



January 8, 2020

RE: Opposition to H.R. 535, the PFAS Action Act

Dear Representative:

The undersigned organizations representing the nation's drinking water and wastewater utilities are writing to express our opposition to H.R. 535, the PFAS Action Act of 2019. Unfortunately, the legislation fails to protect water system customers from liability for PFAS cleanup costs.

We believe that per- and polyfluoroalkyl substances (PFAS) should be kept out of our nation's water supplies, and that PFAS polluters should be held responsible. The fundamental mission of water and wastewater utilities is to protect public health and the environment, and in doing so they must also be mindful of affordability and the financial burden borne by their customers and the communities they serve. Utilities are tremendously concerned about what PFAS is doing in their communities and, as they have done with all previous public health and environmental challenges, are committed partners in finding a solution to this problem.

However, Congress must make a distinction between entities that introduced PFAS into the environment, and water and wastewater systems that are on the front lines of cleaning up the contamination. Utilities are not the *producers* of PFAS, but the *receivers* of PFAS. A water system that follows all applicable laws in its management of water treatment byproducts containing PFAS should not be held liable under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for any *further* environmental cleanup costs related to these chemicals. Doing so would penalize customers twice: once when they make investments to remove PFAS from their waters, and again when they are forced to pay to cleanup PFAS contamination elsewhere.

Unfortunately, H.R. 535 would leave municipal water and wastewater systems customers subject to financial liability for PFAS cleanup under CERCLA – even in cases where the system followed all applicable laws and regulations related to PFAS disposal. This is in direct contrast to the objective of holding polluters responsible.

It is particularly disappointing that the manager's amendment proposed for H.R. 535 would offer a CERCLA liability shield to airports that are required to use firefighting foam containing PFAS, but fails to extend that same protection to water and wastewater systems who may be required to remove and dispose of PFAS. As receivers of PFAS, water utilities should be afforded the same liability protections that airports are being awarded in the legislation.

Again, we share the goal of keeping the nation's waters free of PFAS and holding accountable those entities that are responsible for environmental contamination. But because H.R. 535 would leave water system customers unprotected against liability for environmental cleanup of PFAS, we have no choice but to oppose the legislation in its current form.

The PFAS Action Act of 2019

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Sincerely,

American Water Works Association  
Association of Metropolitan Water Agencies  
National Association of Clean Water Agencies  
National Association of Water Companies  
National Water Resources Association  
National Rural Water Association  
Water Environment Federation