Committee on Transportation and Infrastructure
U.S. House of Representatives

Peter A. DeFazio
Chairman

Washington, DC 20515

Sam Graves, MO
Ranking Member

Katherine W. Dedrick, Staff Director

Paul J. Sass, Republican Staff Director

July 29, 2019

The Honorable Andrew R. Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Dear Administrator Wheeler:

Earlier this year, the Trump administration announced its intentions to pursue a Federal rule to potentially allow sewage treatment plants to discharge inadequately treated sewage into waterways. Under this concept, sewage treatment plants would likely be able to divert sewage around legally required treatment, then combine the filtered but untreated sewage with fully treated wastewater before discharge, in a process known as "blending." I also understand the administration is contemplating removing the current prohibition[1] on bypassing the biological treatment of sewage to remove most pathogens from wastewater, a crucial treatment step used to protect public health.

The discharge of raw or partially treated sewage into our waterways poses significant risk to public health and the health of our environment. Unfortunately, today, many of our beaches and coastal recreational waters are contaminated from stormwater runoff, sewage overflows, and failing septic systems – and contamination from these sources often leads to significant human health concerns, ranging from nausea to viral infections, such as hepatitis, to even death. According to the U.S. Environmental Protection Agency's ("EPA") most recent Beach Report[2], states, territories, and tribes issued over 11,000 notification actions (i.e. beach advisories or closings) during the 2018 swimming season, and 38 percent of all coastal beaches that were monitored had at least one advisory or closure during the 2018 season.

In addition, our Nation is experiencing frequent outbreaks of toxic algal blooms that can be traced to excessive levels of nutrients and other pollutants and viruses in our coastal waterways and freshwater lakes. For example, earlier this month, a bloom of toxic algae forced the State of Mississippi to close 25 recreational beaches along its Gulf Coast, with State environmental officials warning people to avoid any contact with the water.

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[1] 40 CFR 122.41(m).

[2] See https://www.epa.gov/sites/production/files/2019-07/documents/beach-swimming-season-report-2018.pdf.

The Clean Water Act was enacted with a basic premise that there should be less pollution entering our environment, not more. Accordingly, I am concerned with the potential direction of your efforts to expand opportunities for sewage treatment plants to discharge inadequately treated sewage into waterways beyond those outlined in current regulations. In my view, it makes sound economic and environmental sense to invest more Federal resources into effective sewage treatment infrastructure upgrades, which ensure that the U.S. maintains its healthy and vibrant ecosystems, economy, and communities, rather than allow more sewage into our environment, which does not.

In addition, I am concerned that EPA is moving forward on this proposal with insufficient evidence to justify changing current Clean Water Act regulations, including information on the number of wastewater treatment plants that, today, engage in blending under existing requirements, the frequency with which plants engage in blending, and the volumes, types, and impacts of pollutants, including pathogens harmful to human health and the environment, that could be legally discharged under this proposal.

Therefore, in furtherance of congressional oversight of Clean Water Act programs, I ask that you provide the Committee on Transportation and Infrastructure with the following:

1. Any records or analysis EPA has regarding:

    a. The number of publicly owned treatment works that currently engage in blending, how often they do it, and the volume of partially-treated blended wastewater they discharge during a typical blending event;

    b. The number of publicly owned treatment works that use auxiliary or "sidestream" technologies in lieu of secondary treatment during blending events, and the cost and effectiveness of those technologies;

    c. Typical pathogen levels in blended wastewater discharges, including as compared to pathogen levels in fully-treated wastewater;

    d. The number of publicly owned treatment works whose National Pollutant Discharge Elimination System ("NPDES") permits include acute (short-term) limits on pathogens;

    e. The number and location of any publicly owned treatment works that discharge into a coastal recreation water (as defined in section 502 of the Clean Water Act) that either 1) EPA has identified in its annual Beach Report as having a beach advisory or closing, or 2) any state, territory, and/or tribe has issued a notification action (i.e. beach advisories or closings); and

    f. The number and location of publicly owned treatment works located in or near low-income communities or communities of color that exceed their existing NPDES permit limits.

2. A status update on the development of a rulemaking on blending (a.k.a. peak flows management)[3], including expected timelines for future action.

3. A list of all organizations, including other Federal agencies and the Office of Information and Regulatory Affairs, and outside stakeholders with whom EPA staff have discussed this rulemaking effort.

Thank you for your prompt attention to this matter, and I request you provide this information as soon as possible, but no later than September 3, 2019. Please provide two sets of copies of all the requested data above. Please deliver one set of these records to the Majority Staff in Room 2165 of the Rayburn House Office Building and one set of records to the Minority Staff in Room 2164 of the Rayburn House Office Building. If you have any questions, please contact Ryan Seiger of the Committee on Transportation and Infrastructure at (202) 225-0060.

Sincerely,

PETER A. DeFAZIO
Chair

cc: Representative Sam Graves, Ranking Member

[3] See https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=2040-AF81.