



February 03, 2023

The Honorable Michal Freedhoff
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1201 Constitution Avenue, N.W.
Washington, DC 20460

Via electronic submission

Re: Docket ID: EPA-HQ-TRI-2022-0270; Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting

Dear Assistant Administrator Freedhoff,

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to comment on EPA’s proposed changes to reporting requirements for PFAS and to supplier notifications for chemicals of special concern. AMWA is an organization representing the largest publicly owned drinking water utilities in the United States. Pollution prevention is paramount in protecting water sources for public water supply. For this reason, AMWA feels it is imperative to emphasize the importance of protecting drinking water sources through programs like the Toxics Release Inventory (TRI) under the Emergency Planning and Community Right-to-Know Act. Programs such as these are crucial to ensuring that the source waters consumers rely on for drinking water are safe and reliable.

Preventing pollutants from entering drinking water supply sources is a complex task. It is easier, more effective, and more equitable to control pollutants at the source, where they are highly concentrated, than it is to remove them at the consumer’s expense after they have entered a water body or supply source. Equally important is being aware of how these substances are being managed, disposed of after their use, and when releases of contaminants have occurred so that appropriate preparation and action may be taken. Under TRI, a “release” of a chemical means that it is emitted to the air or water or placed in some type of land disposal. All these routes could result in these chemicals reaching public drinking water utilities’ source waters.

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Eliminating the *de minimus* exemption for PFAS

The National Defense Authorization Act (NDAA) of 2020 included provisions that directed EPA to add PFAS to the TRI that met certain criteria with a reporting threshold of 100 pounds. AMWA was supportive of the addition of these PFAS to the TRI and encouraged EPA to include even more PFAS to the TRI listing.¹ In 2020, the PFAS specified in the NDAA were not added to the list of chemicals of special concern. Chemicals are added to this list because even small releases of these persistent, bioaccumulative, and toxic substances can cause concern. Since many PFAS are known to contain these qualities, EPA is proposing to include all PFAS added to the TRI under NDAA 2020 on the list of chemicals of special concern.

AMWA strongly supports listing all PFAS on the TRI as chemicals of special concern, therefore eliminating the *de minimus* exemption that allows facilities to disregard small concentrations of chemicals. Due to the persistent nature of PFAS, even small releases can build up over time. Removing this exemption will allow EPA to provide a more data to the public on releases of PFAS to the environment. This data will assist public water systems as they perform monitoring for PFAS and looks toward complying with future PFAS regulation.

Eliminating the *de minimus* exemption for Supplier Notification Requirements

The *de minimus* exemption for the Supplier Notification Requirements allows suppliers to refrain from notification for mixtures and trade name products that contain listed toxic chemicals when concentrations are below 1% of the mixture, or below 0.1% for carcinogens. This exemption has the potential to allow large quantities of toxic chemicals to go unreported. AMWA supports removing this exemption to help buyers stay informed on toxic chemicals included in the products they purchase. Removing this exemption will give more accurate data of PFAS releases and work toward identifying and reducing public exposure.

Reevaluation of threshold

AMWA encourages EPA to also consider lowering the reporting threshold of PFAS. The NDAA of 2020 directed EPA to list these PFAS with a 100-pound reporting threshold, but reconsidering this reporting threshold for certain PFAS may be necessary. EPA states that “even minimal releases of persistent bioaccumulative chemicals may result in significant adverse effects...” and at the time of NDAA 2020, the health advisory for PFOA and PFOS was 70 ppt combined. In June 2022, EPA lowered these health advisories, in the interim, to levels in the parts per quadrillion – 0.004 for PFOA and 0.02 for PFOS. Such a drastic decrease in health advisory levels suggests these PFAS are more harmful than originally thought and therefore reconsidering the reporting thresholds is warranted.

¹https://www.amwa.net/system/files/linked-files/AMWA%20Comment%20Letter%20EPA_HQ_TRI_2019_0375.pdf

Conclusion

The Toxics Release Inventory provides EPA with a unique opportunity to further protect the environment and public health from emerging contaminants of concern. AMWA is pleased EPA is taking steps to ensure PFAS releases are reported and documented to work toward acquiring a more holistic understanding of PFAS in the environment. AMWA encourages the Office of Pollution Prevention and Toxics to coordinate with the Office of Ground Water and Drinking Water in developing and refining the TRI. It is imperative that these two offices work together to not only better protect source waters and drinking water, but to ensure that the agency's limited resources are utilized in the most efficient manner.

AMWA thanks EPA for the opportunity to provide comments on this proposal and looks forward to working with the agency to protect drinking water sources in the future. If you would like to further discuss our concerns, please contact Brian Redder, Manager of Regulatory and Scientific Affairs, at redder@amwa.net.

Sincerely,



Tom Dobbins
Chief Executive Officer

cc: Daniel R. Ruedy, OPPT
Jennie R. Romer, OCSPP
Jennifer McLain, OGWDW