ECOS

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May 21, 2018

David Ross
Assistant Administrator, Office of Water
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: PFAS National Leadership Summit

Dear Mr. Ross:

The members of the Environmental Council of the States (ECOS) appreciate the U.S. Environmental Protection Agency's decision to convene a National Leadership Summit to address issues related to Per- and Polyfluoroalkyl Substances (PFAS) in the environment. Thirty-six states are sending representatives to this summit, which reflects the fact that states have been on the front lines of addressing PFAS concerns in communities like Parkersburg, West Virginia; Hoosick Falls, New York; Bennington, Vermont; the eastern Twin Cities area of Minnesota, Rockford and Belmont, Michigan; and the Cape Fear River area in North Carolina.

At least 20 states have detected PFAS in drinking and/or groundwater. While we have responded in varying ways according to our priorities and capacities, we all agree that the federal government must take a leadership role in protecting public health, informing citizens, and supporting state action. We look forward to discussing the proper scope of federal efforts and the way in which ECOS members can inform and partner in them. We also anticipate raising the following questions at the summit:

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A. Should EPA take regulatory action to address PFOA and PFOS contamination?

1. Should EPA promulgate drinking water regulations for PFOA/PFOS?

In 2016, the EPA established a lifetime health advisory (LHA) of 70 parts per trillion for PFOA and PFOS in drinking water. While the LHA did not mandate drinking water testing or other action, it was rolled out without enough state consultation and it raised public concern. In the absence of further EPA guidance, states took different approaches to address those concerns. This resulted in confusion and complicated efforts to communicate health risks.

Several states have asked EPA to address these and other problems by speedily promulgating a Maximum Contaminant Limit (MCL) for PFOA and PFOS. However, other states are concerned that PFOA/PFOS regulations could divert resources from other drinking water issues and impose unwarranted costs on water systems. While the states' views vary, ECOS emphasizes that EPA must still consult closely with states before developing or rolling out further PFAS regulations or advisories. In addition, as EPA conducts its research and analysis, it should work with affected states to identify interim measures that can help guide those states' efforts to address drinking water challenges.

2. How can EPA help trigger and guide contaminated site cleanups?

States are struggling to protect drinking water sources from sites contaminated by PFOA, PFOS, and other PFAS. At present, federal and state governments lack clear authority to order investigations and cleanups of such sites, and federal entities like the Department of Defense lack clear authority to incur remedial costs. ECOS members urge EPA to work with the states to find ways to close these gaps and enable remedial activities. More specifically, we urge EPA to determine which, if any, PFAS are regulated under RCRA and/or CERCLA as hazardous waste or hazardous substances respectively, and, where appropriate, to provide information and standards to guide cleanup of PFAS-contaminated waste sites and soils.

3. Can EPA certify additional analytic methods for PFAS?

States currently find it difficult to meet regulatory standards for analyzing PFOA, PFOS and other PFAS; testing facilities are scarce and assays are expensive. EPA could help address this challenge by developing additional analytical methods for perflourinated compounds under section 304(h) of the Clean Water Act, and for media other than drinking water, such as soil, surface water, groundwater and produce.

B. What can EPA do to address environmental contamination by other PFAS and other routes of PFAS exposure?

Thousands of PFAS besides PFOA and PFOS are either currently used in commercial products or have been used in the past. For many of these products, the

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primary exposure route is likely to be through manufacture or use of the products, not secondary environmental contamination. EPA's PFAS strategy, and that of the federal government as a whole, must reflect these realities.

1. What can EPA do to gather existing information about other PFAS?

Currently, state regulators lack basic information about the manufacture, uses, and purchasers of many PFAS—let alone their chemical characteristics and potential hazards. EPA should consider using its authority under Section 8 of the Toxic Substances Control Act (TSCA) to gather such information from PFAS manufacturers. Most importantly, manufacturers should provide information about locations of PFAS manufacturing facilities and the primary uses and purchasers of their products. This would help states identify areas where, and ways in which, citizens may have been exposed to unusual levels of PFAS.

EPA should use its TSCA authority to request other information from PFAS manufacturers as well, such as:

- The chemical and physical characteristics of their PFAS products.
- Results of toxicity and epidemiology studies for those products.
- Methods for identifying those products in water, air, and soil, and for removing them where they do occur.

EPA should then provide this information to states that need it in order to help them prioritize investigations and interventions.

2. What can EPA do to learn more about the toxicity of PFAS besides PFOA and PFOS?

The states deeply appreciate the work of EPA's Office of Research and Development (ORD), and its regional labs in particular, in trying to understand the impact of PFAS contamination on human health and the environment. This work, whether conducted at state or federal request, will be critical to determining safe exposure levels to PFAS. In prioritizing further study, ORD should consider both the chemical profiles of each substance or substance family and how extensively it is used. EPA should also make it a priority to develop approaches to dealing with contamination from multiple co-occurring PFAS in groundwater and drinking water. EPA's goal should be to generate reference doses, toxicity values, and other information that can be used to guide state action.

C. How does EPA plan to work more closely with the states and other federal entities?

Again, ECOS members urge EPA to involve the states throughout its PFAS policymaking processes. EPA must work with other federal agencies as well because people are exposed to PFAS in many ways besides environmental contamination. ECOS members view the leadership summit as a valuable first step in this

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coordination, but federal and state entities will need to work together more closely and more routinely in the future.

One way in which EPA might facilitate inter-agency and inter-government collaboration would be to create a federal-state PFAS working group. The group should include federal entities such as the Food and Drug Administration, the Agency for Toxic Substances and Disease Registry, the National Institute of Environmental Health Sciences – National Toxicology Program, the U.S. Geological Survey, and the Department of Defense. It should also include representatives from state government agencies that are responding to PFAS challenges. ECOS members propose that EPA work with states to assemble such a group as soon as possible and arrange a meeting of the group to coincide with ECOS' fall meeting (August 28-30).

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