

Walden Remarks at Hearing on PFAS Legislation

05.15.19

*Mr. Chairman, thanks for recognizing me.*

*I know the experience of your constituency in Hoosick Falls, NY has driven your intense interest in preventing and addressing PFAS contamination. Not only have I heard from Republican members, like Mr. Upton and Mr. Hudson, about the anxiety that discoveries of PFAS contamination have caused their constituents in Parchment, Michigan and within the Cape Fear River watershed of North Carolina; but I know that the Air National Guard at Kingsley Air Force Base in Klamath Falls have used foam with PFAS to fight fires in the congressional district I represent as well as two other sites in Oregon. In fact, a few of these chemicals are quite prevalent while some occur in just a few states.*

*Complicating the issue is limitation of what we know about the very broad class of chemicals – and what we can do about it under existing law. We need to address the concerns about uncertainty that PFAS presents.*

*The test for me in addressing PFAS contamination is not the number of bills we pass or the creative ways we try to shoe horn solutions into existing statutes. Rather, it is whether the response we provide can be a reasonable, reliable, and responsible remedial effort that gets help to people sooner rather than later – and without detours to the courthouse.*

*For this reason, I am not convinced that the existing body of environmental law is the best way to approach the PFAS contamination conundrum and we should not be limited by that universe.*

*I think it makes sense to think about addressing this problem within these overarching principles:*

*First, we need to contain the existing damage and fix the demonstrated problem before us.*

*Second, in the process of doing that, do no harm either to existing sites and communities, nor exacerbate the existing problem with overreach.*

*Last, learn more about the toxicity of the larger class of chemicals commit resources and take future steps based on what we know, not just what we suspect.*

*Let me give some examples.*

*While there is merit to the use of Superfund authority to make federal funds available as well as compel reluctant parties, such as the Defense Department, to cleanup these sites; the idea of instantly making municipal governments and airports liable for every PFAS chemical, through no fault of their own, is concerning.*

*I know some people want EPA to publish a maximum contaminant level (MCL) for all PFAS in drinking water. However, an MCL is not essential for a Superfund cleanup, EPA has already adjusted downward its lifetime health advisory, and EPA is working on making a legally defensible decision on regulation of PFOA and PFOS. I am concerned that short-circuiting the evidence-based, science-driven, risk-informed process, will force EPA to short cut necessary elements to issuing a strong and legally sustainable regulation.*

*I know Right to Know reporting of PFAS holdings is a priority for many and there are places where it makes sense, but the bill that was recently introduced would massively expand the number of chemicals that would need to be reported under the Toxic Release Inventory by as much as 5,000. It would also reduce by 90 percent the threshold at which a person would be required to report and apply these requirements to businesses with less than 10 people.*

*Finally, if we are to assume the Majority would like all these proposals enacted, the cumulative and aggregate effect of all these statutory requirements and regulations will have a stifling impact on EPA activities. States would face significant unfunded mandates, while foisting obligations on private parties who are currently unaware of potential liability – like farmers using biosolids from wastewater treatment facility to improve soil health. All of this is likely to result in litigation to prevent or prolong the situation, rather than move to promptly address contamination.*

*I want to be part of the solution – preferably the one reported by this Committee. I hope my Democrat colleagues are serious about a sincere effort to work with us to address our concerns about breadth and adverse consequences – if so, we can get there. As currently constituted, the language in the bills before us presents an enormous, sweeping response to the PFAS chemical class. It's important that we take a closer look to make sure the actions we take are justified by science.*

*Mr. Chairman, I join you in welcoming the witnesses and I look forward to learning more in an effort to make our work more precise and effective, and EPA's response nimble, informed, and positive.*

*I yield back.*