



Resolution 21-1
Approved December 1, 2021
Via Email Vote

Revised September 6, 2024
Newport, Rhode Island

As certified by
Ben Grumbles
Executive Director

ADVANCING COLLABORATION AND COORDINATION ON PER- AND POLYFLUOROALKYL SUBSTANCES

WHEREAS, per- and polyfluoroalkyl substances (PFAS) are a largely unregulated group of synthetic chemicals that, after decades of research, has emerged as a threat to human health and the environment that needs to be addressed through regulatory programs; and

WHEREAS, PFAS are used in a wide array of consumer and industrial products and when released into the environment or discarded, do not break down in the environment, and are very hard to remove or destroy with treatment; and

WHEREAS, PFAS contamination is both a public health and environmental emergency that threatens communities and their local economies and requires urgent federal and state action; and

WHEREAS, at a federal level, the U.S. Environmental Protection Agency (EPA) in 2021 published the *PFAS Strategic Roadmap*; in 2016 developed a combined, non-enforceable Lifetime Health Advisory of 70 parts per trillion (ppt) for PFOA and PFOS and in April 2024 published the final National Primary Drinking Water Regulation (i.e., Maximum Contaminant Level [MCL]) for five PFAS, including PFOA, PFOS, PFHxS, PFNA, HFPO-DA (commonly known as GenX chemicals) individually, and a hazard index for a mixture of two or more of PFHxS, PFNA, HFPO-DA, and PFBS; and

WHEREAS, PFAS releases impact a variety of environmental media overseen by more than one federal program, and there is a lack of consistent, clear application of regulatory authority to respond to their release; and

WHEREAS, given the broad range and complex, cross-media nature for PFAS; the limited number of final standards or enforceable requirements under most existing regulatory programs; and the absence of a process to prioritize which PFAS should be subject to further evaluation or regulatory action, states are using their own authorities to regulate a number of PFAS in different environmental media, as well as using their own funding to investigate the presence of and remediate PFAS in the environment; and

WHEREAS, PFAS continue to be used and there are still many unknowns and more research is necessary on PFAS toxicities, analytical methods, fate and transport, and treatment, among other aspects; and

WHEREAS, while there are limited enforceable federal standards for PFAS and only related to drinking water, there are a handful of federal and state legislative enactments, Executive Orders, and policies on

PFAS, developed both by Congress, as well as by the federal executive branch and under state legislative and executive authorities, that attempt to address PFAS concerns; and

WHEREAS, the White House on October 18, 2021, directed federal agencies to coordinate PFAS response activities and develop new policy strategies to support research, remediation, and removal of PFAS in communities; and

WHEREAS, the Environmental Council of the States (ECOS) is working to bridge gaps in PFAS policies, having in 2018 established a PFAS Caucus to share best practices on PFAS and a PFAS Coordinating Committee of state and federal agency leaders to share updates on PFAS activities; in 2020 published a white paper on state processes and considerations for setting state PFAS standards that has been annually updated; and will continue to promote efforts undertaken by states, federal agencies, and the Interstate Technology and Regulatory Council (ITRC) with regard to PFAS.

NOW, THEREFORE, BE IT RESOLVED THAT ECOS:

On an accelerated basis, requests that federal agencies:

- Develop science to better understand human health and ecological impacts of PFAS for regulatory and remedial purposes,
- With the inclusion of interested parties, promulgate science-based, enforceable federal standards and expand regulatory authority to respond directly to the release of legacy and current generation PFAS under a broad range of federal laws via diverse actions (e.g., standards development, toxicological research, expanded regulatory authority),
- Research and communicate with interested parties on various technical and cost-effective approaches to destroying and disposing of PFAS and PFAS-containing wastes,
- Provide flexible financial support including for staffing costs to states and local governments facing PFAS contamination, or the threat of it, including activities associated with hazard communications, site assessments, remediation, and water quality,
- Include states in conversations on all federal initiatives on PFAS, including developing enforceable drinking water standards for PFAS,
- Continue to develop fluorine-free firefighting foam including testing and certification and support rigorous evaluation of fluorine-free firefighting foam for hazards,
- Develop guidance for the safe disposal and destruction of PFAS-based aqueous film-forming foams (AFFF), including guidance on cleaning fire equipment and trucks, and provide funding for states and municipalities for disposal of AFFF, and
- Enhance communications and elevate studies to broaden the understanding of the impacts of PFAS from biosolids applications in farming and other impacted communities through increased communications and initiatives to focus on food and consumption safety.

Requests that the EPA urgently:

- Provide states funding and flexibility to use it to address PFAS, including continued funding through the Bipartisan Infrastructure Law and similar initiatives,
- Continue to implement provisions of the EPA PFAS Strategic Roadmap,
- Approve sampling and analytical testing methods for PFAS in multiple media,
- Develop national standards or health advisories for PFAS in various environmental media, including surface water, wastewater, biosolids, and wastes, and additional PFAS in drinking water, and work with the U.S. Department of Agriculture and U.S. Food and Drug Administration to establish guidelines or standards for PFAS in food supply, animal feeds, and water used to irrigate crops or commercial livestock,

- Continue to develop regulations for PFAS per the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA),
- List PFAS as hazardous air pollutants under Clean Air Act Section 112(b)(1) and develop, as applicable, Maximum Available Control Technology standards,
- Using TSCA risk evaluation and risk management authorities, regulate all essential and non-essential uses of PFAS, as authorized by EPA, and release to states by January 1 of each year all available information on toxicity and health impacts from PFAS manufacturers, and continue to add PFAS to the list of 329 PFAS identified in the January 2024 final rule preventing manufacturing or processing of those PFAS that have not been made or used for many years without a complete EPA review and risk determination,
- Add additional PFAS to the list of chemicals covered by the Toxics Release Inventory,
- Develop toxicity characterizations for legacy and in-use PFAS and develop data and methodology to address those that currently cannot be characterized;
- Expand the initial nationwide monitoring data collected under the fifth Unregulated Contaminant Monitoring Rule (UCMR 5) on 29 PFAS in public water systems,
- Continue to research and identify effective PFAS treatment technologies for the complete destruction and disposal of PFAS and build upon the updated interim guidance published in April 2024,
- Develop chemical alternatives assessments for functional uses of PFAS in products and processes through the EPA Safer Choice Program, or other credible third-party research organizations, to ensure the availability of viable, safer chemical or non-chemical alternatives, and
- Request the agency's Council on PFAS coordinate more closely with existing EPA, state, and association workgroups; and to create a subgroup of the Council dedicated as a state-U.S. Department of Defense (DoD)-EPA working group to identify PFAS challenges and to propose recommendations on enhancing PFAS cleanups across the nation at DoD federal facilities and state national guard bases.

Requests that the President of the United States urgently issue a new Executive Order on PFAS, directing the DoD to:

- Fully implement the 2020 National Defense Authorization Act (NDAA), especially pertaining to section 332 on state cooperative agreements, section 343 on providing water not contaminated with PFAS for agricultural purposes, and section 7333 on nationwide sampling for PFAS, including through developing and implementing guidance that provides the broadest coverage and protection allowable under the NDAA provisions,
- Create and timely update a webpage for states and the public that lists DoD action items from the 2020 NDAA and DoD's progress on meeting those directives, sampling data for all media and potable and monitoring wells, a listing of sites and DoD's progress on cleaning them up, and a posting of state requests for assistance under section 332 of the 2020 NDAA and DoD's response to each state,
- Provide funding to states that are overseeing assessments, investigations, emergency responses, and cleanups at DoD sites, including those of the U.S. Air Force, Navy, Army, and at federal and state national guard through the Defense and State Memorandum of Agreement or other appropriate funding vehicle,
- Communicate proactively and regularly with states by sharing data, including electronically-accessible open-source data associated with site investigation and cleanup, and progress reports and providing meaningful involvement of the states and tribes,
- Comply with applicable, relevant, and appropriate requirements, including states' promulgated standards, relating to drinking water, surface water, groundwater, solid and hazardous waste, soil, sediment, and air,

- Comply with CERCLA and RCRA requirements, even if the contamination has migrated off DoD sites,
- Prioritize sites for funding based on the risk of PFAS exposure to public health and the environment, including exposure from drinking PFAS-contaminated water or source waters, agriculture and livestock, fish and other wildlife,
- Share with states the prioritization methodology, list of prioritized sites and any changes to the prioritization methodology or list of prioritized sites on a no less than quarterly basis,
- Provide a comprehensive report and regular updates summarizing the hazard characteristics, technical performance, and costs associated with alternatives to AFFF used for fire suppression,
- Provide sufficient funding to prioritize and clean up those sites, and
- Provide sufficient funding to advance fate and transport investigations into potential exposure pathways.