



August 8, 2023

Dr. Michal Freedhoff
Assistant Administrator
Office of Chemical Safety and Pollution Prevention (OCSPP)
U.S. Environmental Protection Agency

Re: Updates to New Chemicals Regulations Under the Toxic Substances Control Act (TSCA); Docket ID: [EPA-HQ-OPPT-2022-0902](#)

Via Regulations.gov

Dear Assistant Administrator Freedhoff,

The Association of State Drinking Water Administrators (ASDWA), the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA), and the Association of Clean Water Administrators (ACWA) thank the Environmental Protection Agency (EPA) for the opportunity to comment on the Agency's proposed rule to update the new chemicals regulations under the Toxic Substances Control Act (TSCA). TSCA is a critical regulatory framework that helps to prevent chemicals that may be harmful to public health and the environment from entering source waters that are used to provide drinking water to millions of people nationwide along with irrigating crops, sustaining aquatic life, and supporting commercial activities.

Many new and emerging chemicals lack adequate testing methods, data on health effects, and reporting requirements for locations of (and releases from) chemical manufacturing, industrial processing, and production facilities. This leaves states and public water systems (PWSs) unable to adequately assess and address potential public health impacts and investigate the source of chemicals from a site within a watershed. PFAS are a prime example showcasing the difficulty of addressing these issues. We are aware of the thousands of PFAS that are in existence and the extensive impacts to both groundwater and surface water, but are only able to test for a couple dozen of these substances. However, for most PFAS we lack sufficient health effects data and

relative risk information to allow for effective decision-making. Water treatment systems also face limited options for treating PFAS contamination, and the effectiveness of these treatments depends on the PFAS being addressed. Additionally, regardless of which method is used, these treatments are expensive and are typically above and beyond a utility's conventional water and wastewater treatment processes. EPA's new chemicals program under TSCA is vital to ensuring other problematic substances are not released into the environment to potentially contaminate water sources used for drinking water and other critical uses.

A comprehensive and holistic risk assessment and evaluation approach is needed to consider potential impacts to drinking water, human health, and the environment from new and lesser-studied substances throughout any part or all of the chemical's lifecycle - from manufacturing and importing through processing, distribution, and disposal. Considering the complexities surrounding emerging contaminants, ASDWA, AMWA, AWWA, and ACWA (hereafter "the associations") have developed a particular interest in TSCA and how it might be better leveraged to protect drinking water and the environment through strategic risk management approaches.

TSCA is the first line of defense for protecting both drinking water sources and other environmental media from emerging contaminants. Preventing contaminants at the source from entering the environment is more effective and less expensive than removing these pollutants from much larger streams like drinking water or contaminated watersheds. Protecting water resources and preventing environmental contamination is essential for sustaining safe drinking water and food supplies, protecting public health and the economy, and protecting the environment.

The associations would like to provide the following comments for EPA's proposed updates to the TSCA new chemicals program:

- The associations support EPA's proposal to amend 40 CFR 720.75(d) as mandated by the Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016 "by removing the outdated language allowing the submitter to commence manufacture of a chemical substance when the review period expires and adding new language specifying that EPA must issue a determination and take any required action on each PMN before manufacture may commence." Additionally, the associations support the Agency's proposal to amend 40 CFR 721.25(d) to state that "any person submitting a [significant new use notice] shall not manufacture or process a chemical substance for a significant new use until EPA has issued a determination with respect to the significant new use and taken the actions required in association with that determination." The association supports these changes provided that EPA provides timely and sufficient reviews. **In order to protect water resources, chemicals should not be allowed to be released into the environment without a thorough review by EPA.**
- The associations support EPA's decision to make the list of new chemical submissions received available in one place on the Agency's website. The associations agree with EPA that the use of a central repository of this information will increase transparency and provide easier access to the data.
- The associations support EPA's proposal to add a requirement to 40 CFR 720.45 for "information related to each site where the chemical substance will be manufactured,

processed, or used,” including information requirements for site addresses. **Knowing where chemicals have been manufactured is paramount to addressing any unforeseen releases to the environment, particularly near drinking water sources. Additionally, should it be determined that a substance previously thought unproblematic is of potential health concern at a later time, this will help EPA and impacted entities, such as water treatment facilities, to locate both the locations of possible pollution and the responsible parties.**

- The associations support EPA’s proposal to add an additional requirement for submitters to include “detailed information requirements about the potential environmental releases at each site.” This requirement would include descriptions of the type of release (e.g., transport, interim storage, disposal, equipment cleaning); the amount of the chemical substance released directly to the environment or into control technology; the amount of the chemical substance released to the environment after control technology; for releases into water, National Pollutant Discharge Elimination System (NPDES) permit numbers and information on the navigable waterways and other destinations into which the release occurs; and for releases into wastewater treatment plants, information on the publicly owned treatment works (POTW) into which the release occurs, among others. **Having detailed information regarding where chemical releases are or may be occurring is important to ensure that water resources are protected from contaminants. As noted previously, should it be determined that a substance previously thought unproblematic is of potential health concern at a later time, this will help EPA and impacted entities to locate both the locations of possible pollution and the responsible parties.**
- The associations support EPA’s proposal to amend the current low volume exemptions (LVE) and low release and exposure exemptions (LoREX) regulations. The Agency has proposed that submitters would not be able to commence manufacture until EPA has approved the LVE or LoREX notice. The association supports these changes provided that EPA provides timely and sufficient reviews. **Similar to a pre-manufacture notice, chemicals should be required to go through a full review by EPA before commencing manufacturing under an exemption. Manufacturers should not be allowed to release unvetted chemicals into the environment.**
- The associations support EPA’s proposal for PFAS to be categorically ineligible for LVE and LoREX exemptions, including “any chemical substance where any of the reasonably anticipated metabolites, environmental transformation products, byproducts, or reasonably anticipated impurities are a PFAS.” **Multiple EPA offices have taken actions on certain PFAS at extremely low levels, and therefore, it makes sense to exclude PFAS from LVE and LoREX.**
- The associations support EPA’s proposal to codify the Agency’s long-standing practice of making certain persistent, bioaccumulative, and toxic (PBT) chemical substances ineligible for LVE and LoREX exemptions. The associations agree with EPA that chemicals with anticipated environmental releases and potentially unreasonable human or environmental organism exposures should be ineligible for these exemptions.

ASDWA, AMWA, AWWA, and ACWA appreciate the opportunity to provide feedback on this important regulatory action. As stated previously, TSCA is the first line of defense for protecting drinking water sources and other environmental media from emerging contaminants. The Safe Drinking Water Act (SDWA) uses a multiple-barrier approach that includes source water protection and treatment to ensure that drinking water is safe from potential contaminants. Similarly, the Clean Water Act (CWA) includes a focus on both pre-treatment and discharge limits to mitigate downstream exposures to contaminants effectively. Notably, it is not the intent of SDWA and CWA to place the sole burden on communities to remove toxic chemicals from the environment, it is to ensure that these barriers will minimize human exposure effectively. It is for this reason that EPA must continue to better utilize its other regulatory authorities and offices, particularly TSCA, to protect public health and the environment. If you would like to discuss these comments further, please reach out to Stephanie Schlea from ASDWA (sschlea@asdwa.org), Brian Redder from AMWA (redder@amwa.net), Chris Moody from AWWA (cmoody@awwa.org), and Jake Adler (jadler@acwa-us.org) from ACWA.



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