GLWA FINAL RESPONSES TO PUBLIC COMMENTS RECEIVED
RE: PROPOSED GLWA 2019 IPP RULE AMENDMENTS

2019-01

Page 16 item 2; The table included a concentration limit for Cyanide Amenable (CNA). I wonder if there is a slip, and the limit might be established for Cyanide Available (CNA) as mandated by EPA for IUs.

Response #1: The table of local wastewater discharge pollutants referenced correctly identifies the pollutant "Cyanide, Amenable (CNA)". The local interest in regulating Cyanide is the extent to which free/amenable Cyanides are available to form toxic compounds that would impact plant and animal life in the environment. There are several Cyanide species with the three most predominant being Total Cyanide, Amenable (Free) Cyanide, and Available Cyanide. Federal regulations include all three in different Categorical Regulations, however the purpose of establishing local pollutant discharge limitations are to address those *Pollutants of Concern* to the Publicly Owned Treatment Works (POTW).

Therefore, the table correctly displays the appropriate chemical species of Amenable Cyanide, and no change is required.

2019-02

Page 44 (b) issuance of citation for violations: I believe that, beyond the publishing of the SNC IU's name in the newspapers and issuance of NOVs associated to the effluent violation, such monetary fines are excessive enforcement action against IUs. However, if the control authority may need to utilize such monetary fine, I believe it should be reduced and be based on recurrence of the status of the IU as SNC for two consecutive six month evaluation periods. Moreover, I believe that the adopting of the rolling quarters concept in determining of the SNC status for IU is more efficient mechanism for avoiding the problems associated with the time slag (sic) between the date of collecting the sample and the date of issuance of the enforcement action should there may be a violation. Such time slag (sic) does not give an opportunity for IU to collect enough samples for demonstrating compliance during the SNC evaluation period.

I also recommend that the control authority notify the IU on its SNC status every quarter of the rolling quarters concept in determining the SNC, so as to give the IU a chance to tune up any causes of noncompliance and collect enough samples to avoid being classified as SNC IU during the six month evaluation period.

Response #2: Although the table of citations for violations was not an amendment or revision from the 2016 Rule adopted by GLWA in November 2016, GLWA will address this comment.

We appreciate and respect the comment made about the basis, magnitude and alternatives proposed for assessing financial penalties for violations. GLWA, as a municipal authority, is obligated to have a *rational basis* in developing rules, which requires that the Rules have a reasonable connection to achieving a legitimate and constitutional objective. GLWA recognizes that there may be a variety of opinions addressing how a table of violations might be constructed, however the GLWA approach achieves the legitimate objective of establishing a legal standard for the assessment of financial penalties for violation of the rules. Therefore, no change is required.

In response to the second part of the comment, your proposed solution would place an unreasonable burden on GLWA. Users are responsible for their business operations and for compliance. Therefore, no change is required.

2019-03

Section II-303, Protection from Accidental Discharges, g) provides: "The User shall immediately notify the Control Authority of any changes at its facility affecting the potential for Slug discharge." We believe that this is overbroad. A User may not have reason to believe that a change has a potential for a Slug discharge yet read literally, actual knowledge is not a factor. We suggest the following: The User shall promptly notify the Control Authority if the User becomes aware of any changes at its facility that has a realistic potential for Slug discharge.

> Response #3: Please see the federal regulations 40 CFR 403.8(f)(2)(vi)(C) which outlines requirements for Slug Control Plans, including "…*procedures for immediately notifying the POTW*…". Therefore, no change is required.

2019-04

Section II-1006 Supplemental Enforcement Actions, d) 1) PFAS Compounds provides: "General Requirement: Any User who manufactured PFAS Compounds; previously used, currently uses, or plans to use material containing PFAS Compounds … shall be required to develop, submit and implement plans for the reduction and elimination of the PFAS Compounds." This is overly broad and may include uses not anticipated. PFAS compounds are found in a variety of products from dental floss, to Scotchgard™, microwave popcorn bags, and fast food wrappers. We doubt that GLWA intends to regulate Users who clean their carpet or couches periodically but that is exactly what this language does. Accordingly, we suggest that the language include an exemption for uses consist with households (e.g. carpet cleaning or employees in the company kitchen who use non-stick pans or make microwave popcorn). This is similar to the RCRA exemption of household waste from the definition of hazardous waste. Further, some facilities may have had PFAS, e.g. used to fight a fire, but no longer have PFAS, nor is PFAS detected above applicable limits in the effluent. Such facilities should not be required to develop and implement a plan for the reduction and elimination. Accordingly, we suggest the language be changed to read as follows: "Any User who manufactured PFAS Compounds; previously used, currently uses, or plans to use material containing PFAS Compounds other than what would be common in household settings (e.g. carpet cleaning, kitchen use) … shall be required to develop, submit and implement plans for the reduction and elimination of the PFAS Compounds, unless sampling has demonstrated that the PFAS is not present in the facility's discharge above applicable limits."

> Response #4: Your comment raises a valid point in recognizing that discharges from Domestic Sources and uses from household cleaning products and personal care items should be exempted. We therefore propose to modify the rule package to include the following language at Section II-1006 d) 1) iv): "*This paragraph does not apply to domestic sources or activities involving commercial maintenance activities for carpet & upholstery cleaning*."

2019-05

Section II-1006 Supplemental Enforcement Actions, d) 4) PFAS Compounds provides: "The GLWA may assign any User who has previously used or received, or will use or receive PFAS Compounds, to a User Class for reimbursement of costs incurred by GLWA to monitor and enforce this requirement, and for which the Board determines costs should be assigned." This section is vague and lacks Due Process. What is the definition of a "User Class?" It is not included in the Definitions. What criteria is used by GLWA to place a User in this class and what notice will a User be provided? Will the User have an opportunity to contest the classification? What demonstration is going to be required by the User to dispute or change the classification? For example, if GLWA has one sample detecting PFAS, are two samples from the User showing PFAS below the limit sufficient to be removed from the list? Will a User who has installed

treatment technology and does not use PFAS be removed from the list of sampling demonstrates no PFAS above applicable limits is detected? How will costs be assessed? (e.g. annual flat fee, fee based on amount of discharge, charge for each sample obtained by GLWA, etc.) How does this fee differ from the industrial pretreatment fees currently charged by GLWA?
MINASF believes this section requires clarification of the intent of GLWA and then revision to reflect that intent so that it provides Due Process notice of the criteria for the classification and the charge imposed upon the User. Further, if GLWA decides to retain the language over the objections of MINASF, then MINASF asserts that only those facilities required to have a PFAS Compound elimination plan be considered in the User Class. Accordingly, MINASF suggests the following language: "The GLWA may assign a User who is required to implement a PFAS Compound elimination plan, to a User Class for reimbursement of costs incurred by GLWA to monitor and enforce this requirement, and for which the Board determines costs should be assigned."

Response #5: PFAS Compounds are a relatively new set of pollutants that are likely to place additional regulatory and the treatment requirements upon the GLWA and all system Users. These requirements have costs associated with them that may not be equitably recovered through existing mechanisms. Chapter V of the 2016 Rules included language providing for Revenues to Support the Regulatory Programs and permit the GLWA Board to adopt a variety of charges and fees deemed necessary to carry out the requirements of the rules.

As a condition for federal grants received since the 1970's, all fees such as the IWC Charge and surcharges are based on User Classes and must be consistent with the requirements of 40 CFR 35.2140. The proposed language only authorizes the GLWA to assign Users into a User Class but does not create a fee or charge, which would require separate Board action, which are subject to a public process. Therefore, no change is required.

2019-06

Section 11-1006 Supplemental Enforcement Actions, d) 1) PFAS Compounds provides: "General Requirement: Any User who manufactured PFAS Compounds; previously used, currently uses, or plans to use material containing PFAS Compounds, and has a discharge of wastes and Wastewaters to the Publicly Owned Treatment Works {POTW) shall be required to develop, submit and implement plans for the reduction and elimination of the PFAS Compounds." HFHS is concerned that this language is overly broad and may inadvertently impact Users, like HFHS, where everyday activities like cleaning older carpets or furniture fabrics that may contain trace amounts of PFAS chemicals, or employees making microwave popcorn or using non-stick pans in a company kitchen, could subject them to these rules. We don't believe this is the intent of this amendment, and we suggest that the amendment include an explicit exemption for these types of routine, household activities.

Response #6: Please see response to Comment #4.

2019-07

Section 11-1006 Supplemental Enforcement Actions, d) 4) PFAS Compounds provides: "The GLWA may assign any User who has previously used or received, or will use or receive PFAS Compounds, to a User Class for reimbursement of costs incurred by GLWA to monitor and enforce this requirement, and far which the Board determines costs should be assigned." This

section is vague; it is unclear what criteria would be used by GLWA to place a User in this class and what demonstration is going to be required by the User to dispute or change the classification? For example, if GLWA has one sample detecting PFAS, is two samples from the User showing PFAS below the limit sufficient to be removed from the list? We recommend including the specific criteria that would place a User in this class.

Response #7: Please see response to comment #5.

2019-08

Comment #8: Section II-602 page 28 of 89 lines 21 -23 It is not clear to whom at the Control Authority written requests should be made to obtain the results of sample analyses made by the Control Authority.

Response #8: Requests may be made to the Control Authority. Wastewater Discharge Permits include addresses and contact information for communicating with the Control Authority. Therefore, no change is required.

2019-09

Chapter VIII Article II Section VIII-102 page 87 of 89 The term IPP Representative is used several times but IPP does not show up in the definitions or acronyms information In Chapter 1.

Response #9: The Term IPP is an acronym for the Industrial Pretreatment Program which is a term used by the federal and state to describe the regulatory program for toxic pollutant discharges. Although GLWA has not assigned a different meaning or use of this term, we agree to add the acronym to the Table of Acronyms in Chapter I.

2019-10

§ **II-302(b)(l)-(2), pH Monitoring Plan and Monitoring Requirement.** This rule could cause confusion and be problematic to a number of Significant Industrial Users (SIUs). The rule requires SIUs to "install appropriate pH monitoring and recording devices." It is unclear whether the "recording device" must provide a written record of the results or whether the capability of sounding an alarm is sufficient. The rule further provides that the SIU must develop an approvable pH monitoring plan within 90 days of the adoption of the rules and submit a summary of its records with its six-month reports. The 90 day timeline is not realistic to research, receive, and install a monitoring system. It is also unclear if the summary required for the six-month report be continuous (which would be voluminous) written read-outs from the meters, daily summaries, or some other form. Noteworthy, this information could be available to the GLWA inspector when s/he conducts her/his annual inspection of the User's facility. There are a variety of different pH meters. The various features include one or more of the following: continuous display, alarms when the pH goes out of range, automatic chemical feeds etc. All providing safeguards. However, many of these meters do not provide a written record.

If this requirement remains, Aevitas Specialty Services Corp. proposes that: (1) the language require monitoring plans be submitted within six months of notice from the GLWA, and that such plans include an appropriate schedule for installation; (2) the following language be deleted: "and recording devices," and (3) the requirement that the records be submitted with the six-month report be deleted.

Response #10: GLWA understands that there are a variety of pH meters and devices that could be employed at a specific facility and makes no recommendations as to the types or facility-specific

requirements that the User selects. The rule requires the installation of "appropriate monitoring and recording devices", which provides the User flexibility to identify facility-specific devices.

Additionally, the current rule requires that a plan for pH monitoring be provided within 90-days and allows for an additional 6-months after the original 90-days (total of 270 days) to implement the plan. GLWA believes this is a reasonable time for a User to research, select and install appropriate devices.

Federal, state and local regulations have required for some time that all compliance data be submitted with a User's six-month report, and we see no additional burden being placed on a User by this rule. The rule does permit a "summary of records" in either electronic or hard-copy formats; and does permit review of raw data during a Control Authority inspection. Should there be a further need for specificity, a User's Wastewater Discharge Permit would be the appropriate means for identifying whether the readings are continuous, the time interval of such, etc. This information can be incorporated into a permit following submission of a Permit Application/Reapplication.

Based upon the rationale expressed above we decline your proposed changes. Therefore, no change is required.

2019-11

…we applaud your and GLWA's efforts to update and consolidate in one place the "myriad of Ordinances, rules, and policies, some of which have been in effect since 1981." This will certainly make it more efficient for the regulated community to comprehend the rules and work with the GLWA.

Response #11: Thank you.

2019-12

…we believe inclusion of the Table in Section 11-1003, Violations on page 44 of 89 would better be referenced in the GLWA Rules (with an appropriate updating mechanism) rather than requiring a rules revision to be updated. ·

Response #12: In accordance with state law, we are required to have authority for seeking or assessing civil or criminal penalties. The table of Violations has been incorporated into the rules in order to describe the circumstances under which assessed administrative fines would be authorized. Such fines would not limit those sought through judicial enforcement.

2019-13

…the "PFAS Compound Program" mentioned in Section 11-1006, Supplemental Enforcement Actions, (d) PFAS Compounds, (2) Centralized Waste Treaters & Landfills, should, at least parenthetically, identify Best Management Practices Plans for PFAS already submitted to and accepted by GLWA as being equivalent to a "PFAS Compound Program."

Response #13: The "Grandfather" provision is not part of the proposed rules. We do not believe that the PFAS Compound Program described in the proposed rules is substantially different from the BMPs being required under the current process. A well written BMPs is generally

written to incorporate *Continuous Improvement* so that new findings, facts and conditions may be incorporated into an enforceable plan. Therefore, no change is required.

2019-14

We vote for the "6 Month Report" to be discontinued, as of November 1, 2019.

Response #14: Wastewater Discharge Permits, Septage Hauler Permits, and General Discharge Permits issued to Users include criteria, i.e., pollutant discharge limitations and requirements, notification requirements, reporting requirements and other terms and conditions pertaining to the discharge of wastes and wastewater to the GLWA sewer system. The permits and permit criteria impose responsibilities upon system users to define and demonstrate how a specific User is complying with the respective permit. As the Control Authority, GLWA must look to permitted Users to report on a periodic basis, which is generally at six-month intervals. GLWA does not see this requirement as unduly burdensome or unreasonable. Therefore, no change is required.

2019-15

"… In general (we are) in agreement with the proposed program. However, we do have some concerns regarding the proposed new requirements for PFAS compounds. In Section II-1006 d) 3) iii), the GLWA is requiring notification in every instance that fire-fighting foams and agents were used. This requirement is overly broad. In many instances, these materials will be used in a contained area, with no potential to reach drains or the outdoor environment. In those situations, it would be more appropriate to simply require the User to clean up and dispose of the fire-fighting materials in accordance with the prepared BMP. Notification should only be required when the PFAS fire-fighting materials are used either in an outdoor environment or in an indoor environment with a potential for material to escape into a drain or sewer.

Response #15: We agree with your comments and have modified the proposed language to incorporate the clarification as follows:

3) *Perflourochemical Fire-fighting Foams and Agents – Any user who stores or uses Firefighting foams using Perflourochemicals with a carbon chain of 6 or more, shall develop and implement the following plans:*
   - i) *Specific reference and controls for contained in a spill/Slug control plan and submit this to the Control Authority. At a minimum, such plans shall identify areas where the Fire-fighting Foams and Agents would be contained and have no potential to reach a drain or sewer; and areas that are not contained and have a potential to reach a drain or sewer and shall be reviewed and updated as necessary but shall not exceed three (3) years.*
   - ii) *Training Operations and Exercises – Plans for the proper use and storage and use of firefighting foams during the exercise and shall employ best environmental and public health practices for the use of Perflourochemicals Fire-fighting Foams and Agents in training including but not limited to containment, and proper disposal.*
   - iii) *Fire or Emergency Events (Potential to drain to sewer) – For those areas where there is a potential for the Fire-fighting Foam and Agents to reach a drain or sewer, the User shall provide notice to the POTW within forty-eight (48) hours of a Fire or other emergency event where Perflourochemical Fire-fighting Foams and Agents were used including:*
     - *(1) Purpose for use of foam or agent;*
     - *(2) Physical address where foam or agent was used;*
     - *(3) Actual or estimated quantities of foam or agent concentrate used and quantity of water used to produce foam*
     - *(4) Name(s) of water bodies potentially affected by foam and agent or other firewater to storm or combined sewer*

(5) Practices employed for cleanup and disposal of materials contaminated by the foam or firewater.

iv) Fire or Emergency Events (No potential to drain to sewer) – For those areas where there is no potential for the Fire-fighting Foam and Agents to reach a drain or sewer, the User shall collect, clean-up and dispose of the Fire-fighting Foam and Agents and any fire-fighting water, in accordance with their BMP. A report shall be provided to the POTW addressing the completion of the clean-up and disposal of the materials within 5-days of the event and, as applicable, include a schedule for completion of the clean-up and disposal.

v) A BMP or other management program shall be established and implemented for the collection and disposal of Perflourochemical Fire-fighting Foams and Agents with a carbon chain of six or greater. The plan shall include any efforts to identify alternative products.

vi) Any monitoring program shall be conducted in accordance with sample collection methods defined by the EGLE or USEPA and analyzed in accordance with 40 CFR 136 or other approved methods recognized by the State of Michigan; or where USEPA or the State of Michigan has not established sample collection methods or approved analytical methods in 40 CFR 136, the methods shall be specified by GLWA.

Copies of these plans shall be submitted to the Control Authority within ninety (90) days of the effective date of these rules.

2019-16

Section II I006. Supplemental Enforcement Actions (d)

This proposed new section requires that *"Any User who manufactured PFAS Compounds: previously used, currently uses, or plans to use materials containing PFAS Compounds; and who has a discharge of wastes and Wastewaters to the POTW, shall be required to develop, submit and implement plans for the reduction and elimination of the PFAS Compounds."* Ameresco understands that the applicability of the proposed rule to be dependent on measurement of PFAS Compound levels in the materials used in cases where the constituents of the subject materials are not known.

The language could be changed to say that any User that "previously used, currently uses, or plans to use materials **manufactured with** PFAS Compounds", which would eliminate the need for testing entirely and may more closely match the intent of the regulation. This might be too narrow a view however, as it may be possible for a material that was not manufactured with PFAS Compounds to contain them.

Response #16: The substitution of the word "manufactured" in place of "Contains" is a significant change in the meaning of the requirement being specified and is too narrow. As reflected in the comment, the change would exclude materials that were not manufactured with PFAS compounds yet might contain them. Therefore, no change is required.

2019-17

If the criteria for applicability is to remain "contains", Ameresco believes that the rule must include specific guidance regarding how the presence of PFAS Compounds in the materials should be determined. The proposed rule addresses this problem for the monitoring program required by the plan in Section II-1006(d)(i)(3), but it is not apparent that this language applies to the testing required to determine whether or not a User is required to establish a plan under the new rule.

Adding similar language to Section II(d)(l) would provide certainty for both Users and GLWA. Therefore, Ameresco is requesting that the GLWA revise the rule to provide guidance on how the presence of PFAS Compounds in the materials is to be determined. A suggested possible revision is inserting the following language in proposed Section 11-1006(d)(1) which is specific to the analysis of "materials" for PFAS Compounds, and mimics the proposed text in Section II-1006(d)(i)(3):

"Analysis of materials for presence of PFAS Compounds shall be conducted in accordance with sample collection methods defined by the EGLE or USEPA and analyzed in accordance with 40 CFR 136 or other approved methods recognized by the State of Michigan; or where USEPA or the State of Michigan has not established sample collection methods or approved analytical methods in 40 CFR 136, the methods shall be specified by GLWA."

Response #17: GLWA appreciates your comment, however at this time it is not possible or reasonable for GLWA to provide an enumerative list of the criteria that can, would or should be consulted in determining whether a material contains PFAS compounds. We agree that Analytical testing is one method of making such a determination, however it is not our intent to mandate that all materials employed by a User be analytically evaluated, which we believe is an overbroad interpretation of this rule. Other methods may be employed, including but not limited to contacting a vendor providing such products or materials, industry knowledge of products likely to contain such materials, evaluating product uses such as fire-fighting materials for PFAS, etc.

We agree that if analytical testing is performed, it should be conducted in accordance with approved or recognized test methods. Therefore, no change is required.

2019-18

MWRA requests that GLWA explain and justify why the proposed PFAS requirements are significantly more onerous than the requirements applicable to other important pollutants having significantly better scientific information on environmental concerns. For example, there is one paragraph each specific to PCBs and mercury but over four pages of new proposed rules for PFAS.

Response #18: GLWA's basis for providing the proposed PFAS rules is to describe its program for the elimination, reduction and control of this class of emerging contaminants.

2019-19

MWRA objects to the abbreviated period for public comment and requests that GLWA extend the public comment period by 60 days (to November 25, 2019) to give MWRA and its members a reasonable period of time to review and comment on the Rules.

Response #19: GLWA, as a public body, is required to provide public notice of its meetings, actions, etc, however these obligations do not require individual notification to impacted Users. Nevertheless, GLWA sent correspondence to Users to apprise them of the proposed rule changes by letter dated September 9th and for a 14-day extension on September 26th. Furthermore, the proposed rules were posted on the GLWA website as September 9th, 2019.

All members of the public have had the same opportunity to offer comments on the proposed rule changes and we do not believe that a 45-day comment period is unreasonable. GLWA will not extend the public comment period beyond October 9, 2019. The public hearing on the proposed Industrial Pretreatment Program Rules will take place on October 31, 2019 and will include an

opportunity for any interested person to provide comments during the public comment segment of the meeting. We encourage you or your representative to participate in the October 31, 2019 public hearing. Therefore, no change is required.

2019-20

The definition of PFAS Compounds is over-inclusive.

Response #20: As the identification of various PFAS compounds continues to evolve, GLWA will continue to evaluate this definition. At this time, no change is required.

2019-21

The supplemental enforcement provisions regarding PFAS Compounds are unreasonable. The Rules set forth (at pp. 49-53) supplemental enforcement provisions regarding "PFAS Compounds" that impose new and unreasonable burdens on landfill dischargers.

a. The requirement under Section II-1006(d)(2) that every User who manufactured, previously used, currently uses, or plans to use PFAS Compounds to "submit and implement plans for the reduction and elimination of the PFAS Compounds" is overly broad. Given the ubiquitous nature of PFAS Compounds in commercial products, this requirement would likely apply to *every* User of GLWA's system, even if those Users have no potential of adding any meaningful contribution of PFAS Compounds to the system.

Response #21 - Paragraph a: Please see response # 4.

b. The Control Authority should not require a User to develop and implement pollution prevention plans or Best Management Practice Plans to eliminate or reduce pollutant contributions "beyond the levels required by these rules."

Response #21 - Paragraph b: The section to which this comment applies addresses a general objective applicable to any pollutant parameter and is not part of the proposed rule amendment. In response to this comment, GLWA notes that the language is written in a discretionary manner using the term "may". The bounds of this discretion rest with Administrative Law principles, chiefly that GLWA's actions are not arbitrary or capricious. No change is required.

c. The Rules improperly combine landfills with centralized waste treatment ("CWT") facilities under the same PFAS Compound Program requirements in Section II- 1006(d)(2). The waste receipt, characterization, and management practices utilized at a landfill are markedly different than those at a CWT facility. The PFAS Compound Program requirements imposed under the Rule, however, appear to be written solely with CWT facilities in mind. As explained below, many of these requirements would be impossible to implement at a landfill due to the variability of waste streams and the ubiquitous nature of PFAS compound in commercial products.

Response #21 - Paragraph c: While we recognize the inherent nature of each activity is different, both are engaged in receiving wastes from a variety of sources. GLWA agrees to revise to the proposed language at II-1006(d)(2) as follows: "At a minimum, the PFAS Compound Program shall include the following information, **as appropriate**". We believe this additional language provides flexibility.

d. The Rules purport to require that any landfill discharger who falls within one of the four categories of Section II-1006(d)(2) "shall" submit and implement a comprehensive "PFAS Compound Program" containing "at a minimum" the information listed in subsections (i)-(iv). The requirements are extremely onerous and redundant and do not take into account the individual circumstances of each discharger. Therefore, the PFAS Compound Program should **not** be mandatory but, instead, should be ***discretionary*** based on the specific circumstances of a given discharger. Making the PFAS Compound Program discretionary is consistent with subsection (vii) of Section II-1006(d)(2), which expressly provides that GLWA "may require" a landfill to develop a PFAS Compound Program. This provision should be ***moved up*** to the first paragraph of Section II-1006(d)(2) and ***replace*** any inconsistent mandatory language. Furthermore, the ***contents*** of any given PFAS Compound Program should be allowed to be ***tailored*** to a given discharger's individual circumstances. The provision in the Rules that every PFAS Compound Program contain "at a minimum" all of the information in subsections (i)-(iv) should be ***revised*** to provided that "one or more items in subsections (i)-(iv) may be required to be included in a PFAS Compound Program based upon the specific circumstances of a given discharger."

Response #21 – paragraph d: See Response #21 - Paragraph c

e. GLWA has already mandated that landfill dischargers such as MWRA's members, as a condition of their discharge permits, prepare and submit Best Management Practice Plans ("BMPs") regarding PFAS Compounds ***and*** enter into "compliance agreements" with GLWA regarding those BMPs. These BMPs and compliance agreements impose significant additional requirements on landfill dischargers. Any landfill discharger who has already entered into an agreement with GLWA regarding PFAS should ***not*** be required to prepare or submit a "PFAS Compound Program."

Response #21 – paragraph e: The proposed rule does not render any current activities moot. Where an existing BMP can satisfy the "PFAS Compound Program" requirements, it will be deemed equivalent.

f. The Screening and Monitoring Program set forth in subsection II-1006 (d) 2) (i) through (c) requires the PFAS Compound Program to describe the method(s) and procedures used for screening and monitoring program for PFAS Compounds that may be present in any wastes or Wastewaters received for treatment of disposal. It is unrealistic, and virtually impossible for a landfill to know the PFAS compound content of all wastes it accepts for disposal. It is now well known that PFAS compounds are ubiquitous in society. These compounds are found in a vast array of everyday products that are in use and disposed of everyday by nearly every household and business

Response #21 – paragraph f: GLWA does not mandate Users to have extraordinary knowledge of materials it received prior to PFAS compounds being discussed, however we believe that on a going forward basis, methods and procedures can and should be developed to identify these compounds.

g. The Recordkeeping Program set forth subsection (iv) of Section II-1006(d)(2) should be ***deleted*** or ***made inapplicable*** to landfill dischargers because it imposes ***impossible*** requirements on landfill dischargers. Given the ubiquity of PFAS compounds in solid waste—including everyday consumer goods and household solid waste—there is no way a landfill can "document the volume(s) of PFAS Compounds wastes and Wastewaters received" or "the mass of PFAS Compounds in pounds received." Landfills do not know, and cannot possibly know, the volumes of PFAS they receive or calculate the mass of PFAS they receive.

Response #21 – paragraph g: See Response #21 - Paragraph c.

2019-22

The provision allowing GLWA to mandate the Users reimburse the "costs incurred by GLWA to monitor and enforce" PFAS requirements should be deleted.

Response #22: See response # 5.

2019-23

The 21-day appeal deadline is unreasonably short.

Response #23: GLWA has determined that a 21-day appeal period is adequate.

2019-24

…I believe the one that should get another look and be kept the same is the phosphorous limit, it was 250ppm and is now proposed to become 150ppm. I would offer that this reduction is unnecessary and results in too strict a situation for users. There is already great monetary incentive through the surcharge program to reduce this pollutant to well below this mark and most users have tended in this direction already. There should be an option allowing users who cannot greatly reduce their phosphorous discharge to offset by incurring the surcharge and paying the higher water rates. Such a large decrease will place many of those who would otherwise pay the higher rates in the position of facing violations and fines instead of simply re-calculating their surcharges. I believe this is too drastic, too punitive and places an unreasonable burden on users.

Response #24: GLWA's NPDES permit requires the periodic re-evaluation of Local Pollutant Discharge Limitations using technically based criteria, which includes the NPDES permit, US EPA criteria and State of Michigan Criteria. GLWA's most recent study was completed in 2016. The lower Phosphorus Pollutant Discharge Limitation is attributable to a reduced NPDES permit limit placed on the GLWA WRRF of 0.6 mg/l. Therefore, no change is required.

2019-25

… we appreciate that GLWA extended the time to submit comments, two weeks is really not enough time to fully review and digest the impacts the Proposed Rules will have not only on our operations, but our ability to serve our customers and the public as a whole. We would again request that GLWA extend the comment period for an additional sixty (60) days.

Response #25: Please see response #19.

2019-26

The definition of "**PFAS COMPOUNDS"**, includes 22 compounds for which there are no Rule 57 Water Quality Criteria. "**PFAS COMPOUNDS"** should be limited to those compounds for which there are measurable criteria to determine the potential impact a discharge may have on GLWA's effluent discharge and NPDES compliance, i.e., PFOS and PFOA.

Response #26: EGLE (formerly MDEQ) directed GLWA to identify and evaluate sources of PFAS compounds in February 2018. We recognize that EGLE has adopted regulatory standards for two of these compounds, i.e., PFOS and PFOA, and additional monitoring and compliance actions have been assigned to GLWA for these two specific analytes. GLWA believes that by limiting the compounds to those specified (out of more than 3,000 possible analytes), the requirement is not overbroad or burdensome. Therefore, no change is required.

2019-27

(g) Protection from Accidental Discharges, provides: "The User shall immediately notify the Control Authority of any changes at its facility affecting the potential for Slug discharge." How does a User determine what changes may affect the potential for a Slug discharge? What if the Slug producing potential of a facility change is not immediately apparent? Is the User in violation because they did not know of the potential immediately? This provision imposes a reporting obligation on a User, the failure of which to report may subject a User to penalties regardless of whether a User had knowledge that a facility change could affect the potential for a Slug discharge. Slug Plans are updated every two years, which should address GLWA's concern that a Slug Plan address facility changes. We suggest deletion of this provision.

Response #27: Please see response #3.

2019-28

Section II-603(e) Inspection, sampling and record-keeping, provides that in the event of a dispute over shared samples, the portion analyzed by GLWA will be controlling. While the proposed changes provide an opportunity for a User to request a conference with GLWA and submit additional information, there is no opportunity for a User to have access to and analyze GLWA's sampling and analytical protocols, resampling or third-party verification of GLWA's results. Given the highly technical and specialized nature of PFAS sampling and analysis, there are bound to be errors and resulting disputes. An opportunity for re-sampling or third-party verification of GLWA's sampling and analysis should be provided.

Response #28: While your comment references II-603(e), the content of your comment addresses II-602 (e). The inclusion of a conference provides an opportunity for a User and GLWA to review and discuss disputed results for shared samples. As written, the rule does not preclude consideration for both parties to review sampling and analytical protocols or engage in third-party sampling if deemed appropriate. We believe that the parties to the conference will be in the best positions to assess the particular issues needing to be addressed to resolve a dispute.

2019-29

Section II-1006(d)(2) Supplemental Enforcement Actions sets forth requirements applicable to both Centralized Waste Treaters and Landfills alike and does not recognize the unique characteristics of the two types of disposal facilities and differences in such facilities' realistic ability to mitigate, reduce and/or eliminate PFAS in their source waste streams or wastewater discharges. Requirements for the two types of disposal facilities should be separated and reflect the nature of the disposal facility operations.

Response #29: While we recognize the inherent nature of each activity is different, both are engaged in receiving wastes from a variety of sources. GLWA agrees to revise to the proposed language at II-1006(d)(2) as follows: "At a minimum, the PFAS Compound Program shall include

the following information, **as appropriate**". We believe this additional language provides flexibility.

2019-30

Section II-1006(d)(2) Supplemental Enforcement Actions as applied **to** landfills essentially requires a PFAS Compound Program, with mandated uniform requirements, regardless of the landfill's overall contribution of PFAS to the POTW or unique characteristics or circumstances. Moreover, the "minimum" prescribed requirements of a PFAS Compound Program are not only onerous, but impossible for a landfill to comply with. Unlike a Centralized Waste Treater, a landfill takes waste from thousands of individual generators, not just industrial sources, but municipalities and individual households, and cannot possibly identify all of the sources of PFAS containing wastes let alone quantify the volume of PFAS in wastes received. If treatment is employed, why is sampling within the treatment process required and not just the outfall. So long as the discharge meets, there should be no need further upstream. That is for the owner to manage. These unnecessary provisions impose burdensome and costly requirements on a User.

This form of "PFAS Compound Program' required is essentially a mandatory and proscriptive Best Management Practices Plan. Rather than mandating the Plan for all Landfills and dictating what the Plan must look at, GLWA can rely on the existing Section II-505 or allow GLWA the flexibility to require such Plans based upon GLWA's own compliance status as well as the unique characteristics and circumstances of the landfill. If GLWA wants to mandate Plans, it should evaluate the necessity for such Plans as part of its local limits analysis and if deemed necessary or appropriate, develop the Plan requirements in accordance with the local limit development requirements. 40 CFR 403.5 c (4) provides that "POTWs may develop Best Management Practices (BMPs) to implement paragraphs (c)(1) and (c)(2) of this section. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

Response #30: The proposed language does not mandate all landfills develop a Best Management Program, only those who accept, identify, are made aware of, or are notified by GLWA of the presence of PFAS compounds. We recognize that a qualifying facility may incur additional responsibilities, but GLWA believes these Rules are reasonable in order to protect our environment. We also include a recent excerpt from US EPA's Per- and Polyfluoroalkyl Substances Action Plan, US EPA, February 2019:

> *A detailed understanding of the sources of PFAS contamination can help communities impacted by PFAS with the development of long-term solutions. Common sources of PFAS include groundwater plumes associated with areas where fire-fighting foam was used, wastewater effluent or air emissions from industrial facilities where PFAS are manufactured or used, and* ***landfills, including leachate, where materials with high levels of PFAS have been disposed. If a source (or sources) can be identified, then actions can be taken to remediate, reduce or divert the source, or address exposure*** *(emphasis added).* (pg. 29)

2019-31

Section II-1006(d)(4)Supplemental Enforcement Actions, provides: "The GLWA may assign any User who has previously used or received, or will use or receive PFAS Compounds, to a User Class for reimbursement of costs incurred by GLWA to monitor and enforce this requirement, and for which the Board determines costs should be assigned." This provision is vague, arbitrary, and unreasonable. What

is a "User Class", how are they determined? Why should a User, otherwise in compliance with the requirements of this section bear the additional unspecified monitoring costs incurred by GLWA? What due process is provided a User to challenge assignment to a User Class or costs assessed?

Response #31: See Response #5

2019-32

Finally, in its Summary of Substantive Updates to GLWA IPP Rules, GLWA states that the 4+ pages of added requirements for PFAS Compounds are "language required by EGLE". How and under what authority has EGLE required these changes? Why are the proposed changes related to PFAS required to be so much more detailed and onerous than other pollutants with significantly more scientific information on environmental impacts? For example, there is one paragraph each specific to PCBs and mercury but 4+ pages of new proposed rules for PFAS. If EGLE is dictating these changes be made, then GLWA should disclose EGLE's justification for such requirements.

Response #32: GLWA's summary of Substantive Updates was provided as an aid and is not part of the proposed rules presented for public comment. Both the state and federal government must approve the GLWA's NPDES permit and these changes were required.