



Comments on EPA's "Draft Guidance for Reducing Risk from Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS) in Biosolids"

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Summary of comments

Public Employees for Environmental Responsibility (PEER) submits these comments urging the U.S. Environmental Protection Agency (EPA) to ***withdraw*** its proposed voluntary guidance for two types of per- and polyfluoroalkyl substances (PFAS, known as "forever chemicals") in biosolid fertilizers made from sewage sludge ***and instead issue regulations***, including mandatory numerical limits and management practices for these substances, as the Clean Water Act requires.

This draft guidance defies the law, endangers public health, is based upon non-factual information, and utterly ignores both common sense and EPA's own January 2025 draft risk assessment showing that PFOS and PFOA in biosolids pose human health risks. Failure to regulate PFAS in sewage sludge condemns Americans to a contaminated food supply and the loss of farmland across the country. The guidance indicates that EPA does not intend to regulate these two types of PFAS in sewage sludge used as fertilizer and instead tells the public and farmers to try to safeguard *themselves*. Adopting the guidance would constitute an abandonment of EPA's responsibilities, and in particular an abandonment of American farmers, ranchers, home gardeners, and consumers. This guidance allows limitless concentrations of PFOS and PFOA in biosolids and enables sewage sludge providers to continue marketing sludge as fertilizer without telling farmers how much PFOS and PFOA are in it.

PEER has attached to these comments our comments on the 2025 Risk Assessment for PFOS and PFOA in biosolids, the risk assessment EPA is now apparently abandoning.

Flaws in EPA's draft guidance

1. The Clean Water Act requires EPA to regulate –not simply issue voluntary guidance about – PFOS and PFOA.

A Clean Water Act provision enacted in 1987 requires EPA to regulate “those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, *may be present in sewage sludge in concentrations which may adversely affect public health or the environment.*” 33 U.S.C. § 1345(d)(2)(A)(i); *see also id.* § 1345(d)(2)(C).

It is undeniable, even by EPA's own 2025 draft risk assessment which itself was based on highly industry-friendly assumptions (see PEER's attached comments on that risk assessment), that PFOS and PFOA easily meet these straightforward criteria. Additionally, a large and well-established body of scientific evidence so demonstrates, as do actual measurements of PFOS and PFOA in the blood serum of farmers and ranchers where biosolids have been spread,¹ not to mention in soil,² plants,³ surface water,⁴ groundwater,⁵ farm animals,⁶ and farm products.⁷

EPA simply does not have the discretion to issue mere voluntary guidance. By the plain language of the Clean Water Act, it must regulate PFOS and PFOA in sludge and do so in a way “adequate to protect public health and the environment from any reasonably anticipated adverse effects.” 33 U.S.C. § 1345(d)(2)(D). Notably, the regulations must assess the effects not only of sludge disposal via land application, but also through other use or disposal methods such as incineration and landfilling.

Of course, EPA is well aware of this because of a federal lawsuit PEER filed in 2024 on behalf of several ranchers in Texas, their county, and two nonprofit organizations with deep

¹ Rokoff LB, Senechal K, Romano ME, Botelho JC, Calafat AM, Criswell R, Fleisch AF. Predictors of Serum Per- and Polyfluoroalkyl Substances (PFAS) Concentrations in a Rural Agricultural Community Affected by Biosolids Application. *Environ Sci Technol.* 2026 Jun 9; 60(22): 15628-15640.

² Johnson, GR, PFAS in soil and groundwater following historical land application of biosolids, *Water Research* 211 (2022) 118035

³ Prashant Srivastava, Becky Macdonald, PFAS in biosolids: Insights into current and future challenges, *Journal of Hazardous Materials Letters*, Volume 6, 2025, 100163

⁴ Peter LG, Lee LS. Sources and Pathways of PFAS Occurrence in Water Sources: Relative Contribution of Land-Applied Biosolids in an Agricultural Dominated Watershed. *Environ Sci Technol.* 2025 Jan 21; 59(2): 1344-1353

⁵ Supra at 2

⁶ Bhattacharya, A et al, Per- and polyfluoroalkyl substances in agricultural systems: Human dietary exposure via beef raised on corn stover from a field with contaminated biosolids, *J. Environ. Qual.* 2025; 54: 1845–1861

⁷ Simones TL, Evans C, Goossen CP, Kersbergen R, Mallory EB, Genualdi S, Young W, Smith AE. Uptake of Per- and Polyfluoroalkyl Substances in Mixed Forages on Biosolid-Amended Farm Fields. *J Agric Food Chem.* 2024 Oct 23; 72(42): 23108-23117

experience serving those affected by PFAS in biosolids,⁸ currently at the United States Circuit Court of Appeals for the District of Columbia: *Farmer et al. v. EPA et al.* We have attached our complaint, as well as relevant briefs in District and Circuit Court for your convenience.⁹

If EPA were following the law (not to mention its alleged “commit[ment] to addressing per- and polyfluoroalkyl substances (PFAS) in the environment as part of its work ensuring that all Americans can rely on clean air, land, and water,” Draft Guidance at 1), it would issue meaningful, protective regulations against PFOS and PFOA. Toothless and vague voluntary guidelines do not suffice.

2. EPA’s Guidance Abandons Farmers

In its June 29, 2026, *Federal Register* notice, EPA claimed that the agency’s prior risk assessment suffered from an inappropriate “focus on higher-risk scenarios.” In fact, the opposite is true. The risk assessment made the demonstrably unrealistic assumption that farming families had *only one exposure pathway* (ex. eggs) and did not consume or come into contact with *anything else* that would likely also contain PFAS from the same biosolids, such as other farm products, well water, soil, PFAS-laden clothing, pesticides, or dust. And this assessment did not account for exposure to any of the thousands of other per- and polyfluoroalkyl substances other than PFOS or PFOA (see PEER’s attached risk assessment comments).

By contrast, EPA’s new proposed guidance avoids consideration of high-risk scenarios entirely, essentially telling farming families that their lives and health do not matter, because the general public “does not live on or near an impacted property.” Draft Guidance at 4. In fact, EPA’s guidance falsely implies that high-risk scenarios do not exist at all, when in fact they clearly do.

Over the past few decades, hundreds of animals from farms in multiple states have died or had to be euthanized due to PFAS from sewage sludge, and stories now abound of farmers losing their livelihoods and their health to this problem. The problem is so serious that Maine created a \$60 million program to compensate affected farmers, including a free PFAS blood testing program for farmers and farm residents exposed to PFAS.

Additionally, EPA is, of course, aware of the specific PFAS-related injuries suffered by the Plaintiffs-Appellants in *Farmer et. al. v. EPA et al.*, as well as the PFAS-related injuries of

⁸ See https://peer.org/wp-content/uploads/2024/06/6_6_24_Complaint_Farmer-v-EPA_24-1654_as-filed.pdf. In this lawsuit, EPA has taken the shocking position that the Clean Water Act does not require it to identify or regulate emerging threats in sewage sludge meeting the statutory criteria. See also <https://peer.org/toxic-sewage-sludge-fertilizer-fight-at-the-appeals-court/>

several farmers who submitted an amicus brief to the D.C. Circuit Court of Appeals in the same case, detailing the alarming problems that PFAS in biosolids caused on their farms.

EPA's notice even ignores local calls for emergency assistance due to PFAS contamination from sewage sludge fertilizers. For example, last year, the Commissioners of Johnson County, Texas, passed a resolution calling on Governor Abbott to declare an emergency in the county due to high levels of PFAS in sewage sludge fertilizers which are poisoning livestock, fouling ground, surface, and drinking water, and sickening residents.¹⁰ Similar ecological calamities have been reported in several other states, two of which (Connecticut and Maine) found the biosolids problem so significant that they have banned all land application.

The lives of farmers and rural communities matter just as much as those of city dwellers who may rarely, if ever, set foot on a farm. EPA's criticism of its own risk assessment for focusing on farmers' health is both shocking and repugnant. Indeed, EPA Administrator Lee Zeldin recently told a reporter that it was "hilarious" that questions posed to him were focused on PFAS in biosolids, as opposed to asking him to expound on all the alleged actions EPA is taking to fight PFAS.¹¹ The harm to farmers, their land, our food and water supply, and consumers is not a laughing matter.

3. EPA's Guidance is Based on Numerous Misstatements of Fact

The *Federal Register* notice and accompanying Draft Guidance Memorandum are rooted in statements that are simply not true. Notably, EPA does not provide any factual support for these claims or provide citations for the conclusions which serve as the pillars for EPA's reasoning on this topic.

A. PFOA Production Has Not Halted.

The notice states that "Domestic production and import of PFOA has been phased out in the United States by the companies participating in the 2010/2015 PFOA Stewardship Program." While this statement may be factually correct, it is misleading; only "eight major leading companies in the per- and polyfluoroalkyl substances (PFASs) industry"¹² were involved in this voluntary effort. There are many more companies that import, manufacture and use PFOA in the United States.

For example, PFOA is continually manufactured during the fluorination of 200 million plastic containers annually. The PFOA in these containers leach into the products they hold

¹⁰ See <https://peer.org/texas-county-seeks-federal-aid-pfas-contamination/>

¹¹ <https://wjla.com/features/i-team/lee-zeldin-epa-head-dismisses-questions-toxins-americas-farms-pfas-forever-chemicals-biosolids-sludge-fertilizer-farmland-agriculture-farmers-dairy-livestock-deaths-texas-virginia-cancer>

¹² <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/fact-sheet-20102015-pfoa-stewardship-program>

and contaminate the plastic recycling stream. Moreover, this statement also ignores the fact that PFOA and PFOS precursors are still allowed in products, and these unregulated PFAS continue to contaminate wastewater, and therefore biosolids, with PFOA and PFOS.¹³ On October 29, 2025, PEER filed a formal complaint against EPA under the Information Quality Act that its official statements that one of the two most widely used forms of “forever chemicals” has been phased out of domestic production is clearly false and those claims should be publicly retracted.¹⁴ Significantly, EPA has yet to respond to this complaint or otherwise defend these statements.

In addition, EPA itself has taken enforcement action, albeit ineffectual, against the U.S. company manufacturing the very chemicals EPA claims have been discontinued.¹⁵

B. EPA Mischaracterizes the Extent and Impact of Biosolids Spreading

EPA focuses on the extent of biosolids spreading in a single year, yet EPA knows that PFOS and PFOA persist in the environment for many decades and have a cumulative impact with each additional application on the same land. Thus, the relevant question is not how much sludge is spread in a single year, but how much how much has been spread since PFOS and PFOA entered wastewater streams, where that sludge was applied, and (for land where it was spread) how many times. Indeed, conservatively assuming that biosolids have been land-applied since the late 1980s when Congress banned ocean dumping of sewage sludge, and presuming those biosolids contained PFAS (which of course they would have, as the substances have been widely used in commerce since well before then), then the problem is over **40 times as large** as the figure for any given year's worth of spreading.

Several of the farmers who joined in an amicus brief in the D.C. Circuit case highlight this problem of the persistence of PFAS. Many of them bought their land without even knowing that biosolids had been spread on or near their farms decades ago (1980s or 1990s), and nonetheless today have high levels of PFAS in their well water, soil, milk from cows grazing on their land, and even in their own blood serum. **On one of these farms where sewage sludge was last applied decades prior to purchase, a 10-year-old child living on site was found to have blood serum PFOS levels higher than 95 percent of Americans.** Again, we urge EPA to read the declarations of these amici (attached for your convenience) and stop ignoring these real-world tragedies.

EPA has absolutely no idea how much sludge has been spread since PFOS and PFOA entered wastewater streams, or where – a particularly galling oversight, given that EPA also admits that it “has endorsed and encouraged the land application of biosolids for decades.” Draft Guidance, page 2. All EPA does in this guidance document is *estimate* how many acres of

¹³ Ruyle BJ, et al. High organofluorine concentrations in municipal wastewater affect downstream drinking water supplies for millions of Americans, PNAS 2025 Vol. 122 No. 3

¹⁴ See <https://peer.org/epas-principal-claim-pfas-progress-untrue/>

¹⁵ See <https://peer.org/new-suit-targets-epa-inaction-on-pfoa-in-plastic-containers/>

farm fields receive biosolids annually (a staggering 2.3 million, even though this is likely a vast underestimate; despite this, EPA attempts to downplay this figure by comparing it to the larger acreage that fertilized through other means – see Draft Guidance, page 2, footnote 5). But this estimated annual figure is only a small sliver of the problem.

Furthermore, it is notable that the EPA itself) estimates that in 2024, 59.5 percent¹⁶ of all sewage sludge was land applied as biosolids fertilizers or soil amendments. The National Biosolids Data Project (NBDP) surveyed the sewage sludge industry, and estimated that roughly 18 percent of all U.S. agricultural lands could be using biosolids as a fertilizer, covering almost 70 million farmland acres – roughly equivalent to the size of Nevada. Even this may be an underestimate because the industry estimate included only one type of biosolids, known as Class B. Class A biosolids are not included in the estimate, because they don't require permits or reporting.¹⁷

C. Sewage Sludge Typically Contains PFAS

The Draft Guidance memorandum states “While statewide surveys have found that PFOA and PFOS have been detected at varying levels in sewage sludge, it is important to note that not all sewage sludge has been found to have detectable or elevated levels of PFOA or PFOS.”

EPA does not offer any factual support or explanation for this astounding statement. Indeed, scientific research indicates that PFOS and PFOA are often the most abundant PFAS in biosolids.¹⁸ Moreover, precursors to PFOS and PFOA are also prevalent in biosolids, meaning that PFOS and PFOA can be formed once the biosolids are land applied.¹⁹ It is also worth noting that EPA itself concedes that, “sewage sludge containing 1 ppb PFOA or PFOS ... is on the low end of measured U.S. sewage sludge concentrations.”²⁰ EPA must provide evidence for its claim that “not all sewage sludge has been found to have detectable...levels of PFOA or PFOS.”

¹⁶ <https://www.epa.gov/biosolids/basic-information-about-sewage-sludge-and-biosolids>

¹⁷ <https://www.ewg.org/news-insights/news/2025/01/forever-chemicals-sludge-may-taint-nearly-70-million-farmland-acres>

¹⁸ See, e.g. Venkatesan, A. K., and Halden, R. U. (2013). National inventory of perfluoroalkyl substances in archived U.S. Biosolids from the 2001 EPA national sewage sludge survey. J. Hazard. Mater. 252–253, 413–418 See also, Jennifer G. Sepulvado, Andrea C. Blaine, Lakhwinder S. Hundal, Christopher P. Higgins; Occurrence and Fate of Perfluorochemicals in Soil Following the Land Application of Municipal Biosolids. Environ. Sci. Technol. 1 October 2011; 45 (19): 8106–8112. <https://doi.org/10.1021/es103903d>

¹⁹ Thompson JT, Robey NM, Tolaymat TM, Bowden JA, Solo-Gabriele HM, Townsend TG. Underestimation of Per- and Polyfluoroalkyl Substances in Biosolids: Precursor Transformation During Conventional Treatment. Environ Sci Technol. 2023 Mar 7; 57(9): 3825-3832

²⁰ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://www.epa.gov/system/files/documents/2025-01/fact-sheet-draft-sewage-sludge-risk-assessment-pfoa-pfos.pdf>

EPA's own *Federal Register* notice contains this tortured conclusion:

“Statewide surveys have found that PFOA and PFOS have been detected at varying levels in sewage sludge even at WWTPs [Wastewater Treatment Plants] that do not receive wastewater from industrial users of the chemicals (*i.e.*, they only receive wastewater from residential and commercial users). Traditional wastewater treatment technology does not remove nor destroy PFOA or PFOS, and these chemicals typically accumulate in the sewage sludge.”

PFAS are ubiquitous in biosolids because they are present in most human waste.²¹ Wastewater treatment plants are unable to remove PFAS from the waste stream; indeed, there is often more PFAS in the effluent of wastewater treatment plants than in the influent.²² Rather than being a source of comfort, EPA's analysis suggests that the agency does not have any handle on the situation.

D. The U.S. Food Supply Is Affected by PFAS from Biosolids

EPA also tries to downplay the impact of these practices on our food supply. The Draft Guidance Memorandum states:

“Currently data does not indicate that there are widespread impacts to the food supply from biosolids containing PFOA and PFOS at the national level, and the general public is not likely to be exposed to sewage sludge-impacted foods...”

It is unclear what data EPA are using to defend this remarkable statement. Indeed, recent research shows PFOA and PFOS common in US foods (see Figure 1, below).

²¹ <https://peer.org/video-pfas-waste-kyla-bennett/>

²² Timothy L. Coggan, Damien Moodie, Adam Kolobaric, Drew Szabo, Jeff Shimeta, Nicholas D. Crosbie, Elliot Lee, Milena Fernandes, Bradley O. Clarke, An investigation into per- and polyfluoroalkyl substances (PFAS) in nineteen Australian wastewater treatment plants (WWTPs), *Heliyon*, Volume 5, Issue 8, 2019, e02316, ISSN 2405-8440, <https://doi.org/10.1016/j.heliyon.2019.e02316>.

Figure 1²³

Table 1: PFAS concentrations in selected foods from U.S. markets

Food	PFAS (ng/kg)	Source	Food	PFAS (ng/kg)	Source
NATIONAL MARKET					
Bacon	240	[32]	Mackerel	129.5	[33, 34]
Bay Scallop	742	[34]	Margarine	95	[32, 31]
Bluefish	323	[34]	Milk	1.3	[35, 36]
Bottled Water	0.39	[1, 31]	Mussels	360	[33]
Butter	535	[32, 31]	Olive Oil	1800	[32]
Canned Chili	10	[32, 31]	Peanut Butter	50	[32, 31]
Canned Sardines	190	[32]	Potatoes	70	[32]
Canned Tuna	76	[31]	Powder Protein	140	[31]
Catfish	300	[32]	Salmon	230	[32]
Chicken Breast	20	[32]	Sausages	90	[32]
Clam	2685	[33, 34, 37, 4]	Shrimp	531.5	[33, 34, 37, 4]
Cod	58.05	[33, 34, 37, 4, 32]	Smelt	980	[33]
Crab	1731	[33, 34, 37, 4]	Striped Bass	1844	[37]
Fish Sticks/Patty	121.5	[32, 31]	Tilapia	22.3	[33, 34, 37, 4]
Flounder	1703	[33, 37]	Tuna	14.47	[33, 37, 4]
Haddock	445	[33, 34]	Walleye	12960	[34]
Ham	20	[32]	Whitefish	9400	[32]
Hamburger	150	[32]	Yellow Perch	6810	[34]
MID ATLANTIC MARKET					
Tilapia	87	[38]	Turkey Ground	85.7	[38]
NORTH CENTRAL MARKET					
Ground Beef	41	[15]	Tilapia (Baked)	233	[15]
NORTHEAST MARKET					
Shrimp (Cooked)	216	[39]	Tilapia (Baked)	28	[39]
SOUTHWEST MARKET					
Cod (Baked)	28	[40]			
WEST MARKET					
Tilapia	83	[41]			

In addition, independent testing has found that nearly 40% of non-organic fruits and vegetables sold in California contain PFAS.²⁷ Recent research also finds PFAS from biosolids in food such as corn stover (often used for livestock feed), which “may pose a risk to those who eat beef and milk.”²⁴

Moreover, the guidance document also concedes that:

“About 20% of all sewage sludge is sold directly to the public through soil products that are sold bagged or bulk in garden centers and hardware stores or otherwise distributed. These materials may be applied to homes and gardens, as well as parks, schools, and playgrounds.”

EPA has no information on how these bagged biosolids are applied, and how much food is grown from these fertilizers.

²³ Guo, Jiahui, Ruohao Zhang, Jiameng Zheng, Yongwang Ren, Xibo Wan, and Wendong Zhang. "Household-level Dietary PFAs Intake in the United States: Magnitude, Disparities, and Food Sources." Disparities, and Food Sources (April 15, 2026) (2026).

²⁴ Streets S, Souza EFC, McNearney M, Jedinak S, Doria Manzur A, Guelfo JL, Rosen C. Per- and polyfluoroalkyl substances in land-applied biosolids: Accumulation in soils, crop uptake, and potential dietary risk. J Environ Qual. 2026 Jul-Aug;55(4):e70220. doi: 10.1002/jeq2.70220.

EPA's own 2025 draft risk assessment purports to reflect the agency's latest scientific understanding of the risks to human health caused by PFAS in sewage sludge used as fertilizer. In this draft assessment, EPA found that a single application of sewage sludge containing as little as 1 part per billion (ppb) of two of the most pervasive PFAS may result in human health risks. EPA concluded that "draft risk estimates exceed the agency's acceptable human health risk thresholds for some pasture farm, food crop farm, and reclamation scenarios."²⁵

Yet, EPA acknowledges even this finding is an understatement, because the assumptions used to make the determination are exceedingly unrealistic. For example, the draft assessment assumes that –

- No one has lived on a PFAS-contaminated farm for more than ten years;
- Each farm would receive only a single application of biosolid fertilizer; and
- The farming family would consume only one PFAS-contaminated product (chicken eggs) and would not ingest any other contaminated items from the farm, such as meat, milk, plants, drinking water, or dust from soil.²⁶

4. EPA's Recommendations Defy Common Sense

EPA's draft guidance paradoxically shifts the burden of safety to farmers for a practice that EPA "has long endorsed." But EPA's suggestions for the public actually highlight the risks involved in land application of biosolids and the urgency of regulating PFOS and PFOA in biosolids immediately. EPA suggests:

- "Avoiding land application of sewage sludge near fishable waters, lakes or reservoirs that are used as a source of drinking water, or areas that may have higher risks for potential groundwater impacts."
 - Agricultural lands are, of course, very frequently "near" fishable waters, lakes, or reservoirs, not to mention the drinking wells of farming families or aquifers for towns and cities. In addition, the run-off from these lands, however remote, will often eventually reach a water source. A non-binding suggestion to generally try to avoid contaminating water is absurd. What is needed is a science-based regulation restricting the spreading of sludge where PFAS can enter the water.
- "Avoiding applying sewage sludge in areas where children under the age of 5 have access or may have access in the future. Landowners should also be aware that there are other potential sources of PFAS that could impact or be present on their land."

²⁵ <https://www.epa.gov/system/files/documents/2025-01/draft-sewage-sludge-risk-assessment-pfoa-pfos.pdf>

²⁶ See <https://peer.org/epa-attempts-to-sugarcoat-toxic-sewage-sludge/>

- This restriction alone suggests that no farmers or home gardeners should ever apply biosolids. How could any farmer or gardener ensure that no children under age 5 have access to their land in the present or “in the future”? This and the related recommendations strongly imply that there is indeed quite a substantial risk from biosolids, contrary to the thrust of EPA’s proposed guidance.
- “Conducting land application on farms with lower risk crops for human exposure, like farms growing grain, fiber crops, or corn for ethanol production.”
 - The NBDP states that biosolids are applied “mostly” on “corn for animal feed and energy, followed by hay/grass/forage. Other popular crops for biosolids fertilization are wheat and other grains.”²⁷ Grain, corn, hay, grass, and forage for animal feed still results in the bioaccumulation of PFAS in the animal tissues (or animal products like milk and eggs) that humans can eventually consume. As for fiber crops or corn for ethanol, farming families would presumably still be exposed PFOS and PFOA through the farming process and living on their farms. Regardless of whether the crop is destined for food, fabric, or fuel, farmers will be still inhaling dust, coming into dermal contact with soil, and drinking their well water – all things likely to be contaminated with PFAS from biosolids. And of course, wearing garments made from fiber crops or burning corn as ethanol may result in other exposure pathways: dermal absorption for the former and inhalation for the latter. EPA ignores all of this.
- “Avoiding land application for agricultural practices that have higher risks for human exposures.”
 - This recommendation is completely vague and does nothing to enable farmers and the public to protect themselves from PFOS and PFOA in biosolids that will end up in our air, water, and soil – and in ourselves.

Even more implausibly, EPA suggests that homeowners should “consider” the following practices:

- “Researching the supplier of the sewage sludge.
- Avoiding application of sewage sludge in locations where children may have access to the soil, like playgrounds, schools, parks, or around residential homes.
- Avoiding application to garden beds intended for growing higher risk foods most likely to uptake PFOA and PFOS, such as leafy greens and root vegetables, and where egg-laying hens have foraging access.”

²⁷ <https://www.biosolidsdata.org/national-summary>

Shifting the burden to unsuspecting homeowners to “do their own research” is the height of regulatory irresponsibility. It is not clear how the average person is able to “research the suppliers” of biosolid fertilizers to determine whether there is PFAS in it. Nor is there any requirement for suppliers of biosolids to provide any information on the PFAS they contain.

Consumers are buying bags of this fertilizer for their advertised purpose – fertilizing. A homeowner will quite naturally use this fertilizer on their lawns and athletic fields where children play. In their gardens, they can be expected to use it for vegetables and fruits.

EPA seems to be suggesting that these uses for commonly sold consumer products are dangerous but at the same time it is offering assurances that these products are safe. However, there is no warning about these practices on the fertilizer package. Nor is it realistic to expect consumers and farmers to follow the fine print in *Federal Register* notices.

In short, EPA’s hypocritical position is to caution consumers against engaging in a practice that it has “long endorsed” and is still endorsing.

5. EPA Does Not Address Alleged Flaws in 2025 Risk Assessment

EPA’s Draft Guidance Memorandum claimed that its proposed guidance is needed because its 2025 Risk Assessment suffered from “a number of serious flaws that have caused confusion among the public and the regulated community.” Yet, the draft guidance does not remedy those identified flaws nor is EPA proposing to take any action to dispel confusion among the public, farmers, and WWTPs.

EPA’s Draft Guidance Memorandum lists three flaws with the 2025 Risk Assessment:

1. EPA says its draft risk assessment failed “to conduct a national survey to document occurrence of PFOA and PFOS in sewage sludge.”

First of all, it is not as if data are lacking: EPA already conducted sewage sludge surveys in 1998, 2001, and 2006. It admits that state surveys were available from Maine, Michigan, Minnesota, Vermont, Connecticut, New Hampshire, and California, and additionally admits that since 2024, Hawaii, Delaware, Colorado, Washington, North Carolina, North Dakota, and Massachusetts have also published data on PFAS in sewage sludge. EPA makes no attempt to use this robust and readily available data. Second, even if EPA feels a national survey is important, EPA is not doing or even proposing to conduct such a survey. It is instead simply giving up on data altogether.

2. EPA’s “Risk Assessment only evaluated sewage sludge management practices with higher potential for human health risk in hypothetical scenarios that do not reflect the majority of land application in the U.S... However, the agency did not estimate how often these higher-risk scenarios occur in the U.S. Nor did the agency assess

risks to the public, as the public often has a diversity of sources for their food and does not live on or near an impacted property.”

As explained above, higher-risk scenarios occur **on farms**. EPA’s guidance abandons farmers and ignores the risks to them completely, branding real farming families as “hypothetical scenarios.”

In addition, since the land application of sludge-based fertilizers is unregulated by EPA, the precise mix of high-risk versus low-risk scenarios may vary over time, by region, by the type of agricultural operation, and by the frequency of application. However, whatever the risk, EPA’s draft guidance provides no real protections.

3. EPA faults the preliminary findings of the Draft Risk Assessment because they suggest “that sometimes risks of adverse health effects were possible when using or disposing of sewage sludge containing 1 part per billion (ppb) of PFOA or PFOS. This concentration was only used as a starting concentration to determine *if* use or disposal would result in *any* unacceptable risk for the hypothetical circumstances presented. The use of 1 ppb was not intended to be interpreted as a ‘safe level’ of PFOA or PFOS in sewage sludge in all circumstances.”

Although this calculus was used as “a starting concentration,” the current EPA does not furnish the full spectrum of likely concentrations or indicate whether there is any safe level at all. Although the guidance seems to suggest there is a safe level of PFOS and PFOA, it does not come out and explicitly say so – or identify what is the safe level of exposure. Instead, the draft guidance does not improve on the Draft Risk Assessment but throws it out in its entirety and offers no useful substitute. Moreover, it is important to note that EPA itself concluded in 2024 that there is no safe level of PFOS or PFOA ingestion, and set a Maximum Contaminant Level Goal (MCLG) of zero for both chemicals in drinking water.

Conclusion

The stated goal of EPA’s proposed guidance is encapsulated in this sentence:

“This draft guidance aims to provide clarity to stakeholders about the more common potential risks from PFOA and PFOS and identify some potential practices that can be taken to reduce PFOA and PFOS exposures.”

Contrary to this aspiration, the draft guidance provides no clarity on the risk of exposure and offers vague and unrealistic “potential practices” for avoiding exposure that leave farmers and the public to navigate the risks of PFOS and PFOA in sludge on their own.

Rather than abandoning farmers, home gardeners, and the public, EPA must **withdraw** its proposed voluntary guidance for PFOS and PFOA in biosolids and instead comply with its duty under the Clean Water Act to **issue regulations** for these well-studied substances in sewage sludge, including mandatory numerical limits and management practices sufficient

to protect public health, whether the sludge is disposed of by land application or some other method.

###