

Opening Statement  
Chairman Paul D. Tonko  
Subcommittee on Environment and Climate Change  
Committee on Energy and Commerce  
Hearing on "There's Something in the Water: Reforming Our Nation's Drinking Water  
Standards"  
July 28, 2020

The Safe Drinking Water Act is one of our nation's most important environmental laws, and I am pleased that in recent years we've been able to enact meaningful, bipartisan reforms to strengthen provisions on infrastructure and other forms of assistance. However, SDWA's remaining deficiencies are as apparent as ever, and Congress has not done a serious examination of how the law can better meet the needs of states, utilities, and most importantly, the public.

Today's hearing is an opportunity to begin to review SDWA's standard setting process. SDWA requires EPA to set standards for contaminants in the nation's public water supply, but many would acknowledge the process, established by the 1996 amendments, has not worked.

The statute lays out a long and complicated process from the Contaminant Candidate List to Unregulated Contaminant Monitoring Rule to a regulatory determination and finally a rulemaking that— even if working properly— would take years to set a standard.

At each step, there are several barriers that may prevent a standard from moving forward, some of which I expect to be discussed today.

And this is hardly the only issue. The revision process has also proven to be difficult. Since 1996, all regulatory determinations have been negative, except for perchlorate, which EPA has now reversed.

This means there has not been a single new standard set in 24 years that wasn't explicitly required by Congress.

Perchlorate, a contaminant that was found in the water of millions of Americans, is a perfect example of the regulatory regime's problems. Despite knowing its dangers for decades, we are still a long way from a finalized national standard.

And this could very much be the path for PFAS.

Drinking water systems serving millions of people have detected PFOA and PFOS at levels above EPA's health advisory levels, and many millions more have PFAS contaminations that fall below the advisories but are likely still a threat to human health. EPA's limited progress on setting a PFAS standard exposes SDWA issues.

For one, EPA has relied on non-enforceable health advisory levels. I think many people believe that if EPA has enough evidence to establish a health advisory, they should move to establish a standard.

And while health advisories have flaws, EPA has not even been using this tool to its fullest.

EPA may not want to issue an advisory, perhaps for fear that there becomes an expectation that more will need to be done.

I believe this is the case for Gen X, where there does not seem to be an intention to issue an advisory.

Second, the lack of a PFAS standard demonstrates what happens in the absence of Federal action. States have been forced to step up to protect their residents.

But we are witnessing a wide range of state standards.

This can create poor risk communication and a crisis of confidence by the public, who have diminished trust in their state's standards when it fails to align with a neighboring state.

Today, we hope to better understand why Federal standards have consistently failed to be developed and while there may be disagreements among the various stakeholders about how to best improve the existing process, I believe most of us agree that EPA should set standards in a reasonable timeframe.

And I believe Congress can play a larger role in addressing systems' infrastructure and affordability challenges and preventing contaminations from happening in the first place by putting a greater emphasis on source water protection.

Congress can also provide more resources to support the development of testing methods, innovative treatment technologies, and data collection that can ensure the standard setting process is based on sound science.

But ultimately, we need national standards that are protective of the health of all Americans, including the most vulnerable to risks— pregnant women, infants, children, and other susceptible populations.

Today, standards are not guaranteed to be protective of human health. So while I certainly support Congress providing more resources and other reforms to improve our drinking water, I firmly believe fixing the standard setting process is an important part of that effort.

As we move forward and consider the needs of utilities and the Americans they serve— especially in light of COVID-related challenges— I hope we can have a productive dialogue on how to best ensure people have access to the safe water they need and deserve.