



December 26, 2025

Ms. Megan Nelson
Chemical Information, Prioritizations and Toxic Release Inventory Division
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington DC 20460

Submitted via Federal eRulemaking Portal: <https://regulations.gov>

RE: NACWA Comments on EPA's proposed amendment to Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA) Revision to Regulation

Dear Ms. Nelson:

The National Association of Clean Water Agencies (NACWA) and the Water Environment Federation (WEF) appreciate the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) proposed amendment to the reporting and recordkeeping requirements for PFAS as published in the Federal Register.¹

NACWA represents the interests of more than 360 public wastewater and stormwater agencies of all sizes across the United States. WEF is a not-for-profit technical and educational organization of 32,000 individual members and 75 affiliated Member Associations representing water quality professionals worldwide. Together, NACWA and WEF's members provide the essential service of managing billions of gallons of the nation's wastewater and stormwater, as well as the biosolids produced from the wastewater treatment process, in a manner that ensures the continued protection of public health and out environment.

NACWA and WEF strongly support PFAS source control as the most effective and sustainable strategy for protecting public health and the environment. Preventing PFAS from entering wastewater systems is essential because conventional wastewater treatment plants were not designed to remove or destroy PFAS, and currently proven treatment technologies that could remove PFAS from the volumes of water WEF and NACWA's members treat do not exist. TSCA provides a critical regulatory framework to

¹ 90 Fed. Reg. 50,923 (Nov. 13, 2025).

help achieve this source control goal by requiring robust chemical evaluation, reporting, and risk management before harmful chemicals enter commerce and the environment. EPA's authority under TSCA to assess and restrict chemicals upstream ensures that pollution prevention starts at the source, reducing downstream impacts and avoiding costly, impractical treatment solutions for communities.

EPA should use its authority under TSCA to require manufacturers and producers to report PFAS use. In doing so, EPA should not exempt *de minimis* concentrations from reporting as the Agency proposes, as these exemptions would undermine data collection and reduce transparency critical to finding upstream industrial sources.

To this point, in September 2021, NACWA, the American Water Works Association (AWWA) and the Association of Metropolitan Water Agencies (AMWA) submitted joint comments to EPA when the Agency first proposed PFAS reporting and recordkeeping requirements under TSCA Section 8(a)(7). Those comments voiced strong support for EPA efforts to gather PFAS reporting data from manufacturers and producers. NACWA, AWWA, AMWA, and WEF also submitted joint comments to EPA in June 2025 recommending the Agency move as expeditiously as possible to collect this data, taking into consideration that additional time to prepare the reporting application was necessary.

PFAS are a serious concern for NACWA and WEF's members across the country. WEF and NACWA's members receive influent from a variety of sources, including industrial, commercial, and domestic effluent and stormwater, that may contain PFAS. Publicly owned treatment works (POTWs) are therefore "passive receivers" of PFAS since they do not produce, manufacture, or profit from these chemicals, but instead receive any variety of the thousands of chemicals in the raw influent that arrives at the treatment plant. Despite being passive receivers of PFAS, public clean water utilities and their customers will bear considerable costs and liabilities for PFAS management and treatment.

NACWA and WEF's members are voluntarily investing significant dollars, staff time, and technical resources into their industrial pretreatment programs and other efforts to help identify industrial PFAS sources and prevent PFAS from entering the wastewater treatment process. Pretreatment programs have been successful at reducing PFAS reaching POTWs through source control measures, which have subsequently reduced PFAS concentrations found in wastewater effluent and biosolids. Notably, where clean water utilities are doing these pretreatment activities, they are doing so proactively in the absence of federal pretreatment standards to guide these efforts.

While pretreatment programs are proving to be effective against industrial sources, they cannot be used to address the myriad sources of PFAS entering public sewer systems from households, where PFAS wash down the drain from everyday consumer products such as nonstick cookware, cosmetics, and clothing. In fact, many wastewater systems are finding that domestic sources of PFAS far exceed industrial sources in their service area, which unfortunately leaves those utilities with little to no ability to control PFAS loading into their collection and treatment systems.

Requiring producers and manufacturers to report PFAS under TSCA Section 8(a)(7) is a necessary first step to greater source control of such sources of PFAS entering into our public sewer systems. It is cost effective and equips municipal clean water utilities and regulatory agencies with more data to understand what might be coming into treatment works so that ultimately appropriate source control measures can be undertaken.

Delays with EPA's 2023 Final PFAS Reporting Rule Stymie Progress

The 2021 NACWA-AWWA-AMWA joint comments detailed how EPA could use the 2020 National Defense Authorization Act (NDAA) to get the most beneficial data from manufacturers and producers of PFAS. NACWA and WEF want to again highlight this option. Despite being a one-time reporting requirement for industries that have used PFAS since 2011, EPA's PFAS reporting rule would be an essential tool for helping utilities to identify, and then control as necessary, upstream industrial sources through the CWA industrial pretreatment program, thereby reducing the amount of PFAS in wastewater and reducing the need for costly treatment investments funded by ratepayers.

Although EPA finalized the PFAS reporting rule in 2023, the data collection effort continues to be stalled by repeated delays and postponements. These setbacks do not align with the Agency's approach to addressing PFAS in water. The water sector faces imminent compliance and enforcement obligations, and utilities are being forced to make substantial financial investments now—installing infrastructure and treatment technologies capable of removing PFAS in drinking water to single-digit parts per trillion. Meanwhile, EPA has yet to stand up the basic electronic reporting system needed to implement the rule it finalized years ago.

NACWA and WEF Oppose the Creation of a *De Minimis* Exemption

EPA's proposed amendment introduces a reporting exemption for *de minimis* concentrations of PFAS below 0.1% regardless of the total production volume. NACWA and WEF, however, urge the Agency to require manufacturers to report their PFAS concentrations even at low concentrations. EPA should also ensure manufacturers and users have clear guidance and appropriate analytical methods for identifying, measuring, and reporting *de minimus* concentrations of PFAS. Doing so would align PFAS policy across EPA programs, as even a 0.1% or less concentration could be significant in terms of volume – especially when measured at a part per trillion (ppt) level currently required for water systems.

EPA is firm in its position to continue its National Primary Drinking Water Standards for several PFAS and setting Maximum Contaminant Levels at 4 ppt for PFOA and PFOS under the Safe Drinking Water Act. These extremely low levels are set at the level of detection. Given the significant cost and burden this requirement will place on the water sector and its customers, it is appropriate to require those entities manufacturing and producing PFAS for commercial purposes and for profit, at any concentration or volume, to be transparent about their production and contribution of these chemicals to the environment.

With respect to POTWs, pollution prevention must start upstream, as source control will be the only viable method to prevent these chemicals from negatively impacting clean water utilities. As noted above, while the CWA gives POTWs the authority to regulate industrial discharges of pollutants through the pretreatment program, it is time consuming, expensive, and inefficient for individual utilities to try to identify the many industrial categories that are or could be sending PFAS to their treatment works when this information could be readily obtained through federal reporting. Even if it is a

snapshot in time, requiring PFAS reporting from producers and manufacturers of PFAS *regardless of concentration* will provide clean water utilities with a great deal of information to help implement source reductions in their service areas.

A 2023 study by the Minnesota Pollution Control Authority found that it costs \$50-\$1,000 to produce or manufacture one pound of PFAS but will cost downstream wastewater utilities anywhere between \$2.7 million to \$18 million to remove one pound of PFAS through the treatment process.² This extreme disparity in costs underscores why NACWA and WEF strongly encourage EPA to ensure that even *de minimis* PFAS concentrations be reported. Downstream utilities are facing significant treatment costs to address trace concentrations; manufacturers must be fully transparent as water and wastewater utilities strive to meet these stringent requirements.

EPA Should Clarify Certain Byproducts Reporting Requirements

Municipal clean water utilities are generally not subject to TSCA Section 8(a)(7) reporting requirements because they are not manufacturing or producing PFAS for a commercial purpose. But, EPA's proposed amendment has new language that is creating uncertainty as to whether it applies to POTWs and the production of municipally-derived biosolids. We urge EPA to either revise the amendment language or provide language in the preamble to be clearer that wastewater utilities are not subject to reporting requirements since municipally-derived biosolids are not byproducts under TSCA definitions.

Notably, EPA is broadly proposing to exempt manufacturers of byproducts, impurities and others under certain situations. For example, the proposal states "EPA is proposing to exempt from the requirement to report PFAS that are solely manufactured as a byproduct in a manner described in 40 CFR 720.30(h) (see proposed 40 CFR 705.12). Specifically, EPA is proposing to exempt any byproduct not used for commercial purposes."

However, the proposal expressly does not exempt from reporting obligations PFAS that are manufactured as byproducts that are used for a commercial purpose as listed at 40 CFR 720.30(g). As the proposal states, "these types of commercial purposes may provide relevant information on exposure pathways of interest to EPA, such as *applying PFAS-containing wastes to land* for soil enrichment or when burned as a fuel (Ref. 9)" (emphasis added).

NACWA and WEF request that EPA clarify the meaning of "applying PFAS-containing wastes to land for soil enrichment" to ensure that wastewater utilities are expressly excluded from this provision. Clean water utilities are not manufacturing PFAS as products or byproducts for a commercial purpose. In particular, municipally-derived biosolids, the organic result of the wastewater treatment process, are the natural end product of the wastewater treatment process that utilities are required to perform under the CWA. As such, they should not be reportable under TSCA's PFAS Reporting Rule even though they are applied to land as a beneficial soil amendment. Clarifying this provision is critical to

² Evaluation of Current Alternatives and Estimated Cost Curves for PFAS Removal and Destruction from Municipal Wastewater, Biosolids, Landfill Leachate, and Compost Contact Water, Minnesota Pollution Control Agency (2023), available at: <https://www.pca.state.mn.us/sites/default/files/c-pfc1-26.pdf>.

avoid unintended regulatory consequences for clean water utilities. EPA should confirm that the intent of this provision is limited to entities that intentionally apply PFAS containing materials to land for commercial and agronomic benefit (e.g., fertilizers and pesticides), and not to municipal wastewater treatment facilities performing essential public services mandated under the CWA.

Such a clarification would also be consistent with the definition of “byproduct” found at 40 CFR 704.3, which states that a byproduct is “a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).” In addition to the PFAS in biosolids clearly not having a separate commercial intent, biosolids themselves are not produced for a separate commercial intent, but instead, as noted above, are the natural byproduct of wastewater treatment performed under the CWA to protect human health and the environment.

Conclusion

NACWA and WEF appreciate the opportunity to provide these comments to EPA’s Office of Pollution Prevention and Toxics (OPPT). We encourage OPPT to coordinate with the Office of Water in its effort to make this vital PFAS information and data readily available in a manner useable for wastewater utilities to identify upstream PFAS manufacturers and producers. If there are any questions, please contact Emily Rimmel, NACWA at 202/533-1839 or erimmel@nacwa.org and Ashley Voskuhl, WEF at 703/684-2400 ext. 7021 or avoskuhl@wef.org.

Sincerely,



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