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November 9, 2016

Office of Water
Office of Science and Technology
United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave NW, 4201M
Washington, DC 20460

Via regulations.gov:

Docket ID No. EPA-HQ-OW-2016-0404

RE: Proposed Collection; Comment Request; Proposed Information Collection Request for the National Study of Nutrient Removal and Secondary Technologies: Publicly Owned Treatment Works Screener Questionnaire

The Association of Clean Water Administrators (“ACWA”) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers, who on a daily basis implement the water quality programs of the Clean Water Act (“CWA”). ACWA appreciates the opportunity to comment on the proposed Information Collection Request for the *National Study of Nutrient Removal and Secondary Technologies: Publicly Owned Treatment Works (POTW) Screener Questionnaire* (the “survey”).

In general, ACWA supports the Environmental Protection Agency’s (“EPA”) efforts to address the issue of nutrient pollution by gathering more information on secondary treatment at publically owned treatment works (POTWs) nationwide to help these facilities better understand the range of nutrient removal performance opportunities available, based on data from their peers, to optimize nutrient removal. However, ACWA has significant concerns regarding the survey and the method EPA is using to compel the collection of the information outlined in the survey questions included in the Federal Register notice (*EPA-HQ-OW-0404, FRL-9952-57-OW*) (the “Notice”).

As EPA explains in the Notice, EPA will use CWA § 308 authority to administer the survey as a mandatory census. EPA states that “any use of § 308 authority is never taken lightly by EPA, and much deliberation went into [the] decision [to use 308 authority].” ACWA recognizes that EPA believes that it must use § 308 authority to ensure that EPA receives a statistically relevant sample size because a voluntary survey could result in a low or unrepresentative survey response rate. However, it is ACWA’s position that EPA’s reliance on § 308 is inappropriate and

that the agency should consider an alternative method to gather this information. ACWA has several concerns regarding EPA's usage of §308 authority. ACWA members are skeptical that the use of § 308 authority is necessary to obtain the statistically significant sample which EPA seeks. Additionally, ACWA members are concerned that if POTW owners and/or operators are unable to answer the survey they will be penalized and that the potential penalty for nonresponse has yet to be explained by EPA. ACWA would be happy to assist EPA as it considers an alternative approach to using § 308 authority to compel response to the survey.

Further, many states have hundreds of small communities (less than 5,000 persons population), of which many will be largely unable to answer the detailed questions on the survey and likely render little useful information to EPA while potentially creating friction between states and the regulated POTW community. ACWA would be happy to assist EPA as it considers an approach to dealing with small community POTWs.

Lastly, ACWA members are concerned that the collection and public release of the data will open POTWs to enforcement actions from EPA and/or third parties.

Again, ACWA appreciates the opportunity to comment on this proposed information request and looks forward to discussing the matter with you in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter LaFlamme". The signature is fluid and cursive, with a large initial "P" and "L".

Peter LaFlamme
ACWA President
Director, Watershed Management Division
Vermont Department of Environmental Conservation