Reducing Risk from PFOA and PFOS in Biosolids: National Association of Clean Water Agencies Comments Addressing U.S. EPA Draft Guidance



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11/10/2026

The National Association of Clean Water Agencies ("NACWA") submitted October 5th comments on a document the United States Environmental Protection Agency ("EPA") published on June 29th titled:

Comments on the EPA's Draft Guidance for Reducing Risk from Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS) in Biosolids and Request for Feedback ("Draft Guidance").

EPA stated in issuing the Draft Guidance that if finalized, it would provide:

- Recommendations that may be helpful to operators of wastewater treatment plants and related facilities, landowners and farmers, State and Tribal water agencies, and the public.
- Voluntary recommendations for potential ways to reduce potential risks posed by perfluorooctanoic acid ("PFOA") and perfluorooctane sulfonic acid ("PFOS") involving land application of biosolids.

The Draft Guidance addressed the Draft Risk Assessment that had been issued by EPA on January 14, 2025, by the Biden Administration. The Biden EPA document is described by the Draft Guidance as being aimed at understanding potential risks by PFOA and PFOS in sewage sludge.

The Trump Administration EPA states that is has since determined that the Draft Risk Assessment exhibited a number of flaws that have caused confusion among the public and the regulated community.

EPA sought comments on the Draft Guidance for 60 days following its publication in the July 6th Federal Register. See 91 Fed. Reg. 41020.

The Draft Guidance states in regard to the Biden era Draft Risk Assessment that:

… After careful review of the comments provided by stakeholders, the EPA has determined that the Draft Risk Assessment exhibited a number of serious flaws that have caused confusion among the public and the regulated community. This confusion has resulted in a lack of clarity in how the public should consider and potentially apply the preliminary findings of the Draft Risk Assessment in their daily lives, or put another way, in how to determine what the findings of the Draft Risk Assessment might mean for them.

NACWA describes the organization as representing the interests of over 360 publicly owned wastewater and stormwater utilities of all sizes across the country. Further, the organization states that its members:

... are cornerstones of their communities that provide the essential service of managing, treating and transforming billions of gallons of our nation's wastewater and stormwater, as well as managing the

millions of tons of biosolids generated as a natural result of the wastewater treatment process in a manner that ensures the continued protection of public health and the environment.

The NACWA comments initially note:

- NACWA has been engaged with EPA throughout the agency's biosolids work.
- The sustained engagement reflects what is at stake for the public clean water utility community - the potential erosion of EPA's longstanding support for the beneficial land application of municipal biosolids if the agency does not properly assess and determine the potential risk of PFAS in biosolids.
- Commends EPA for issuing the Draft Guidance and views it as an important and positive step forward in the biosolids PFAS discussion because it:
- Reaffirms the agency's continued support for the land application of municipal biosolids.
- Acknowledges the challenges clean water utilities face as passive receivers of PFAS.
- Helps refocus the conversation on mitigating potential risks to the public.
- Draft Risk Assessment created unsupported confusion and fear by relying on unrealistic assumptions about biosolids use and suggesting that all biosolids may pose greater risks to the general public and the environment than the many PFAS-containing products and materials encountered in one's daily life or even through alternatives to municipal biosolids, such as synthetic fertilizers, that may contain PFAS.

Additional components of the NACWA comments include:

- Recognition of the Lack of Occurrence Data.
- Supports EPA's acknowledgment that the Draft Risk Assessment was developed without corresponding national occurrence data for PFOA and PFOS in biosolids.
- Recognition That the Assessment Relied on Atypical Scenarios.
- Appreciates EPA's acknowledgment that the Draft Risk Assessment focused on a limited number of higher-risk hypothetical scenarios that do not reflect the actual realities of biosolids land application practices in the United States.
- Clarification of the 1 ppb Modeling Assumption.
- Supports EPA's clarification that the 1 part per billion (ppb) concentration used in the Draft Risk Assessment was a modeling input and was not intended to represent a health-based standard, regulatory threshold, or universally applicable "safe level."
- Recognition of Public Confusion and Mischaracterized Risk.
- Commends EPA for recognizing that the Draft Risk Assessment contributed to the misconception that all biosolids use and disposal practices pose unacceptable risks to human health.
- Guidance Should Give States Greater Clarity that EPA Supports a Carefully Constructed Tiered Management Pathway Coupled with Best Management Practices.
- Highlights existing state practices designed to reduce PFAS in biosolids while continuing to support beneficial reuse and would also be strengthened by providing additional information on best management practices that can help utilities and farmers better understand practical approaches for mitigating potential PFAS concerns associated with biosolids land application.
- Draft Guidance Needs to Recognize that All Biosolids are Not Equal.
- EPA must recognize the different classes of municipal biosolids supported by the Clean Water Act's (CWA) Part 503 regulations.
- Persistent Laboratory and Analytical Method Issues.
- Consistent concerns were raised that sampling and laboratory analysis for PFAS in biosolids remain subject to significant variability, particularly for materials with higher aqueous content where sample handling, solids content, extraction, and matrix effects can meaningfully influence results.
- Source Identification.
- Recommends that EPA clarify that the source identification statement because sampling only at the final stage of the wastewater treatment process is not a reliable way to identify or apportion specific PFAS source contributions.

The NACWA comments also addressed specific questions posed by EPA.

A copy of the NACWA comments can be found here.