

June 8, 2021

The Honorable Thomas R. Carper
Chair, Committee on Environment and Public Works
U.S. Senate
513 Hart Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member, Committee on Environment and Public Works
U.S. Senate
172 Russell Senate Office Building
Washington, DC 20510

Dear Senator Carper, Senator Capito, and the U.S. Senate Committee on Environment and Public Works:

As the Executive Director of the Environmental Protection Network (EPN), an organization comprised of almost 550 U.S. EPA alumni volunteering their time to protect the integrity of EPA and its mission, I would like to submit this letter for the record of your June 9, 2021, hearing “PFAS: the View from Affected Citizens and States.”

On April 26, 2021, EPN wrote to Administrator Reagan urging him to develop a new, more proactive PFAS Action Plan (Plan) that adopted EPN’s [recommended changes](#) to EPA’s 2019 Plan. EPN found that the 2019 Plan lacked a coherent framework for comprehensively addressing the health and environmental impacts of PFAS as a class and would doom future generations to continued exposure to these harmful chemicals. To guide development of a new plan, EPN proposed an alternative approach that would implement a systematic process for gathering data on PFAS chemicals as a class; prevent the introduction of new PFAS and new uses of existing PFAS; address existing PFAS products and raw materials as a class, with the aim of eliminating all PFAS non-essential uses; reduce environmental releases to the extent feasible; and assure the development of information and data to understand the health risks to communities with historical and ongoing exposures to these chemicals.

EPN is gratified that Administrator Reagan has created an EPA Council on PFAS to update the 2019 PFAS Action Plan and changed the new chemical review policy for PFAS chemicals to prevent unsafe new PFAS from entering the market. But there is more to be done.

As the U.S. Senate Committee on Environment and Public Works considers how to approach PFAS, it should urge EPA to move away from the 2019 Plan’s incremental individual chemical approach reliant on federal government research and limited regulation, and embrace a comprehensive class-based approach that

achieves significant reductions in exposure and environmental release and places greater responsibility on industry to fill critical data gaps. A class-based approach will greatly accelerate progress in reducing risks from the 9,252 PFAS chemicals identified on EPA's Master List of PFAS Substances. EPA can use the following three factors to justify moving to a class-based approach: 1) similar persistence, accumulation potential, and/or hazards of all PFAS; 2) existing authority to regulate classes of chemicals with common characteristics under multiple statutes; and 3) the need to harmonize with the regulation of these chemicals by our global trading partners. Details on each of these factors are provided below:

1. Similar persistence, accumulation potential, and/or hazards

When legacy toxic long-chain PFAS chemicals were detected in the environment and bodies of nearly all people living in the U.S., Europe, and other countries, most industries replaced them with short-chain PFAS chemicals or less well-known PFAS chemicals such as per- and polyfluoroalkylether-based substances. Industry claims that these replacement chemicals were less toxic, less persistent, and less bioaccumulative have proven to be false. Studies have shown that short-chain PFAS chemicals can be equally environmentally persistent and even more mobile in the environment. The short-chain chemicals are very water soluble and can travel long distances in water from their source. Their high water solubility also makes these short-chain chemicals very difficult to remove from water. The short-chain chemicals can be more effectively taken up by plants than the long-chain chemicals, which is very concerning because recent studies have shown that nine widely available fertilizers used for home gardening contain PFAS from the biosolids used to make these fertilizers.

Short-chain PFAS, such as GenX, PFBS, PFBA, and PFHxA, have increased their presence in the environment as they have become more significant commercially. While most epidemiology studies have focused on long-chain chemicals, experimental animal models have found that these short-chain PFAS chemicals show similar health effects. While the health effects of these short-chain chemicals may occur at higher doses than long-chain chemicals, humans are expected to be exposed to higher doses because they are exposed to multiple short- and long-chain PFAS over long periods of time. Accumulation of these short-chain chemicals in humans is known to occur. A recent study of breast milk from 50 women in the U.S. detected 16 PFAS chemicals, several of which were in current use. The authors reported that detection of PFAS chemicals in breast milk from around the world is increasing and that PFAS contamination of breast milk in the U.S. is likely universal. The International Federation of Gynecology and Obstetrics has issued an opinion calling for PFAS to be restricted around the globe because of impacts on pregnant women, fetal development, and newborns.

Recent studies have also found that the phase out of long-chain PFAS chemicals has not protected the American people because the manufacture and use of fluoropolymers releases both intentionally added long-chain PFAS processing aids as well as unintentional PFAS byproducts. It is estimated that 80% of the long-chain PFAS chemicals in the environment today comes from their release during fluoropolymer manufacture and use. EPA's interim guidance on the disposal of PFAS-containing products and wastes also documents that all known disposal methods risk contaminating the land, water, or air.

2. Authority to regulate classes of chemicals with common characteristics

Under the Toxic Substances Control Act (TSCA), EPA has identified health concerns for specific PFAS chemicals in Premanufacturing Notices (PMN) and Significant New Use Rules (SNUR) based on structure activity relationship analysis of test data on analogous substances, without testing the specific chemical addressed in the PMN and SNUR. However, EPA has not yet used its authority under TSCA section 26(c) to treat existing PFAS as a “category” and proceed with the prioritization, risk evaluation, and risk management process to stop or restrict non-essential uses of PFAS. TSCA gives EPA authority to treat chemicals as a category if the chemicals are “similar in molecular structure in physical, chemical or biological properties, or in mode of entrance into the human body or into the environment” or “in some other way are suitable for classification as such for purposes of this Act.” PFAS chemicals meet these criteria because of their similarities in persistence, mobility, and toxicity and the potential for all PFAS to cause similar adverse effects as well-characterized compounds such as PFOA and PFOS. TSCA also provides a definition of “critical or essential use,” which can be used effectively to differentiate between non-essential uses that should be banned and essential uses that should be allowed, subject to restrictions, to protect health and the environment.

EPA has used its authority to regulate classes of chemicals such as dioxins and PCBs under the Clean Water Act; Safe Drinking Water Act; Resource Conservation and Recovery Act; and the Comprehensive Environmental Response, Compensation, and Liability Act, and needs to use that authority to address PFAS chemicals as a class. Under the Clean Air Act, EPA maintains a list of hazardous air pollutants that must be regulated. That list includes several classes of chemicals, and PFAS chemicals need to be added to this list because recent studies have found that airborne emissions of PFAS contaminate downwind soil and groundwater. Deposition of air emissions from facilities in West Virginia, North Carolina, Vermont, New York, and New Jersey have contaminated soils miles downwind with PFAS chemicals, which then leached into drinking water wells.

While we believe that class-based PFAS regulation is authorized under existing laws, Congress can make targeted improvements in these laws that would clarify the scope of EPA’s authority and streamline decision-making.

3. Harmonize with the PFAS regulation of global trading partners

The European Union (EU) has decided that, based on their persistence and other harmful properties, PFAS chemicals should be banned from most consumer products and for uses that expose vulnerable groups, allowing only limited exceptions for “essential uses” as defined under the Montreal Protocol. In the 2020 Chemicals Strategy for Sustainability (CSS), the EU states that “PFAS require special attention, considering the large number of cases of contaminated soil and water, including drinking water, in the EU and globally, the number of people affected with a full spectrum of illnesses, and the related societal and economic costs.” Costs from exposure to PFAS in Europe are estimated to range from 52 to 84 billion euros per year. The CSS also states “The EU must ensure full enforcement of its rules on chemicals both internally and at its borders, promote them as a gold standard worldwide, in line with our international commitments.” In 2019,

Germany, the Netherlands, Sweden, and Denmark took steps to restrict all PFAS compounds under Europe's chemical regulations framework, with plans to phase out almost all uses by 2030. In 2020, Denmark banned all PFAS in food packaging.

On April 24, 2021, the Canadian government published a notice of intent to address the broad class of PFAS and committed to publishing a state of PFAS report within two years that would summarize relevant information on this class of chemicals. PFAS have never been manufactured in Canada, and since 2008, Canada has prohibited the use, sale, and import of PFOA, PFOS, their salts and precursors from most products. The Canadian government attributes the country's current environmental contamination from PFAS chemicals to imported and finished goods and is initiating a two-year process to decide how to address these chemicals as an entire class.

With other major trading partners moving ahead with class-based approaches to PFAS, the Biden administration should not lag behind, but should join other countries in developing a framework for eliminating non-essential PFAS uses.

EPN appreciates this opportunity to submit comments to the record for your hearing "PFAS: the View from Affected Citizens and States." We stand ready to brief the Committee members or their staff on our PFAS Action Plan recommendations.

Respectfully submitted,
Michelle Roos
Executive Director
Environmental Protection Network