

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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October 8, 2021

Radhika Fox
Assistant Administrator
U.S. Environmental Protection Agency
Office of Water
Washington, DC 20460

RE: Preliminary Effluent Guidelines Program Plan 15; FRL-5601-5-01-OW; 86 FR 51155—Request for 60-day comment period extension

Dear Assistant Administrator Fox:

The U.S. Chamber of Commerce appreciates the opportunity to offer the business community's perspective regarding the Preliminary Effluent Guidelines Program Plan 15. "The [Clean Water Act](#) authorizes EPA and states to address emerging contaminants through technology-based effluent limitations using national Effluent Limitation Guidelines (ELG) and Standards or by setting technology-based effluent limits in National Pollutant Discharge Elimination System (NPDES) permits on a case-by-case basis."¹ This science-based process is inherently complex and requires specific discharge limits based on technology-performance standards. Under the Administrative Procedure Act, the Environmental Protection Agency (EPA) has the flexibility to modify the length of the notice and comment period to address such complex issues. The Agency's interest in feedback on new cross-category wastewater pollutant concentration rankings analysis, the status of the preliminary reviews of high-ranking categories, and the capabilities of membranes for industrial wastewater treatment technologies is inherently complex and requires additional time for thoughtful evaluation.

We, therefore, urge EPA to extend the comment period by 60 days. This would allow impacted industries to explore the potential costs and gather the necessary data and rationale as companies and communities grapple with public health, environmental, and funding challenges to address emerging contaminants of concern.

Following are several recommendations for consideration as EPA finalizes the program plan:

- **Continue to collaborate with industries of interest as you refine analysis.** Businesses are committed to working with EPA to develop effluent guidelines and regulations based on sound science and Best Available Technology (BAT). The business community has

¹ <https://crsreports.congress.gov/product/pdf/R/R45998>

significant technical and practical expertise in identifying and mitigating risks to develop and implement real solutions that will benefit EPA's analysis.

- **Leverage EPA's industrial treatment technology review to catalyze innovation.** EPA should provide more flexibility for meeting NPDES permit limits that encourages innovation. This could create more cost-effective solutions and additional value and benefits to the dischargers, utilities, and communities. New measures for installing some combination of reverse osmosis and activated carbon filtration require significant capital cost investments for negligible reduction in risk.
- **Provide flexibility as the science evolves.** The science for effective pretreatment of emerging contaminants, including PFAS, is evolving. EPA should provide appropriate flexibility in meeting and revising ELG and BAT as new technologies and innovations become available.
- **Engage affected sectors and make ELG planning tools more transparent.** EPA should actively reach out to, and regularly share information with affected sectors around the ELG planning process, not just as required by the program planning process.
- **Exclude sectors for which de minimis uses and discharges are already being addressed, including under current permits with BAT and/or impact significant numbers of small businesses in current compliance with permit requirements.** The program plan should include an approach that is based on sound science that prioritizes areas with the highest exposure and greatest risk to human health and the environment, while excluding sectors for which de minimis amounts are currently being controlled, including significant numbers of small businesses, to make optimal use of taxpayer dollars. For small businesses, the Chamber urges EPA to offer technical assistance and stand-up specific grants to assist in meeting ELG standards and encourage beyond compliance actions by reducing regulatory burdens.
- **Consider the industry-wide economic achievability of implementing the technology:** As stated in the September 2010 NPDES Permit Writers' Manual, EPA must consider the industry-wide economic achievability of implementing the technology and the incremental costs in relation to the pollutant reduction benefits. Facilities should be provided the flexibility to determine the best treatment control technologies and be provided time to conduct a gap assessment before enforceable limits are set.
- **Ensure adequate, dedicated funding for wastewater utilities to test and treat emerging contaminants.** The Chamber supports the dedicated funding in the bipartisan infrastructure package for wastewater utilities and disadvantaged communities to address emerging contaminants, including PFAS. We urge EPA to work with Environmental Finance Advisory Board and other experts to fully develop these concepts as well as additional innovative funding models, including public-private partnerships. The Chamber, along with our

coalition of companies, trade associations, and local government stakeholders sent a set of [principles](#) on PFAS-related, science-based policies earlier this year.

- **Explore proactive pathways to support environmental justice.** The Chamber supports providing equal opportunities and upward mobility for disadvantaged communities, while simultaneously making environmental progress and growing an inclusive economy. Many in the business community have been and are modeling meaningful approaches to effectively address environmental justice, including driving community engagement and sustainability.

We respectfully urge EPA to extend the comment period by 60 days to foster appropriate review of ELG program planning process.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Chaitovitz", written in a cursive style. The signature is positioned above a horizontal line.

Chuck Chaitovitz