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February 14, 2025

The Honorable Brian Feldman
Senate Education, Energy, and Environment Committee
Miller Senate Office Building, 2 West Wing
11 Bladen Street
Annapolis, MD 21401

Re: Submission of Written Testimony for the Record in Opposition to SB 732 "An Act concerning Sewage Sludge Utilization Permits – Per-and-Polyfluoroalkyl Substances – Concentration Limits" Before the State of Maryland's Senate Education, Energy, and Environment Committee

Dear Chairman Feldman and Members of the Senate Education, Energy, and Environment Committee:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to provide written testimony pertaining to the Committee's February 18th hearing on SB 732. NACWA has significant concerns with the legislation in its current form, especially its flawed reliance on the U.S. Environmental Protection Agency's (EPA) recent Draft Risk Assessment for PFOA and PFOS in Biosolids and its incorrect application of a 1 part per billion (ppb) PFAS limit as a regulatory standard.

NACWA is the national advocacy voice for more than 360 public wastewater and stormwater utilities around the country – including the Anne Arundel County Department of Public Works, the Baltimore City Department of Public Works, the Howard County Department of Public Works, and WSSC Water.

NACWA and its public utility members recognize the critical importance of addressing PFAS contamination concerns and support policies that promote effective, science-based solutions to protect public health and the environment. NACWA member agencies in Maryland and across the country are facing significant challenges associated with PFAS related to their role as passive receivers of these chemicals via municipal wastewater influent.

PFAS are ubiquitous in our society and in our bodies because they are found in many of the products we use every day like cookware, clothes and cosmetics. By the time PFAS reach a clean water utility, they have flowed out of homes, businesses, and communities. This underscores that to meaningfully protect our water bodies and ourselves from PFAS risks, source control must be the first step.

Written Testimony for the Record in Response to SB 732
February 14, 2025

Maryland Senate Bill 732 attempts to address concerns around PFAS in biosolids, and NACWA believes there are appropriate ways to address these concerns via state legislation. Unfortunately, SB 732 in its current form attempts to address these concerns in an inappropriate manner based on its flawed understanding of what EPA's Draft Risk Assessment found and a misunderstanding of the 1 ppb number used in the Draft Risk Assessment. The legislation misapplies EPA's scientific and human health protection data and could ultimately create greater environmental harm than it seeks to prevent.

As EPA made clear in its communication materials released as part of the Draft Risk Assessment, the assessment only found an increased health risk from PFAS in biosolids for a very narrow, specific segment of the population – namely the hypothetical "farm family" that EPA used in its risk models that assumed a family living on a farm that eats all of its food and drinks all of its water from that farm where biosolids are applied. However, this hypothetical family does not actually exist in the real world. EPA's materials further clarify that the Draft Risk Assessment does not indicate any increased health risk from PFAS in biosolids to the general public or to the general food supply.[1]

SB 732's use of the 1 ppb number for PFAS in biosolids also misunderstands and misapplies how that level was used in EPA's Draft Risk Assessment. The 1 ppb number is simply the number EPA picked for modeling purposes – it could have instead picked any other number it wanted to run the models. The 1 ppb number is not, and was never intended to be, a regulatory standard for PFAS in biosolids. As EPA's own Fact Sheet for State Water Agencies makes clear, the Draft Risk Assessment and its 1 ppb number is not a regulation and does not compel any action from states.[2]

If EPA wants to ultimate set a regulatory standard for PFAS in biosolids, it will have to first finalize the Draft Risk Assessment and then go through a comprehensive rulemaking process with public notice and comment to determine what regulatory standard would be most appropriate. NACWA believes that states should allow this federal rulemaking process to play out before setting their own standards.

SB 732 also places an impossible compliance burden on public wastewater utilities that are not the source of PFAS contamination. As currently written, the legislation will effectively ban the land application of biosolids in Maryland due to its impractical compliance timeline and testing requirements. This will leave municipal clean water utilities with no other option but a direct-to-landfill requirement that will be more burdensome logistically, less environmentally-friendly, and exponentially more costly – costs that are ultimately passed onto Maryland residents. Instead of mitigating PFAS contamination, the bill will shift the problem elsewhere, potentially worsening Maryland's environmental footprint.

As an alternative, NACWA urges legislation that considers codifying or building upon the existing, science-based initiatives led by the Maryland Department of the Environment (MDE). MDE has implemented a tiered strategy for managing PFAS concentrations in biosolids, setting specific guidelines based on measured levels of PFOS and PFOA. This approach allows a pathway for land application to continue while protecting public

[1] See EPA Press Release on Draft Risk Assessment (Jan. 14. 2025); EPA FAQs on Draft Risk Assessment; EPA Fact Sheet on Draft Risk Assessment.
[2] See EPA Fact Sheet for State Water Agencies.

health and the environment. This approach helps preserve the environmental benefits offered by beneficial reuse of biosolids and the green energy generation that can take place as part of the biosolids processing.

NACWA believes more balanced, science-driven approach is needed—one that aligns with ongoing state regulatory efforts, ensures practical implementation and prevents unintended consequences that could leave Maryland facing greater environmental challenges than the status quo.

Rather than work from an incomplete federal risk assessment with a modeling value that was never intended to be used as a regulatory threshold, it is critical that policymakers allow the appropriate scientific processes to take place to determine what the appropriate risk-based regulatory approaches are most appropriate and protective of public health.

NACWA appreciates the opportunity to provide written testimony on SB 732. If members of the state legislature have questions, please don't hesitate to contact me or Nathan Gardner-Andrews, NACWA's Chief Advocacy & Policy Officer, at ngardner-andrews@nacwa.org.

Sincerely,

Adam Kranz
CEO