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Martha Fuller-Clark, Chair  
Energy and Natural Resources Committee  
New Hampshire Senate  
State House  
Concord, NH 03301

Tuesday, January 14, 2020

**Re: SB 287, Amendment, establishing PFAS MCLs in law**

Dear Ms. Fuller-Clark and Members of the Committee,

Thank you for the opportunity to provide input on this proposed amendment and bill. NEBRA has several times provided the Committee input regarding PFAS policies and legislation. Our concerns continue to be:

1. Regulating PFAS in waters and other media should be done with understanding of the implications for all environmental programs, especially ongoing recycling, materials management, and wastewater programs that, unfortunately, receive traces of PFAS because of the ubiquitous use of PFAS in myriad products and practices in our everyday lives. Unfortunately, no septic system, wastewater, or municipal solid waste system is free of PFAS. We applaud the legislature and NH DES for several years of wrestling with the challenge of regulating PFAS in the midst of considerable uncertainty and its presence, fate, and impacts. There has been considerable progress, and potential risks to public health are being reduced at major contamination sites around the state, especially Pease Tradeport and Merrimack. The tougher challenge is figuring out at what levels traces of PFAS in the environment must be addressed. This is where caution and carefully-thought-out policy is required.
2. With the new drinking water standards - MCLs - and parallel groundwater standards for four PFAS, NH DES has begun regulating PFAS at levels close to what is, unfortunately, background - including what is common in wastewater. What are the implications of the fact that, as research has shown, home septic systems are discharging low levels of PFAS to the environment at levels that can impact groundwater and neighboring drinking water wells at levels close to or above the new NH drinking water standards? Those who manage wastewater, from home owners to wastewater treatment facilities, are potentially liable under the new, very low regulatory levels for PFAS. What are the costs going to be, and who will bear them?

These are the concerns that led to a court challenge, which NEBRA supported with a "friend of the court" brief. The costs imposed by these regulations on our municipalities and utilities - those who are on the front lines and most responsible for water quality 24/7/365 - are real, today. Concord will pay more than twice as much for the management of its treated biosolids in 2020 as compared to 2018, solely because of PFAS regulation. These are

the kinds of costs that this Legislature asked to be considered when DES set drinking water standards. As the Merrimack Superior Court has found, NH DES did not provide the requisite cost-benefit analysis.

We are concerned because, when setting policy, there is always a point at which any marginal or unmeasurable gain in benefit from a particular action becomes too expensive, not worth it. With PFAS, we as a state could spend hundreds of millions of dollars chasing traces in soils and waters throughout New Hampshire– but we will not get to zero PFAS and, at some point, no one can demonstrate any marginal benefit. NH DES has not provided evidence that regulating PFAS in drinking water and groundwater in the teens of parts per trillion (ppt) provides quantifiable and significant benefits compared to regulating them at 70 ppt (which they have essentially been doing by relying on the May 2016 U. S. EPA public health advisory). Ironically, your Concord biosolids may soon be recycled in Canada, where the drinking water standards are 200 and 600 parts per trillion for PFOA and PFOS, respectively.

We ask that this Committee and the Legislature require that a thorough cost/benefit analysis be completed, for the sake of your constituents – the ratepayers and citizens of the scores of communities who will pay for the new water and wastewater treatment systems that will be required to meet the new, lowest-in-the-nation PFAS water standards.

3. The amendment to SB 287 would set numerical environmental standards in law. That is not a good idea, for many reasons.

We urge the Committee to defeat this amendment and reject SB 287. It is not needed. Your legislated the appropriate process of setting regulations, which DES did as best they could. That has led to a request for review by the third branch of government – the courts. This is an important process and should be left to reach its resolution.

You can learn more about NEBRA’s perspective and concerns here: <https://www.nebiosolids.org/pfas-biosolids>.

Thank you for your consideration of these comments.



Ned Beecher

**The North East Biosolids and Residuals Association (NEBRA)** is a 501(c)(3) non-profit professional association advancing the environmentally sound and publicly supported recycling of biosolids and other organic residuals in New England, New York, and eastern Canada. NEBRA membership includes the environmental professionals and organizations that produce, treat, test, consult on, and manage most of the region’s biosolids and other large volume recyclable organic residuals. NEBRA is funded by membership fees, donations, and project grants. Its Board of Directors are from CT, MA, ME, NH, VT, and Nova Scotia. NEBRA’s financial statements and other information are open for public inspection during normal business hours. For more information: <http://www.nebiosolids.org>.