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Federal eRulemaking Portal  
U.S. Environmental Protection Agency (USEPA)  
EPA Docket Center  
OLEM Docket  
Mail Code 2822IT  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

SUBMITTED ELECTRONICALLY: [HTTPS://WWW.REGULATIONS.GOV](https://www.regulations.gov)

RE: DOCKET ID NO. EPA-HQ-OLEM-2019-0341

To whom it may concern:

On behalf of the Bay Area Clean Water Agencies (BACWA), we thank you for the opportunity to comment on the proposed rule to designate PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), published in the Federal Register on September 6, 2022. BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 7.1 million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health.

Polyfluoroalkyl substance (PFAS) compounds' persistence, ubiquity, and toxicity at very low levels make PFAS the leading contaminant control challenge of our time. BACWA supports the comments that were submitted by the California Association of Sanitation Agencies (CASA). PFAS compounds are not manufactured in California, but they are observed in all environmental matrices. Because they are so widely used in consumer products, regulating PFAS discharged by manufacturers will not be effective at minimizing Californians' exposure to PFAS, or protecting our ecosystems from the toxic effects of PFAS.

POTWs are not manufacturers or users of PFAS, rather, they receive PFAS from their customers who use PFAS in their residences, commercial establishments, and industries. POTWs are interested in reducing the PFAS they receive from these sources, and look to EPA to develop effective regulation to further this goal. We are concerned that the proposed regulation will not help reduce PFAS washed down the drain, but will only introduce new liabilities to be borne by POTWs, as described in CASA's comments.

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BACWA's comments pertain to two general recommendations for any EPA rulemaking pertaining to PFAS, which are:

- 1) Source control is the only effective measure to protect people and the environment from PFAS.
- 2) EPA should be implementing source control for PFAS as a class, not on a compound-by-compound basis.

BACWA is in the midst of working with the San Francisco Bay Regional Monitoring Program at the San Francisco Estuary Institute on a special study to identify PFAS sources to POTWs in our region. Samples are being collected in influent, effluent, and biosolids from twelve representative facilities, based on their geography, size, treatment technology, and service area characteristics. We are also collecting samples from industrial and commercial dischargers, as well as from sewers in exclusively residential neighborhoods. The sewershed sampling will support our understanding of the contribution of PFAS to POTWs from household products versus industrial and commercial sources.

We are monitoring a suite of 40 individual PFAS compounds, including PFOS and PFOA. In addition to target analysis of individual PFAS compounds, we are looking at aggregate PFAS via total organic fluorine and total oxidizable precursors (TOP) analyses. This allows us to better estimate what fraction of total PFAS are being captured by the 40 compounds in the targeted analysis.

BACWA's special study is still in progress at this time, but preliminary results, as well as other data collected statewide by California POTWs, fail to show a correlation between the contribution of industry in a POTW's sewershed and the level of PFAS in its influent. This finding suggests that household products, and not necessarily industry, are a major source of PFAS to POTWs in California. Before the PFAS are washed down the drain to POTWs, people are first exposed to them via household products such as food packaging, textiles, cosmetics, and personal care products. The public is both paying for products that expose them to PFAS, as well as for the measures to clean up that same PFAS when it contaminates their drinking water and the environment.

The data support the conclusion that source control is not just the most efficient way, but is the only way to reduce human exposure to PFAS. For POTWs who are looking to EPA for assistance in controlling the PFAS they receive, EPA's proposed action does nothing to help POTWs reduce PFAS in their influent, but only introduces new liabilities unless amended with exemptions for municipal wastewater and biosolids, as recommended in CASA's comments.

The preliminary analytical results from BACWA's study show that PFAS in influent, as measured by the TOP analysis, are about 10 times the level of individual PFAS compounds measured by target analysis. This means that at least 90 percent of the PFAS in POTW influent is comprised of unknown precursors. Another result, which has also been observed in other studies, is that concentrations of target analytes are higher in effluent than they are in influent. For example, PFOS was only observed in the influent of two of the twelve facilities where we

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sampled. However, it was observed in the effluent of all of the facilities. This discrepancy is because precursors are converted into PFOS via biological transformation during secondary treatment, the same process that would ultimately happen in the environment.

These results demonstrate the importance of tackling PFAS source control as a class; there are thousands of PFAS compounds in circulation, as well as precursors that will be converted to PFAS (including PFOS and PFOA) in the environment. In EPA's rulemaking, only two of these compounds are being designated as hazardous compounds, and the rulemaking does not capture their precursors. While BACWA understands that toxicity data is not available for the vast majority of PFAS compounds, it does not make sense to put significant resources into targeting such a tiny slice of the overall problem. As has been shown before, if only some PFAS compounds are regulated, then manufacturers will simply switch their formulations to use other PFAS compounds.

The proposed CERCLA designation will not be effective at controlling most PFAS discharges to POTWs and the environment. In this and in future rulemaking, BACWA recommends that EPA centers source control as the main tool with which to reduce human exposure to all PFAS and the discharge of all PFAS to the environment.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lorien Fono". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lorien Fono, Ph.D., P.E.  
Executive Director  
Bay Area Clean Water Agencies

cc: BACWA Executive Board  
BAPPG Chairs