



May 15, 2019

The Honorable Paul Tonko
Chairman
Environment and Climate Change Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John Shimkus
Ranking Member
Environment and Climate Change Subcommittee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Tonko and Ranking Member Shimkus:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to submit comments for the record of today’s hearing on “Legislative Proposals to Protect Americans at Risk of PFAS Contamination & Exposure.” As an organization representing the nation’s largest publicly owned drinking water systems, we commend the subcommittee for organizing this hearing to explore policies that could address per- and polyfluoroalkyl substances, or PFAS, that have been increasingly detected in our environment and our water supplies in recent years.

AMWA believes that federal policies targeting PFAS should mirror the approach that is followed for other emerging contaminants. Namely, polluters should be held responsible, quality research should be conducted, and any new regulations should be transparent and science-based.

As you know, PFAS are a class of man-made chemicals that were developed over the second half of the 20th century for use in a variety of industrial applications, from nonstick cookware to firefighting foam. While the chemicals’ nonstick properties carried useful commercial value, the substances accumulate over time, do not degrade easily, and are highly soluble in water – allowing their presence to spread throughout the environment. Human exposure to PFAS may occur through a variety of ways, from the use of products containing PFAS to the consumption of food or water that has absorbed the substances. While the human health effects of PFAS exposure are still being studied, EPA’s Science Advisory Board has classified PFOA as likely to be carcinogenic, and numerous animal studies have shown associated impacts to the liver, immune system, thyroid, and reproductive systems after exposure to various PFAS. However, we have little to no information on toxicity, particularly in relation to human toxicity, for the vast majority of the thousands of PFAS, and significant research is needed to fill in these gaps.

AMWA watched with interest in February when the Environmental Protection Agency released its PFAS Action Plan, which seeks to outline EPA’s strategy for addressing these contaminants through existing statutory authorities. We were pleased to see components of the plan that committed to additional research, cleanup assistance, and a continuation of the regulatory process under the Safe Drinking Water Act (SDWA). While much work remains to be done, we view the Action Plan as a positive first step.

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As EPA works to implement its PFAS Action Plan, Congress must carry out oversight to ensure implementation of effective measures to reduce PFAS exposure and resulting human health implications. For example, EPA's PFAS Action Plan notes that the agency has initiated the regulatory development process for listing PFOA and PFOS – two of the most prominent PFAS – as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). AMWA strongly believes the entities that are responsible for releasing contaminants into the environment – and thus, into sources of drinking water – must also be held legally liable for costs incurred by communities and water systems in removing these contaminants to the point that any imminent and substantial human health threat is abated, and any applicable Maximum Contaminant Level Goal under SDWA is achieved. This is especially true for man-made contaminants like PFAS, which would not be present in the country's water supplies had a company not manufactured them and allowed them to enter the environment. CERCLA is a proven and effective mechanism for holding responsible those who have polluted drinking water supplies, so we favor action under that statute to ensure that the entities that introduced PFOA and PFOS into source waters ultimately pay the cost of cleanup – not the utility ratepayers of those affected communities.

Equally important to holding polluters accountable is the need to develop sound, reliable research that informs policymakers and the public about the precise human health risks associated with exposure to chemicals in the PFAS family, as well as what community water systems can do to remove them from water supplies. According to data presented at EPA's National Leadership Summit on PFAS in 2018, the PFAS family may encompass more than 3,000 man-made compounds, and the human health implications of exposure to many of them remain unknown. Moreover, most lab facilities lack the capability to even detect more than several dozen of these compounds, and conventional drinking water treatments like ozonation, biofiltration, and UV disinfection are ineffective at removing many PFAS from water supplies. Other treatments, like granular activated carbon or osmosis, may have greater success, but their cost is a significant obstacle for many communities. In sum, it is hard to formulate an appropriate public policy response without understanding the point at which a particular PFAS may pose a measurable human health risk, or whether a local community has the resources and ability to effectively respond.

EPA's PFAS Action Plan outlines a number of near-term and long-term actions the agency intends to take to address the gaps in our current understanding of PFAS' toxicity profile and treatment options. These include identifying the human health and ecological effects of exposure to various PFAS, the significant sources of human PFAS exposure, the costs and effectiveness of different methods for removing PFAS from drinking water and other parts of the environment, and steps EPA can take in support of stakeholders who need to independently use current research to protect the public from harmful exposure. AMWA supports each of these objectives, and because quality science requires a financial investment, the association urges Congress to provide EPA with the resources it needs to carry out the studies necessary to answer these questions. AMWA also supports legislation proposed in the Senate (S. 1251) that would broadly expand research into emerging drinking water contaminants by instituting an interagency working group and facilitating technical assistance to help states respond when a new unregulated contaminant is detected in their water supplies. Clearly, robust research must be a central component of any effective nationwide response to PFAS.

Finally, AMWA continues to support the detailed, science-based regulatory process that EPA is required to follow when developing a national primary drinking water regulation for any contaminant under SDWA, including for members of the PFAS family. The law requires EPA to regularly identify contaminants not currently subject to federal drinking water regulation and make a determination of whether they should be subject to new drinking water limits. PFOA and PFOS have been on EPA's Contaminant Candidate List for several years and were subject to monitoring by drinking water systems through the third Unregulated Contaminant Monitoring Rule. Important information about the prevalence of PFOA and PFOS in the nation's drinking water supplies was gathered during this time, and under SDWA the next step in the regulatory process is for EPA to make a "yes or no" determination of whether to propose a Maximum Contaminant Level (MCL) for PFOA and PFOS in drinking water. EPA's PFAS Action Plan committed the agency to taking this step before the end of the year.

To make a positive determination and move forward to develop an MCL, the EPA Administrator must conclude that the contaminant in question is prevalent in drinking water across the country at levels that may carry an adverse human health risk, and that an MCL would present a meaningful opportunity for the reduction of this risk. Moreover, an initial MCL proposed by EPA must be followed by a period of public review and comment, where stakeholders and other interested parties are afforded a chance to engage with the agency, review the underlying science, and make their own suggestions about the appropriateness of an MCL at a given level. Only after collecting and considering this feedback may the EPA promulgate a final MCL – one that the public can be confident is transparent and science-based.

AMWA recognizes that at times SDWA's regulatory process can appear to move slowly, and that it can be tempting to depart from the statute and simply direct EPA to issue a regulation for a particular contaminant. But it is also critically important to make sure, before a regulation is enacted, that the resulting investment that would be made by thousands of individual communities to comply with a new standard, would result in a measurable reduction of risk. In the case of the broad family of PFAS, it is not clear how a drinking water standard could presently meet this test, given the thousands of different compounds, limited information on effective detection and treatment strategies, and unknown human health impacts for many individual chemicals. A hasty formation of a PFAS MCL would run contrary to the consideration of sound and transparent science that is at the heart of the law's regulatory process.

AMWA believes that Congress should hold EPA accountable for meeting its self-imposed goal of issuing a regulatory determination for PFOA and PFOS by the end of the year, before embarking on a quest to legislate that decision for the agency. Departing from SDWA's defined regulatory process could ultimately lead to a regulation that is rushed, lacks transparency, and may not fulfill the objective of measurably improving human health outcomes. Such a regulation would be of questionable value, as it would likely lead to increased compliance costs for water systems across the country that are already struggling with water affordability challenges faced by many of their customers. Again, AMWA supports SDWA's transparent and science-based regulatory process, and believes that following that process will lead to the most trusted outcome for communities and the public.

AMWA appreciates the opportunity to provide these comments for the record of today's hearing. The emergence of PFAS in our environment has posed a vexing challenge for water utility managers, but we

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strongly believe that holding polluters accountable, developing robust research and data, and considering science-based regulations represents the best way forward.

We thank you for holding this hearing today, and we look forward to continuing to work with you as this issue unfolds in the months ahead.

Sincerely,



Diane VanDe Hei
Chief Executive Officer