



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

July 11, 2019

The Honorable Jim Inhofe, Chairman
The Honorable Jack Reed, Ranking Member
Committee on Armed Services
U.S. Senate
SR-228 Russell Senate Office Building
Washington, DC 20510-6050

The Honorable Adam Smith, Chairman
The Honorable Mac Thornberry, Ranking Member
Committee on Armed Services
U.S. House of Representatives
2216 Rayburn House Office Building
Washington, DC 20515-6035

Dear Chairmen and Ranking Members:

The Metropolitan Water District of Southern California (Metropolitan) is submitting this letter in response to over 30 bills introduced in Congress this year related to per- and polyfluoroalkyl substances (PFAS) in the environment. As a regional water wholesaler, Metropolitan delivers water to 26 member agencies (including 14 cities, 11 municipal water districts, and one county water authority) which in turn, directly or through their sub-agencies, provide water to approximately 19 million people in southern California. Metropolitan's mission is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way. The safety of our drinking water is our highest priority.

The issue of PFAS in drinking water supplies is of growing concern in southern California—including to many of Metropolitan's member agencies and other retail water and groundwater management agencies within our region. Over 350 groundwater wells in southern California are currently under scrutiny for PFAS contamination, but the full extent of the problem is still evolving.

On February 14, 2019, the United States Environmental Protection Agency (EPA) published its *Per- and Polyfluoroalkyl Substances (PFAS) Action Plan* (Action Plan). Metropolitan is supportive of EPA's Action Plan, and EPA is uniquely qualified to address the complex issues surrounding PFAS in the environment. It should be recognized that different states have established, or are in the process of implementing, guidelines and enforceable standards for PFOA, PFOS, and other PFAS, but that these guidelines and standards vary widely. The wide disparity in these guidelines and standards creates confusion for drinking water consumers and concerns regarding the safety of their water supply. These guidelines and standards are based, in part, on available health effects studies. EPA should take a leadership role and consolidate available health effects studies and provide guidance on interpretation of these studies so that PFAS guidelines and standards are more consistent from state to state.

With regard to pending federal legislation related to regulating PFAS in drinking water, Metropolitan offers the following comments.

Congress should follow the tenets of the Safe Drinking Water Act when mandating any regulatory determination for PFAS

Metropolitan believes that any regulatory determination for PFAS must be protective of public health and follow the process outlined in the Safe Drinking Water Act. Key components of the Safe Drinking Water

Act include utilizing a science-based, data-driven, peer-reviewed process in the development of drinking water regulations, and providing adequate funding and implementation schedules to help community water systems with compliance issues. The drinking water industry has long maintained that any regulatory standard must consider economic and technological feasibility, including analytical capabilities and treatment options, as well as provide opportunities for stakeholder involvement. Adherence to this process will maintain consistency in the standard setting process and reduce the risk and delay of costly, protracted litigation while ensuring the public's confidence in their drinking water quality.

Congress should not mandate setting a drinking water standard for PFAS as a group or class

Metropolitan understands that Congress has introduced a number of major provisions regarding PFAS in its national defense authorization acts (e.g., H.R. 2500 and S. 1790). We also are aware that several stand-alone PFAS bills are under consideration that mandate EPA set a maximum contaminant level (MCL) for PFAS (e.g., H.R. 2377 and S. 1473). PFAS is so broad a group that it is impossible to fully understand the regulatory implications of such a mandate. Instead, EPA should give careful consideration to individual PFAS, and focus on those that are the most persistent and pose the greatest human health risk. While research exists for legacy PFAS such as PFOA and PFOS, little is known about the potential health impacts of thousands of additional compounds in the class. Also, EPA already has authority under the Safe Drinking Water Act to regulate groups of contaminants when warranted.

Congress should provide funding for water systems to comply with PFAS standards

Metropolitan supports federal and state funding that provides assistance to community water systems affected by PFAS contamination—most notably for those systems serving disadvantaged communities (e.g., H.R. 2533 and S. 1251). California is currently advancing several legislative initiatives to ensure safe and affordable drinking water for all, including for disadvantaged communities. Any regulatory determination for PFAS would likely increase the financial burden on these communities. As such, Congress should ensure that adequate funding for EPA's Drinking Water State Revolving Fund is available for planning, testing, treatment, or obtaining alternative water sources to comply with any proposed PFAS standard. In addition, Congress should support funding for elements of EPA's Action Plan that improve the analytical methods used to measure PFAS in drinking water, as well as research to aid in the better understanding of the health risks associated with PFAS exposure.

Congress should apply a "polluter pays" principle to address PFAS contamination

California has considerable experience with "legacy" chemicals from agricultural and industrial pollution. Water systems frequently have to address these chemicals in their water supplies even though they are not the responsible party. Federal regulation of PFAS should not hold community drinking water and wastewater facilities liable for PFAS contamination of water supplies caused by PFAS products from third party sources. Designating PFAS as CERCLA ("Superfund") hazardous substances, as found in H.R. 535, would help communities that have a known responsible party with financial means to pay for clean-up. However, Congress should also be mindful of possible unintended consequences for the drinking water community such as potential liability for PFAS retained in solids resulting from water treatment and in media used in the treatment process. Metropolitan asks that if Congress does designate PFAS as hazardous substances under CERCLA, an exemption should be included for PFAS from third party sources which end up in the water storage, transportation, and/or treatment system and that disposal costs and options be considered in any standard-setting process.

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The Toxic Substances Control Act should be used to understand the risk posed by PFAS and control that risk before these compounds are introduced into commerce

Metropolitan is supportive of measures that help reduce and/or control the introduction of PFAS into the environment. For example, H.R. 2600 seeks to use the review process under the Toxic Substances Control Act to help phase out the use of PFAS in commerce. Source control is a key component of any exposure reduction program. While many companies are voluntarily phasing out certain PFAS compounds in the United States, PFAS compounds are still being manufactured outside of the country and continue to be imported to the United States.

We appreciate the attention that Congress is placing on this important issue that impacts drinking water systems across the country. Metropolitan supports meaningful efforts by Congress to address the issue of PFAS in drinking water supplies and joins other water agencies and associations, including the American Water Works Association, in efforts to ensure public health protection.

If you have any questions regarding our position, please contact me at (213) 217-6211, or our Washington, D.C. Legislative Representative Mr. Brad Hiltcher at (202) 393-4251.

Sincerely,



Jeffrey Kightlinger
General Manager

cc: California Senate and House Delegation (list attached)

The Honorable Diane Feinstein
The Honorable Kamala Harris

The Honorable Pete Aguilar
The Honorable Nanette Barragán
The Honorable Karen Bass
The Honorable Ami Bera
The Honorable Julia Brownley
The Honorable Ken Calvert
The Honorable Salud Carbajal
The Honorable Tony Cárdenas
The Honorable Judy Chu
The Honorable Gil Cisneros
The Honorable Paul Cook
The Honorable Lou Correa
The Honorable Jim Costa
The Honorable T.J. Cox
The Honorable Susan Davis
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