November 7, 2025

Kelly Summers
Existing Chemicals Risk Management Division
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460–0001
Via docket: https://www.regulations.gov/commenton/EPA-HQ-OPPT-2025-0260-0001

Subject: Procedures for Chemical Risk Evaluation under the Toxic Substances Control Act (TSCA), EPA–HQ–OPPT–2025–0260

Dear Kelly Summers:

On behalf of the National Association of Clean Water Agencies (NACWA[1]), the Bay Area Clean Water Agencies (BACWA[2]), Clean Water SoCal[3], the Green Mountain Water Environment Association[4], the Massachusetts Water Environment Association (MAWEA[5]), the New England Water Environment Association (NEWEA[6]), Oregon Association of Clean Water Agencies (ORACWA)[7], and the Rhode Island Clean Water Agencies (RICWA[8]), we thank you for the opportunity to comment on the Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA) (Federal Register Notice, Vol. 90, No. 182). Our coalition represents the interests of public wastewater and stormwater agencies of all sizes across the country. Each day, clean water utilities provide the essential service of protecting public

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[1] NACWA represents the interests of over 350 publicly-owned wastewater treatment agencies nationwide, serving the majority of the sewered population in the U.S. https://www.nacwa.org/
[2] BACWA's members include publicly-owned wastewater treatment facilities and collection system agencies serving over seven million San Francisco Bay Area residents. https://bacwa.org/
[3] Clean Water SoCal's members collect or treat the wastewater for over 18 million southern Californians in seven counties. https://cleanwatersocal.org/
[4] Green Mountain Water Environment Association is a non-profit member organization that supports Vermont's drinking water, wastewater, and stormwater agencies. https://gmwea.org/
[5] MAWEA is a non-profit organization established to provide education, training, advocate for, and promote the exchange of information among water quality professionals serving the municipal and industrial clean water community in Massachusetts. https://mawea.org/
[6] NEWEA mission is to promote education and collaboration while advancing knowledge, innovation, and sound public policy for the protection of the water environment and our quality of life. https://newea.org/
[7] ORACWA is a not-for-profit organization of Oregon's wastewater treatment and stormwater management utilities, along with associated professional consulting firms, which are dedicated to protecting and enhancing Oregon's water quality. https://oracwa.org/
[8] RICWA promotes the advancement of knowledge concerning the nature, collection, treatment, and disposal of domestic and industrial wastewater. https://ricwa.org/

health and the environment by managing and treating billions of gallons of our nation's wastewater and stormwater, as well as the biosolids produced from the wastewater treatment process.

We appreciate EPA's Office of Pollution Prevention and Toxics (OPPT) effort to streamline the TSCA process and not duplicate efforts within other intra-agency jurisdictions. Below we seek to identify instances in which TSCA risk evaluations are needed to complement the work of the Office of Water (OW) and the Clean Water Act (CWA).

Background

Public wastewater agencies continue to face challenges as they strive to meet evolving CWA requirements while having limited control over the toxic pollutants and other substances in the wastewater they treat and manage. Toxic chemical discharges to the sewer system can prove costly for POTWs, due to the potential for chemicals to cause or contribute to wastewater treatment process interference, NPDES permit compliance issues, impacts to receiving waters, degradation of recycled water quality, and/or impacts to biosolids reuse, in addition to exposing POTWs to the potential for third party lawsuits under the Clean Water Act.

Toxic chemicals are introduced to public wastewater systems through indoor uses – such as cleaning and personal care – when they are washed off surfaces, textiles, people, and pets. Some of these chemicals may interfere with the biological processes used to treat wastewater, or pass through the wastewater treatment process, subsequently impacting receiving waters. In addition, utilities across the country are expanding their efforts to recover the resources available in wastewater. Since water reuse and the beneficial reuse of biosolids may be adversely affected by toxic chemical discharges, it is becoming more important to protect the quality of the wastewater that enters POTWs. In particular, POTWs cannot regulate residential uses, so there is no way for utilities to prevent such discharge into wastewater.

As municipal wastewater treatment facilities have few (if any) realistic local options to control use of chemicals in consumer products, it is essential that EPA implement mitigation measures to prevent harmful impacts to POTWs and receiving waters. The CWA gives POTWs the authority to regulate industrial and commercial discharges of pollutants that may interfere with the wastewater treatment process or that may pass through the facility untreated into the effluent or biosolids (the liquids and solids, respectively, remaining after wastewater treatment). However, utilities have no authority to regulate domestic discharges of pollutants, such as chemicals found in consumer products which may be rinsed or discharged down the drain and into the sewer system. These products include, but are not limited to, cleaning products; beauty, personal care, and hygiene products; and pet care products. Since wastewater treatment utilities were not designed to remove all chemicals from wastewater, regulation of chemicals by EPA is the most practical means of controlling their discharge into wastewater and preventing adverse impacts on wastewater utilities, human health, or the environment.

OPPT's proposal could have the unintended consequence of omitting evaluation of the sewer discharge exposure pathway, which could prove costly for POTWs across all 50 states. Therefore, it is imperative that EPA addresses water quality impacts in its TSCA risk evaluation as detailed below.

Domestic Discharges to Wastewater Systems Are Not Regulated by the CWA

EPA is proposing to update the "conditions of use" by deleting 40 CFR 702.39(d)(9) which currently reads (emphasis added): *EPA will assess all exposure routes and pathways relevant to the chemical substance under the conditions of use,* ***including those that are regulated under other federal statutes.***

EPA's explains its rationale as follows:

> *"It is not an efficient use of EPA resources to evaluate exposure routes and pathways under TSCA that have been evaluated and are being managed by other EPA offices, or that could be more effectively and efficiently assessed and managed by other EPA offices."* (page 45698)

We concur that EPA should *"encourage decisions that avoid confusion, complication, and duplication"* (page 45699). Indeed, TSCA risk assessments should complement the efforts of other EPA programs, including the CWA.

We recognize that it is not feasible to eliminate the use of all toxic substances with a disposal pathway to the sewer. However, we have identified four ways that the proposed TSCA chemical risk evaluation process could address disposal pathways that are not within the purview of the CWA. Each of these four requests is outlined in the paragraphs below.

1) Address All "Conditions of Use" to Protect Wastewater Utilities

Wastewater utilities treat discharges from multiple sources, and some chemicals are used in numerous products. Any one source or product might be a minor contribution to the chemical loading experienced by a utility, but the cumulative total may be significant. Risk evaluations should therefore include all "conditions of use" that result in direct or indirect utility discharges to accurately assess risks. If unreasonable risks do exist, then knowledge of all discharge sources will be necessary to develop effective, practical, and fair risk management measures.

2) Clarify the Definition of "Aggregate Exposure" to Include Wastewater Utility Risks

Every POTW with an NPDES permit must comply with the federal Clean Water Act 100% of the time. Therefore, it is imperative for EPA to avoid underestimating chemical discharges and associated risks. To accurately assess risks requires addressing both fresh and saltwater discharges and assessing a reasonable worst case – not average – conditions.

We ask that the definition of "aggregate exposure" (40 CFR 702.33) be clarified to include environmental and wastewater utility risks, since CWA regulations account for multiple sources of the same pollutant and the impacts on human health and the environment from pollutants in a utility's effluent and biosolids.

3) Include Interference of Wastewater Treatment When Appropriate

We recommend that EPA clearly specify that interference with wastewater treatment processes should be considered in risk assessments when appropriate. Interference with biological treatment processes and limitations on biosolids use options would be captured within the general description of human and ecological risk assessment in the proposed rule. However, other problems with treatment processes, such as aeration tank foaming, would not necessarily be captured in this general description. Specifically citing wastewater treatment process interference will ensure that all utility impacts are considered.

4) Intra-Agency Interaction with Office of Water is Essential

We concur with EPA's statement *"Intra-agency coordination is integral to ensuring that EPA actions are well-informed, effective, and efficient*" (page 45698). Indeed, to assist the OPPT in identifying and evaluating the chemical risks of concern for wastewater utilities, we recommend that a process for communication and collaboration be established with EPA's OW during the prioritization process.

Since wastewater utilities have limited control over the discharge of chemicals and contaminants of emerging concern into sewer systems, especially from consumer products, we ask that the TSCA reform

process be conducted in such a way as to help protect wastewater treatment processes, water reuse, the beneficial use of biosolids, and the aquatic environment.

Thank you for your consideration of our comments. Please contact us if you have any questions:

National Association of Clean Water Agencies
Cynthia Finley, Director, Regulatory Affairs
(202) 533-1836 | cfinley@nacwa.org

BACWA's Bay Area Pollution Prevention Group

Robert Wilson, Co-Chair	Autumn Ross, Co-Chair
City of Santa Rosa	Wastewater Enterprise, San Francisco Public Utilities Commission
(707) 543-4369	(415) 695-7336
rwilson@srcity.org	aross@sfwater.org

Respectfully Submitted,

Cynthia Finley, Ph.D.
Director, Regulatory Affairs
National Association of Clean Water Agencies

Lorien Fono, Ph.D., P.E.
Executive Director
Bay Area Clean Water Agencies

cc:
Elissa Reaves, Director, OPPT, EPA
Joel Wolf, Acting Deputy Director for Programs, OPPT, EPA
Regina (Missy) Milbeck, Deputy Director for Management, OPPT, EPA
Kevin DeBell, Director, Chemical Information, Prioritization, and TRI Division, OPPT, EPA
Steven Dutton, Director, Existing Chemicals Risk Assessment Division, OPPT, EPA
Ana Corado, Acting Director, Existing Chemicals Risk Management Division, OPPT, EPA
Shari Barash, Director, New Chemicals Division, OPPT, EPA
Tomas Torres, Director, Water Division, EPA Region 9
Diana Hsieh, EPA Region 9
Alexandra "Sasha" Mizenin, EPA Region 9
Laura Ramirez, EPA Region 9
Eugene Bromley, EPA Region 9
Jennifer "JT" Teerlink, California Department of Pesticide Regulation
Anson Main, California Department of Pesticide Regulation
Annalisa Kihara, Assistant Deputy Director Division of Water Quality, CA SWRCB
Philip Crader, Deputy Director, California State Water Resources Control Board
D'Andre Alejandro, California RWQCB, SF Bay Region
Rebecca Nordenholt, California RWQCB, SF Bay Region
Natlie Lee, California RWQCB, SF Bay Region
James Parrish, California Regional Water Quality Control Board, San Francisco Bay Region
BACWA Executive Board
BACWA Pesticides Workgroup
Steve Jepsen, Executive Director, Clean Water SoCal
Christina Adams, Green Mountain Water Environment Association

Denise Descheneau, Massachusetts Water Environment Association
Mary Barry, Executive Director, New England Water Environment Association
Geoff Rabinowitz, Executive Director, Oregon Association of Clean Water Agencies
Peter J. Connell, President, Rhode Island Clean Water Agencies