



**American Water Works
Association**

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Ms. Susan Sharkey
Data Gathering and Analysis Division
Office of Pollution Prevention and Toxics
Environmental Protection Agency
Mail Code: 7401M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

SUBMITTED ELECTRONICALLY

RE: AWWA Comments on Development of Tiered Data Reporting for TSCA Prioritization, Risk Evaluation, and Risk Management Notice ([Docket ID: EPA-HQ-OPPT-2021-0436](#))

Dear Ms. Sharkey,

The American Water Works Association (AWWA) appreciates the opportunity to provide comment on the Environmental Protection Agency's (EPA's) notice for developing a tiered data reporting approach under the Toxic Substances Control Act (TSCA). EPA's authorities under TSCA presents opportunities for strategic drinking water source protection. AWWA offers the following recommendations for consideration as the Agency develops a proposal for a tiered data reporting process under TSCA.

Facilitating meaningful stakeholder engagement

The role of stakeholder engagement in the development of a tiered data reporting process is critical to adequately balance trade-offs of reducing burdens and improving data availability and quality. This is especially important given that a change to the existing data reporting process will have significant and long-lasting impacts on EPA's and the public's ability to characterize potential risks. While AWWA appreciates that the EPA is working expeditiously to develop a tiered approach, the timeline should not be at odds with meaningful stakeholder engagement. For example, while the notice of public meeting provided a 30-day review period, it lacked substantial information about this effort beyond aspirational and prospective changes to data reporting. This was further exacerbated by the presentation of new information on this effort during the public meeting. In advance of a proposed rule to establish a tiered data reporting approach, EPA should consider an informational meeting to discuss specific changes being considered and the corresponding objectives.

Maintaining a substantive chemical database

As EPA considers a tiered approach to data reporting, EPA should prioritize the need to maintain a substantive database for chemicals contaminants of concern. For example, the data reporting requirements for chemical candidates for prioritization should include data essential for EPA to conduct such prioritizations, such as monitoring data and health & safety studies. As framed by TSCA, EPA must be able to characterize the level of risk as a function of potential environmental and health effects and the level of exposure at the prioritization stage, which this data would play a critical role.¹ However, EPA's presentation on this effort presents the collection of these types of data (i.e., monitoring, health and safety studies) as part of the risk evaluation phase.²

While TSCA affords EPA with a direct opportunity to protect public health (e.g., prioritization, risk evaluation, and corresponding risk management rules), the statute provides indirect opportunities through the availability of chemical data. Data collected through the TSCA program is used across the agency to support rulemakings and to guide research programs. While many chemicals may not be designated as high-priority chemicals under TSCA, they may represent priorities for other EPA offices. For example, while the EPA Office of Pollution Prevention and Toxics has designated 20 chemicals as high priority for risk evaluation, the Office of Water recently proposed a list of more than 1,300 chemicals that may be subject to drinking water regulatory decision making.³ EPA should ensure that a substantive, initial chemical database, including information on both production and use, is maintained under the tiered approach that supports all EPA offices.

Avoiding new process delays and data gaps

AWWA is supportive of a tiered approach to data reporting under TSCA in the interest of improving data quality and reducing burdens on EPA and manufacturers. However, a tiered approach should be crafted to ensure that new data gaps and TSCA process delays are not created as a result. In review of the EPA materials, it is not clear if the scope of the existing chemical data reporting would remain the same, be reduced, or be expanded. As AWWA has already noted, the initial data reporting requirements should be suitable to the task to support both TSCA chemical prioritization and all EPA offices. The development of a tiered approach should not result in new data gaps. Additionally, the creation of a tiered approach in the interest of efficiency would be counterproductive if developed in a way that creates process delays. EPA should consider integrating tiered data requirements with relevant TSCA process steps (e.g., designation of high-priority acting as a trigger for further reporting).

¹ EPA, 2017. [Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act](#).

² EPA, 2021. [Development of Tiered Data Reporting for TSCA Prioritization, Risk Evaluation, and Risk Management](#).

³ EPA, 2021. [Drinking Water Contaminant List 5-Draft](#). 86 FR 37984.

Addressing existing issues

In the past, AWWA has highlighted challenges inhibiting TSCA data reporting rules' impact, which EPA could consider addressing under this effort. Specifically, AWWA has emphasized:

- EPA's data reporting requirements have applied to chemicals manufactured at high production thresholds. For chemicals that are toxic at low levels, these thresholds may exempt reporting and misrepresent potential risk and create a false sense of security.
- Data reporting requirements have typically not been developed to support source water protection efforts by the agency. For example, on several occasions EPA recognized that data was needed to identify potential sources of PFAS and neglected to advance data reporting efforts under TSCA to address this gap.^{4,5} As such, the EPA is still contemplating potential options to mitigate PFAS releases to the environment.⁶

If you have any questions regarding this correspondence or if AWWA can be of assistance in some other way, please contact me at TMehan@awwa.org or Chris Moody at (386) 628-6892 or CMoody@awwa.org.

Best regards,

FOR THE AMERICAN WATER WORKS ASSOCIATION



G. Tracy Mehan III
Executive Director – Government Affairs
American Water Works Association

Who is AWWA

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our membership includes more than 4,500 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation's wastewater. Our 50,000-plus total membership represents the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.

⁴ EPA, 2019. [EPA's Per- and Polyfluoroalkyl Substances \(PFAS\) Action Plan](#).

⁵ AWWA, 2019. [AWWA Comments on Preliminary Effluent Limitations Guidelines Plan 14](#).

⁶ AWWA, 2021. [AWWA Comments on Clean Water Act Effluent Limitation Guidelines and Standards for the Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category](#).