



**AMERICAN CHEMISTRY COUNCIL COMMENTS ON SENATE BILL 49**  
**APRIL 4, 2019**

Thank you Chairman Sheldon and members of the Committee. My name is Steve Risotto and I am a Senior Director at the American Chemistry Council based in Washington, DC. The Council is the national trade association for the chemical industry that represents the interests of the vast majority of US chemical manufacturers. Our interests in the issue of per- and polyfluoroalkyl substances – or PFAS – range quite broadly – as we represent manufacturers of these substances, current and former users of products containing these substances, as well as manufacturers of treatment technologies to remove PFAS from water.

I appreciate the opportunity to comment on Senate Bill 49 regarding the state's approach to monitoring and regulating PFAS and apologize that I am not able to join you in person. While we appreciate the Legislature's interest in addressing the public's concerns about this chemistry, the bill before you this morning is deeply flawed and violates both basic scientific principles and standard administrative procedures. But before I address those two fundamental points, let me talk about the two PFAS that we know the most about – PFOS and PFOA.

These two substances have been the subject of a dizzying number of risk evaluations over the last few years which have generated a confusing array of results. Your own Agency of Natural Resources established a health advisory for these two substances - plus three other PFAS - of 20 parts per trillion in July of 2018 and issued an emergency rule in January 2019 to enforce these limits.

Let me just take a moment to level set our discussion – 20 parts per trillion is 20 nanograms per Liter of water. Put more simply that's 20 billionths of a gram. Our detection technology has advanced to the point that we can actually detect levels that low, but to paraphrase the Center for Disease Control and Prevention "just because we can find it doesn't mean that there is a health risk."

As you may be aware ANR is not alone in addressing PFOS and PFOA. The state of New Jersey recently established interim groundwater standards of 10 parts per trillion (or ppt) for these two substances, while Health Canada finalized its maximum allowable concentrations for drinking water at 200 ppt for PFOA and 600 for PFOS. And of course, the federal Environmental Protection Agency has established lifetime health advisories of 70 ppt for PFOS and PFOA in drinking water.



The reason for this 60-fold range in risk values is not that New Jersey knows something the others don't – all four agencies considered the same information. And it's not because the New Jersey Department of Environmental Protection cares more about its citizens than the others. The reason is the significant uncertainty in interpreting the data that are available. I say this not to suggest that nothing should be done to address PFOS and PFOA contamination, but to caution against proposals like S 49 that presume that the science is settled and there is no need for serious public deliberation.

Now, let me address the other scientific flaw in S 49. The bill would require the establishment of regulatory standards for five PFAS – PFOS and PFOA and three other substances. The inclusion of these other substances is based – not on the fact that there is a wealth of information available on them -- but that these are the substances that were included in EPA's most recent national survey of drinking water supplies.

The fact of the matter is that we know very little about the health effects of the three PFAS other than PFOS and PFOA. In fact, for one of the three – PFHpA – the federal Agency of Toxic Substances and Disease Registry (ATSDR) recently concluded that there were not enough data available to develop minimum risk levels for the substance.

In searching for Vermont's rationale for including these other three PFAS in its health advisory, ACC found a single six-page internal Health Department memo dated July 10, 2018 – the day before the health advisories were issued. The information regarding the other three PFAS includes a mere 3 to 4 sentences per substance. Certainly not the analysis one would expect to support a major Agency decision; and certainly not what this Committee should expect as the basis for a legislative proposal to establish significant regulatory policy.

Not even federal EPA supports the inclusion of these additional three substances in a combined standard. I know because I've asked them, and I encourage you to ask them as well.

Let's turn now to the procedural problems with S 49. I am obviously not from around here, and don't claim to understand the ins and outs of Vermont's approach to environmental regulations. But I do think I know the difference between an advisory level – issued without public input -- and an enforcement standard that requires municipal water systems to spend money to comply with enforceable standards. S 49 seeks to blur the line between these two to the point that it would become meaningless.

Specifically, S 49 would require municipal water systems to comply with the advisory levels as if it were a regulatory level – until such regulations were in place. Such an unfunded mandate would impose significant costs on municipalities who likely would be unable to recoup the costs through rate increases. Moreover, the legislation would require that the health advisory, established without public input, become the enforceable drinking water standard despite the significant uncertainty and the absence of data that I described above and, perhaps more



importantly, without an assessment of the economic and technical feasibility of achieving the required levels.

Given these uncertainties, ACC opposes the development of maximum contaminant levels beyond PFOS and PFOA as proposed in the legislation. Similarly, we do not support the development of water quality standards for all five PFAS as proposed by the legislation.

ACC also is deeply concerned about the assumption in the legislation that PFAS – which includes several 1000 chemicals – can be regulated as a class or as easily identified sub-classes. As the Committee may be aware, PFAS is a family of chemistry with a wide variety of physical, chemical, and toxicological properties. It is inappropriate to assume that all the members of the class can be treated the same.

In the recent PFAS management plan,<sup>1</sup> USEPA outlined its plans to prioritize substances or groups of substances within the class using non-animal testing methods and other advanced techniques. Specifically, USEPA announced its plans to --

- develop toxicity values where suitable data are available
- use computational toxicology approaches to fill data gaps
- assess available tools for assessing ecological risks

It is inappropriate to suggest a class regulation of PFAS until USEPA has completed its prioritization which hopefully will better define a regulatory approach to regulating PFAS – whether as individual substances or as subclasses.

Finally, let me indicate ACC's support for the proposal for a state-wide investigation of PFAS contamination for those substances for which validated methods exist (i.e., USEPA Method 537-1). We believe that such investigation is a vital step in helping the state focus its attention and resources. The results may surprise you, however. The Michigan Department of Environmental Quality recently announced the results of its survey of public water systems, schools, and tribal water systems around the state which revealed that –

- 90 percent of the water systems showed no detections for any of a dozen PFAS,
- An additional 7 percent of systems tested had levels of PFAS below 10 parts per trillion (ppt), and
- The remaining 3 percent of the systems had PFAS levels between 10 and 70 ppt.<sup>2</sup>

Thank you for listening. I would be happy to answer any questions the Committee may have.

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<sup>1</sup> <https://www.epa.gov/pfas/epas-pfas-action-plan>

<sup>2</sup> <https://content.govdelivery.com/accounts/MIDEQ/bulletins/2325149>

