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**ASSOCIATION OF
METROPOLITAN
WATER AGENCIES**

NACWA
A Clear Commitment to America's Waters

September 24, 2021

Ms. Stephanie Griffin
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: Joint AWWA, AMWA, and NACWA Comments on Toxic Substances Control Act
Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl
Substances ([Docket ID: EPA-HQ-OPPT-2020-0549](#))

Dear Ms. Griffin,

The American Water Works Association (AWWA), the Association of Metropolitan Water Agencies (AMWA), and the National Association of Clean Water Agencies (NACWA) appreciate the opportunity to comment on the Environmental Protection Agency's (EPA's) proposed reporting and recordkeeping rule for per- and polyfluoroalkyl substances (PFAS) under the Toxic Substances Control Act (TSCA) Section 8(a)(7). AWWA, AMWA, and NACWA have a continuing interest in EPA's TSCA program and its capacity to protect drinking water sources and public health. This proposed reporting and recordkeeping rule will broaden the universe of knowledge of PFAS discharged into the environment and will further aid efforts to mitigate PFAS in our environment.

Due to cumulative, unmonitored and unmitigated industrial and domestic use of PFAS, these chemicals present a risk management and communication challenge for communities across the nation. AWWA, AMWA, and NACWA appreciate the Agency's efforts to address the public health concerns of PFAS with a multi-program approach, including through the establishment of the EPA's Council on PFAS.¹ The protection of drinking water supplies and water quality of our Nation's waters from PFAS contamination requires not only a cohesive risk management strategy but adequate data collection efforts to support risk evaluations. AWWA, AMWA, and NACWA offer the following recommendations for finalizing and implementing this rule effectively.

Rule Implementation Timeline and Public Access to Data

¹ EPA, 2021. EPA Administrator Regan Establishes New Council on PFAS. <https://www.epa.gov/newsreleases/epa-administrator-regan-establishes-new-council-pfas>.

Public water systems have had to quickly address PFAS in response to rapidly increasing state and federal regulatory actions. Since their first detection in finished drinking water supplies as part of the Third Unregulated Contaminant Monitoring Rule (UCMR 3), several states have established drinking water regulations to address PFAS. Additionally, EPA is currently advancing more actions that will place additional burdens on public water systems to actively address PFAS. For example, the EPA is developing a drinking water regulation for two specific PFAS which may require public water systems to either install additional and costly drinking water treatment or abandon existing sources and develop new water supply sources. Additionally, the EPA recently proposed the Fifth Unregulated Contaminant Monitoring Rule (UCMR 5), which will require public water systems to begin monitoring for 29 PFAS in drinking water January 1, 2023. As proposed, this rule would require public water systems to provide information on the potential sources of each of the 29 individual PFAS to their drinking water supply.

Publicly owned wastewater treatment works (POTWs) receive raw influent from a variety of sources, including industrial, commercial, and domestic sources, that may contain PFAS depending on the nature of the discharge to the sewer system. The water community is committed to better understanding upstream industrial sources of PFAS entering the treatment works and eliminating these source contributions through the Clean Water Act's (CWA) industrial pretreatment program and other statutory authorities. Greater source control at the producer and manufacturer level is a necessary first step—and a step that is known to be both cost-effective and successfully mitigate or even eliminate PFAS chemicals coming into the treatment works.

The associations strongly support EPA's PFAS reporting and recordkeeping proposal under TSCA Section 8(7)(a) because it will help identify upstream dischargers to the treatment system and the environment. This one-time reporting approach has the potential to alleviate costly state-wide sampling programs to determine industrial sources as well as burdensome industrial pretreatment investigations to identify these same industries potentially sending PFAS to POTWs. Ultimately, decreasing PFAS concentrations at the source will result in subsequent reductions in wastewater effluent and biosolids.

Data collected under this reporting and recordkeeping rule presents an opportunity to assist public water systems, POTWs implementing industrial pretreatment programs, and other stakeholders to address PFAS. As the rule is finalized, EPA should consider doing the following:

1. Provide public access to relevant data to inform current and future PFAS management activities.
 - a. Providing a platform for public access to this data will help public stakeholders beyond EPA to support public health protection initiatives. For example, public water systems responding to UCMR 5 and POTWs implementing industrial pretreatment programs will be able to use this data to support public health protection initiatives and respond accordingly.
 - b. Specifically, EPA should develop a web-based, interactive mapping platform that allows users to view and sort data regionally. Publicly accessible data should include:
 - i. Year of Chemical Release

- ii. Individual PFAS compounds produced, used, and released
 - iii. For each PFAS release:
 1. Amount
 2. Maximum concentration of the release
 3. Disposal method
 - iv. Adequate facility information to allow drinking water risk evaluation for sources, including the address of the facility releasing PFAS and the North American Industry Classification System (NAICS) code for the facility.
2. Expedite the timeline for the final TSCA PFAS Monitoring and Reporting Rule.
- a. The National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020) requires EPA to promulgate a final rule by January 1, 2023.¹ However, an expedited timeline for the promulgation of this rule and/or the reporting requirements is needed to ensure that the data reporting activities can be applied in a manner that maximizes the utility of this data for public water systems responding to UCMR 5 and EPA regulatory efforts.
 - b. Specifically, EPA should expedite the timeline for the final rule's promulgation and implementation to ensure that EPA has sufficient time to receive, evaluate, and publish the reporting data for the 29 PFAS covered by UCMR 5 by January 1, 2023.

Regulatory definition of PFAS

According to the proposal, TSCA section 8(a)(7) requires EPA to collect information on chemical substances that are “perfluoroalkyl or polyfluoroalkyl” substances. Throughout NDAA 2020, Congress defined PFAS in several instances with minor variations. Generally, Congress has defined perfluoroalkyl substances as compounds that contain “at least one fully fluorinated carbon” and polyfluoroalkyl substances as compounds that contain “at least one fully fluorinated carbon and at least one partially fluorinated carbon” (Sections 322, 323, 329, and 7351).² Error! Bookmark not defined. EPA’s proposal defines PFAS as compounds containing the structural unit R-(CF₂)-C(F)(R’)R” and estimates this definition covers, at a minimum, 1,364 individual compounds. While this represents a substantial number of compounds, there are opportunities to modify this definition to support future risk management efforts.³ Error! Bookmark not defined.

The EPA’s definition of PFAS in the proposal is inconsistent with the scientific community’s characterization of PFAS, including other EPA offices (e.g., EPA’s CompTox database for PFAS). While definitions may vary with respect to terminology, the majority of scientific organizations consider PFAS to be those substances containing at least one fluorinated carbon moiety (C_nF_{2n+1}).^{2,3,4} The proposal’s modification of this definition is neither necessary nor appropriate and

² Buck et al, 2011. Perfluoroalkyl and Polyfluoroalkyl Substances in the Environment: Terminology, Classification, and Origins. Integrated Environmental Assessment and Management. Doi: [10.1002/ieam.258](https://doi.org/10.1002/ieam.258).

³ Organization for Economic Co-operation and Development, 2018. Toward a New Comprehensive Global Database of Per- and Polyfluoroalkyl Substances (PFASs): Summary Report on Updating The OECD 2007 List of Per- and Polyfluoroalkyl Substances (PFASs). [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV-JM-MONO\(2018\)7&doclanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV-JM-MONO(2018)7&doclanguage=en)

⁴ EPA, 2020. EPA: PFAS Structures in DSSTox (Update August 2020). https://comptox.epa.gov/dashboard/chemical_lists/PFASSTRUCTV3

excludes known PFAS compounds. According to the EPA CompTox PFAS Master List there are approximately 9,252 known PFAS chemicals, which presents a huge gap between the known universe of PFAS and those covered by this proposal. Additionally, the proposed definition excludes certain PFAS that have been found in drinking water and their sources from the proposed reporting requirements.

For example, perfluoro-2-methoxyacetic acid (PFMOAA) does not meet the structural definition since this compound does not have a two fluorinated carbon chain. However, PFMOAA is a perfluoro-ether carboxylic acid that has been found in the North Carolina Cape Fear River and nearby drinking water supplies.^{5,6} PFMOAA is an example of a replacement PFAS being used as legacy PFAS compounds (e.g., PFOA and PFOS) are phased out. While these replacement compounds are advertised as a safer alternative to legacy PFAS, it is imperative that EPA collect data for such compounds to support future risk evaluation efforts. To ensure adequate data is collected, EPA should revise the structural definition for PFAS to R-CF(R')(R''), where R, R', and R'' are not hydrogen.

The proposal lists approximately 650 individual examples of PFAS by CAS Registry Numbers. Despite this expansive list of PFAS, nearly half of the 29 PFAS compounds covered under UCMR 5 are not listed as examples. PFAS compounds covered by UCMR 5 that are absent from this list include long-chain and short-chain PFAS compounds introduced as replacement compounds (e.g., perfluorotridecanoic acid and 4,8-dioxa-3H-perfluorononanoic acid, respectively). While some of these missing compounds may be covered by the PFAS groups categorized further in the rule, these compounds should be specified individually. EPA's final rule should clearly indicate that these compounds are covered to ensure the collection of information relating to these compounds of regulatory interest.

Including articles containing PFAS

In the proposal, EPA has requested public input on the inclusion of articles containing PFAS, such as those that contain PFAS as part of a surface coating, under the final rule's monitoring and reporting requirements. According to EPA, TSCA does not define articles (nor does the statute define articles as a category of substances exclusive of chemical substances) and therefore articles are encompassed by TSCA's authority. EPA anticipates a lack of known or ascertainable information may limit an article manufacturer's ability to comply with the rule's requirements and so has requested comment on the inclusion of articles under the scope of this rule.

AWWA, AMWA and NACWA recommend the final rule retain the monitoring and reporting requirements for article manufacturers. This recommendation is based on a review of NDAA 2020 and in consideration of the potential benefits of this aspect of the rule as proposed. NDAA 2020 describes EPA's statutory responsibility as applying the rule requirements to "each person who has

⁵ North Carolina PFAS Testing Network, 2019. NC PFAST Quantitative Screening Results for Raw Drinking Water. <https://www.brunswickcountync.gov/wp-content/uploads/2019/08/NC-PFAST-Quantitative-Screening-Results-for-Raw-Drinking-Water-Brunswick-County-Drinking-Water-System.pdf>

⁶ Hopkins et al., 2018. Recently Detected Drinking Water Contaminants: GenX and other Per- and Polyfluoroalkyl Ether Acids. Journal AWWA. <https://doi.org/10.1002/awwa.1073>

manufactured” PFAS without exception. Additionally, articles containing PFAS, including those as part of a surface coating, play a role in the contribution of PFAS to the environment through their use, degradation, and disposal. Given the purpose of this rule is to enable EPA to better characterize sources and quantities of manufactured PFAS in the United States, not requiring article manufacturers to fully capture their PFAS use and release would be inconsistent with Congressional intent.

Environmental and human health effects studies

An important aspect of this rule is the collection of environmental and human health effects data relating to these compounds. While the universe of known and used PFAS compounds has rapidly expanded in the past decade, there is a noteworthy lack of research. To date, EPA has only finalized toxicity assessments for three PFAS (perfluorooctanoic acid, perfluorooctanesulfonic acid, and perfluorobutanesulfonic acid) and is in the initial stages of developing a broader understanding of other PFAS, which in total represent less than 10% of the known number of PFAS.^{7,8,9} A data collection effort to address these research gaps is necessary and will be critical to advance risk management activities for PFAS.

EPA’s request for studies on environmental and human health effects should cover all relevant areas of research that will be supportive of future EPA and public stakeholder risk evaluations of PFAS. To facilitate the collection of data suitable to this task, EPA should request studies relevant to human health toxicity and environmental effects, which should include studies on environmental fate and transport. This area still presents a significant research gap on the issue of PFAS, and the collection of relevant studies will provide better clarity on how these compounds move through the environment leading to potential environmental and human health exposure routes.

Expanding disposal method reporting detail

The reporting of disposal methods for PFAS is anticipated to play a useful role in enabling EPA and public stakeholders (such as the broader water sector) to identify potential areas in the United States impacted by nearby PFAS releases. To ensure that the data requested provides an adequate level of detail, the associations recommend that EPA expand this data collection request to require that PFAS manufacturers indicating disposal method “D19 – Other” provide a short-form description of the disposal method. Requiring manufacturers to specify the disposal methods that fall into this category will provide a means for EPA to identify additional categories of disposal methods currently unknown for PFAS and to continue to inform future regulatory actions.

Data collection on byproducts and mixtures of chemicals

AWWA, AMWA, and NACWA appreciate many aspects of the proposal, including the collection of data related to PFAS byproducts and PFAS mixtures. The formation of PFAS byproducts is not well understood but is anticipated to occur during manufacturing, including when manufacturers are not

⁷ U.S. EPA, 2021. Human Health Toxicity Values for Perfluorobutane Sulfonic Acid and Related Compound Potassium Perfluorobutane Sulfonate. U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-20/345F.

⁸ U.S. EPA, 2016. Lifetime Health Advisories and Health Effects Support Documents for Perfluorooctanoic Acid and Perfluorooctane Sulfonate

⁹ EPA, 2021. Status of EPA Research and Development on PFAS. <https://www.epa.gov/chemical-research/status-epa-research-and-development-pfas>

directly using PFAS in the manufacturing process. For example, EPA recently investigated PFAS detections in pesticides, which resulted as a byproduct of fluorinated high-density polyethylene containers used to store pesticides.¹⁰ Understanding the types of manufacturing processes and reactions that can form PFAS, or transform certain PFAS into different chemicals, will provide useful insights for risk management.

Additionally, EPA's inclusion of data collection on the available studies and information regarding the use and release for both individual chemicals and the chemicals present in mixtures is appropriate. Data on mixtures of PFAS represents a major gap with respect to understanding potential co-occurrence, toxicological exposures, and environmental and health effects.

AWWA, AMWA, and NACWA look forward to the EPA's attention and response to these comments. If you have any questions regarding these comments, please contact:

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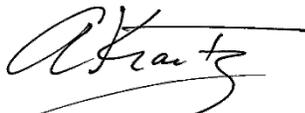
Best Regards,



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¹⁰ EPA, 2021. EPA Takes Action to Investigate PFAS Contamination. <https://www.epa.gov/newsreleases/epa-takes-action-investigate-pfas-contamination>

Who is AWWA

The American Water Works Association 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.

Who is AMWA

The Association of Metropolitan Water Agencies is an organization of the largest publicly owned water utilities in the United States. AMWA's membership serves more than 156 million people – from Alaska to Puerto Rico – with safe drinking water. AMWA is the nation's only policy-making organization solely for metropolitan drinking water suppliers. The association was formed in 1981 by a group of general managers of metropolitan water systems who wanted to ensure that the issues of large publicly owned water suppliers would be represented in Washington, D.C. Member representatives to AMWA are the general managers and CEOs of these large water systems.

Who is NACWA

The National Association of Clean Water Agencies represents the interests of more than 330 municipal clean water utilities across the country of all sizes that provide an essential public service of managing billions of gallons of wastewater and stormwater each day. Our members are environmental stewards and every day demonstrate their commitment and dedication to protecting public health and the environment.