are potentially available to treat PFAS; however, there are significant concerns regarding effectiveness, high capital and operation & maintenance costs, secondary impacts, and other issues to address wastewater treatment. CCNJ/SRIN have raised significant, legitimate concerns in the past regarding a cost-benefit/financial impact analysis on PFAS treatment technologies. Due to the fact that we are dealing with numbers in the extremely low parts per trillion range, there may be an order of magnitude increase in treatment costs associated with a very small change in the standard that is set, which leads to minimal to no added protectiveness of public health and the environment. There are actual public health emergencies occurring in New Jersey (e.g. lead in drinking water) which compete for these scarce resources.

We would like the record to reflect our support of any comments submitted by CCNJ and SRIN members, as well as the PFAS Regulatory Coalition. We also support all testimony provided by the sewerage authorities during the January 21, 2021 Clean Water Council public hearing.

Thank you for your consideration of our comments on this very important issue. We look forward to continuing to work with the Clean Water Council on this and other matters of critical importance to CCNJ and SRIN members. If I can be of further assistance, please let me know.

Sincerely,



Dennis Hart
Executive Director