

July 16, 2021

VIA E-MAIL

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232, The Capitol Building
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, The Capitol Building
Washington, D.C. 20515

The Honorable Frank Pallone
Chairman
Energy & Commerce Committee
2107 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rogers
Ranking Member
Energy & Commerce Committee
1035 Longworth House Office Building
Washington, D.C. 20515

Subject: Great Lakes States' Support for 2021 PFAS Action Act

Dear Members of Congress:

On behalf of the states of Michigan, Minnesota, New York, Pennsylvania and Wisconsin, we would like to thank you and your co-sponsors for the introduction of the 2021 PFAS Action Act, to protect all Americans and our environment from the harmful effects of per- and polyfluoroalkyl substances (PFAS). If history is to be a judge of our future success in addressing PFAS, we need to enact strong, comprehensive federal legislation, coupled with sufficient authority and resources for the states to successfully address the challenges posed by PFAS contamination in our states and across state boundaries. We would like to point out these substances are similar to other, environmentally toxic compounds such as polychlorinated biphenyls, which Congress has successfully banned and required the U.S. Environmental Protection Agency to assess and remediate contaminated sites nationally.

In June of 2019, the Conference of Great Lakes State Governors and Premiers formally recognized the real and present concerns PFAS pose not only to our states but to our Great Lakes. At that meeting, the Governors and Premiers adopted a [resolution](#) establishing a framework for a coordinated strategy to address PFAS throughout the Great Lakes basin and within our respective jurisdictions. This resolution was adopted to promote international and multi-state collaboration to advance our collective efforts to prevent, manage, and remediate PFAS contamination in the environment.

As a result, Great Lakes states have engaged in an effort to share information, research, and strategies on how we can leverage limited resources and expand our knowledge of how PFAS is entering the air, land, and waters of our states in order to protect public health and our environmental resources. To date, the Great Lakes states have taken a wide but similar set of proactive steps to address PFAS concerns within our borders, as summarized at the end of this letter.

Key Provisions of the 2021 PFAS Action Act:

As states, we support the PFAS Action Act, and seek to elevate and highlight key areas in which federal action is needed, while recognizing that all provisions in the PFAS Action Act are critical for our states. A strong federal law is needed to ensure a consistent national framework for addressing PFAS and because not all states have the capacity or legal

frameworks in place to undertake state-driven actions in these areas. It is also important to note that the states at the forefront of addressing PFAS have moved beyond considering only PFOS and PFOA as chemicals of concern and are developing enforceable environmental standards for other PFAS. As states, we support action on all PFAS for which there is science-based, health information and believe acting only on PFOA and PFOS would not address today's and tomorrow's needs of our citizens.

As Governors of the Great Lakes region, we thank you for providing federal support to our states' efforts to address this growing national health concern. We support the 2021 federal PFAS Action Act, and would like to highlight the following items that are paramount, amongst many key factors, to making substantial progress on addressing these forever chemicals:

Priorities

1. Designation as a Hazardous Substance under CERCLA.

The Governor's urge Congress and the U.S. Environmental Protection Agency to proceed without delay to list PFOA and its salts and PFOS and its salts – at a minimum – as hazardous substances under CERCLA. Designating PFAS substances as hazardous under CERCLA will allow three vital federal and state tools to be activated: (1) provide EPA and the states the option of using Superfund authority to respond to or compel PFAS cleanup actions; (2) allow EPA's Superfund emergency response program to assist in responding to acute public health situations, such as providing emergency drinking water to residents; and (3) allow the EPA's brownfields grant and loan funds to be used to promote cleanup and redevelopment of PFAS-contaminated sites.

We request that a consideration be made to have EPA designate other PFAS compounds as hazardous, at a minimum, every two years based on available science. Five years is too long to wait for these additional PFAS designations, given the immediate public health concerns posed by PFAS and work the states have already done to establish state standards.

2. Development of National Standards for Water and Air, and PFAS Management Guidelines

The Governors urge Congress and the U.S. Environmental Protection Agency to proceed without delay to establish – at minimum - national enforceable drinking water standards (Maximum Contaminant Levels or MCLs) for PFOA and PFOS using the best available science, as many of the states are doing or have done. As you are aware, many states have moved ahead with establishing drinking water and/or groundwater standards or advisories for both PFOA and PFOS, in addition to PFNA, PFBA, PFBS, PFHxS, PFHxA, PFDA, PFHpA, and others. The Interstate Technology Regulatory Council maintains [an up-to-date list of state PFAS standards and advisories](#).

As Governors, we support the establishment of PFOA and PFOS – at a minimum – as hazardous air pollutants. In addition, we support the establishment of surface water quality and pre-treatment standards for PFOA and PFOS on the same timeframe as the national drinking water standards mandated in the PFAS Action Act. It is becoming apparent in some states that in addition to public health concerns with drinking PFAS-contaminated water, of similar concern is the consumption of fish and possibly other wildlife contaminated by PFAS. We have many disadvantaged communities that rely on fish as a key part of their diet – and states are imposing more and more fish consumption advisories for PFAS. With the President's and EPA's emphasis on environmental justice and health equity, having strong water quality and pre-treatment standards is imperative to protecting public health, especially those communities disproportionately exposed. As Governors, we support efforts that clarify the safe treatment and disposal standards for the management of PFAS foam and contaminated environmental media.

While many states are moving ahead to establish their own PFAS standards for air, water, soil, and other media, we also recognize the importance of having consistent, national standards to protect the public, our wildlife, fisheries, land, waters and air. We welcome an expedited national process to establish PFAS standards for which there is valid, scientific information available to enact these important public health protections from these

forever chemicals. The immediacy of the public health concerns proposed today by PFAS merits a robust timeframe and to look beyond just standards for PFOA and PFOS.

3. Funding for Communities Affected by PFAS

As Governors, we support your efforts to financially assist communities whose drinking water and publicly owned treatment works have been impacted by PFAS. Our states are also finding that communities near airports regulated by the Federal Aviation Administration are discovering widespread PFAS contamination that is likely from their airports, fire training centers, fire departments, and emergency management agencies use of PFAS-containing AFFF. The contamination has impacted the surrounding land and water. Funding for emergency water, investigation, remediation, and proper disposal of PFAS foam are also key funding needs for communities who used these products.

4. Product Stewardship

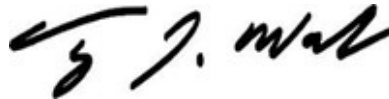
The Governors are supportive of the PFAS Action Act's provisions relating to product stewardship. Specifically, the revisions to the Safer Choice Standard to identify the requirements for products to be labeled with the Safer Choice label that do not contain PFAS. We, as Governors, support the efforts to control, by virtue of the Toxics Substances Control Act, the approval of new PFAS compounds in products, and enhanced testing of substances PFAS substances for health effects.

Thank you for your time and attention. If we can be of any assistance, please direct any questions or requests for follow up to our offices or to the state agency designation as listed in the enclosure at the end of this letter. Again, thank you for your support in addressing this significant public health and environmental issue posed by PFAS.

Sincerely,



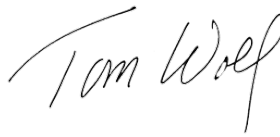
Governor Gretchen Whitmer
State of Michigan



Governor Tim Walz
State of Minnesota



Governor Andrew Cuomo
State of New York



Governor Tom Wolf
State of Pennsylvania



Governor Tony Evers
State of Wisconsin

cc: ECOS, ASTSWMO, USEPA

Highlights of Great Lakes States PFAS Initiatives

Michigan

In 2017 the Michigan PFAS Action Response Team (MPART) was created by executive directive as a coordinated approach among 7 state departments to proactively identify locations where PFAS may be present as a contaminant and protect drinking water and public health. From 2018 -2019, MPART implemented a statewide program to test all 2700 of Michigan's public water supplies to ensure that the drinking water for over 75% of the residents were at acceptable levels. Further, the Michigan Department of Environment, Great Lakes, and Energy (EGLE) developed Maximum Contaminant Levels (MCLs) for seven PFAS compounds in Michigan, which took effect in August 2020. These MCLs amend existing rules for public drinking water supplies under Michigan's Safe Drinking Water Act.

With the development of the MCL's for seven PFAS chemicals in municipal drinking water, Michigan also updated the groundwater clean-up which are used for groundwater investigations and risk mitigation efforts to protect public health. To date MPART staff have identified 170 sites where groundwater concentrations exceed the groundwater cleanup criteria for PFAS. Additionally, MPART is conducting an extensive survey of all wastewater treatment plants with an Industrial Pretreatment Program, direct discharges and groundwater sources venting to surface water using Michigan's established water quality standards. MPART is also testing lakes & streams, soils, and sediments to understand the occurrence of PFAS. In 2020, MPART collected and disposed of over 51,000 gallons of PFAS Aqueous Film Forming Foam from fire departments across the state.

For additional information see the MPART webpage at <https://www.michigan.gov/pfasresponse> . Contact: Abigail Hendershott, MPART Executive Director, hendershotta@michigan.gov or 616-888-0528.

Minnesota

For over 20 years, Minnesota has been responding to PFAS pollution stemming from 3M PFAS disposal sites. This contamination has compromised the drinking water source of 174,000 Minnesotans and impacted 150 square miles. Over time we have broadened the scope of PFAS investigations and responses to areas beyond 3M's waste disposal sites. The state has developed five Health Reference Levels for PFAS in drinking water or groundwater, five soil reference values, a PFOS fish consumption advisory program, and a site-specific Water Quality Criteria for PFOS in fish tissue and surface water.

In February 2021 we published the [PFAS Blueprint](#) to strategically guide future research, guidance and regulation. The state is currently embarking on a multi-media and multi-sector monitoring effort to identify PFAS sources and mitigate PFAS releases into the environment. Additionally, the state is compiling locations of likely PFAS industries, locations of important environmental receptors (such as drinking water intakes), and decades of PFAS environmental monitoring data to prioritize investigations into potential PFAS clean-up sites. Contact: Sophie Greene, PFAS Coordinator, Minnesota Pollution Control Agency at Sophie.Greene@state.mn.us or 651-757-2646.

New York

In August 2020, New York adopted new drinking water standards for public water systems that set maximum contaminant levels (MCLs) of 10 ppt each for PFOA and PFOS. As of 2021, New York has invested more than \$3 billion through the Clean Water Infrastructure Act to advance the state's response efforts to emerging contaminants, including PFAS, in drinking water. In June 2021, Governor Cuomo signed a law banning PFAS chemicals in food packaging. New York also enacted legislation prohibiting the use of firefighting foam containing PFOA and PFOS during firefighter training exercises and launched a comprehensive foam collection program to remove these products from use in the state.

In 2016, NYS became the first state in the nation to regulate PFOA and PFOS as hazardous substances, unlocking the full authority and resources of the NYS Superfund. Since 2026, the NYS Department of Environmental Conservation (DEC) has surveyed more than 2,500 facilities that may have handled PFAS (e.g. airports, fire training centers, industrial sites) for potential contamination and prioritized response actions near facilities in proximity to water supplies. The DEC is

evaluating groundwater at 1,400 active remediation sites for PFAS and has initiated evaluation of almost 2,000 inactive landfills across the state. For the past few years, DEC has included PFAS analysis of fish tissue as part of its ongoing biological monitoring program which is used by the NYS Department of Health (DOH) to issue annual health advisories for consuming sportfish.

Contact: Michelle Marchello, Washington Office of the Governor, New York State; michelle.marchello@exec.ny.gov or 518-496-9454.

Pennsylvania

Pennsylvania has been taking aggressive steps to help reduce the potential risks to the public from per-and polyfluoroalkyl substances (PFAS). In September 2018, Governor Tom Wolf signed an [executive order](#) establishing a PFAS Action Team, which meets regularly to develop proactive steps to address PFAS and other contaminants. Led by the Action Team, Pennsylvania recently released results from a statewide sampling plan of public water systems identified based on risk due to location within a half mile of a potential source of PFAS contamination, such as military bases, fire training sites, landfills, and manufacturing facilities. Informed by the results of the sampling, Pennsylvania has begun the process of setting a Maximum Contaminant Level (MCL) for PFAS. This will mark the first time that Pennsylvania's Department of Environmental Protection (DEP) has set an MCL rather than adopting standards set by the federal government. DEP is also developing a cleanup standard for PFAS soil contamination. In addition to these statewide actions, DEP has worked closely with local leaders in southeastern Pennsylvania in communities adjacent to two former military installations to ensure appropriate treatment of drinking water supplies where elevated PFAS levels have been detected.

Wisconsin

In Wisconsin, the state is developing surface water, drinking water and groundwater [standards](#) for PFOA and PFOA; as well as commencing drinking water and groundwater standards for an additional 16 PFAS substances. The state is developing rules regulating PFAS [firefighting foam testing](#), as well as disposal and treatment of foam – the state has banned training with PFAS foam. We have developed a comprehensive [PFAS Action Plan](#), outlining actions the state could be taking to address minimize the use of PFAS products and resources needed to address PFAS discharged to the environment. There over 50 known contaminated “sites” where PFAS contamination has been discovered in soil, groundwater and drinking water – at one site, the DNR has provided bottled water to over 1,000 homes. In the past 18 months, the agency has issued 6 fish consumption advisories for PFAS, including the first state-issued advisory for a fish species in one of precious Great Lakes. Contact: Mimi Johnson, Director, Office of Emerging Contamination, Wisconsin Department of Natural Resources, at melanieljohnson@wisconsin.gov or (608) 590-7287.