The Maryland Department of the Environment
Secretary Serena McIlwain

Senate Bill 956
Water Pollution Control – Protecting State Waters from PFAS Pollution
(Protecting State Waters From PFAS Pollution Act)

Position: Support with Amendments
Committee: Education, Energy, and the Environment
Date: February 20, 2024
From: Jeremy D. Baker

The Maryland Department of the Environment (MDE) **SUPPORTS** SB 956 **WITH AMENDMENTS**. As introduced, SB 956 would require MDE to establish regulatory limits and impose requirements on significant industrial users (SIUs) to test wastewater discharge and eliminate the presence of total organic fluorine and per- and polyfluoroalkyl substances (PFAS) exceeding 4 parts per trillion (4ppt). Exceeding the 4ppt discharge limit for organic fluorine or PFAS would be a violation of a pretreatment permit (including both SIUs and municipal systems).

Bill Summary

SB 956 would require SIUs to be responsible for eliminating the presence of PFAS chemicals in process water and stormwater discharged to a publicly owned wastewater treatment facility. Additionally, the bill would require a SIU to eliminate products containing PFAS chemicals, replace equipment contaminated with PFAS chemicals, manage the storage of PFAS chemicals, and restrict the disposal of any removed PFAS chemicals.

Position Rationale

As drafted, SB 956 contradicts the elimination of PFAS by allowing a SIU to reuse PFAS chemicals in the industrial users operations. Each SIU would be required to measure levels of organic fluorine chemicals and report the results to MDE, but testing for total organic fluorine has a different objective than testing for specific PFAS compounds. Total organic fluorine is a broader category that encompasses various fluorinated organic substances, whereas PFAS chemical testing provides detailed information about specific PFAS compounds present.

Additionally, SB 956 attempts to address removal of PFAS in the wastewater stream from wastewater treatment facilities that accept wastewater from SIUs and place the responsibility for testing and removal on the SIU. Although this may reduce the PFAS concentration to a wastewater treatment facility, it would not necessarily eliminate any potential for PFAS contamination in facilities with direct discharge permits.

Furthermore, the bill would subject the wastewater facility to violations if the discharge exceeds 4 parts per trillion for PFAS or total organic fluorine, a condition that is not currently a component of any discharge permit. Senate Bill 956 imposes stringent regulations on total organic fluorine and PFAS without flexibility to consider scientific evidence relevant to setting such a limit.

Accordingly, MDE **SUPPORTS** SB 956 **WITH AMENDMENTS**.

Amendments

MDE has been engaged in extensive conversations with the bill's sponsor, and have reached an agreement on substantial amendments to the bill. A revised version of the bill would:

- Require MDE to work with Publicly Owned Treatment Works (POTWs) and SIUs with pretreatment permits to identify the facilities that currently and intentionally use PFAS chemicals;
- After identifying SIUs who currently use PFAS, require MDE to develop monitoring and testing criteria;
- After developing monitoring and testing criteria, require MDE to work with POTWs, SIUs, and an environmental organization to develop action levels and mitigation plans for addressing PFAS contamination;
- After developing action levels and mitigation plans, require MDE to develop a standard maximum contaminant level for SIU discharge permits for individual PFAS that are known to be harmful, as well as total PFAS
- On or before December 1, 2024, require MDE to update MDE's PFAS Action Plan with the progress made on the requirements above.

With these amendments, the bill would allow MDE the time and deference to identify and address PFAS contamination in the State. Additionally, it would allow MDE, POTWs, and SIUs to work together to incorporate PFAS standards and mitigation measures into the permitting and enforcement process.