



February 12, 2025

The Honorable Marie Gluesenkamp Perez  
United States House of Representatives  
Washington, DC 20515

Dear Congresswoman Gluesenkamp Perez,

The Water Coalition Against PFAS writes to express our strong support for the “Water Systems PFAS Liability Protection Act,” legislation that will preserve the important “polluter pays” principle for cleanups of Per- and Polyfluoroalkyl Substances (PFAS) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Last year, EPA designated two of the most common PFAS – Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic acid (PFOS) – as hazardous substances under CERCLA. EPA has stated that this action will help ensure that manufacturers and users of these chemicals are held responsible for the cost of remediating contaminated sites. However, without congressional action, water and wastewater utilities and their customers – the same American public that was unwittingly exposed to these chemicals now contaminating their water supplies – will also be at risk of incurring the significant cost of cleaning up these contaminated sites.

Drinking water and wastewater utilities face this risk because they passively receive these per- and polyfluoroalkyl substances (PFAS) from upstream polluting industries and PFAS-laden products. After removing PFAS from water supplies, water utilities possess residuals that contain those PFAS, which must be disposed of in accordance with applicable law. However, should the disposal site ever become subject to a Superfund cleanup, the water system could be treated as a PFAS polluter – and be responsible for a portion or even all the cleanup costs – forcing local ratepayers to cover the bill after they already paid to remove the contaminants from their source water.

Wastewater and stormwater utilities would face similar liability through no fault of their own because they either receive PFAS chemicals through the raw influent that arrives at the treatment plant or through the municipal stormwater runoff that they manage. These flows can come from domestic, industrial, and commercial sources and may contain PFAS constituents ranging from trace to higher concentrations, depending on the nature of the dischargers to the sewer or stormwater system. These flows are not generated by the utility; rather, the utility provides the critical human health and environmental service of managing and treating this influent to meet all the requirements of the Clean Water Act. Congressional action is necessary to distinguish these utilities from the entities responsible for introducing PFAS into the environment.

We appreciate that EPA last year issued an “enforcement discretion” policy to concentrate the Agency’s CERCLA enforcement activities related to PFAS on the polluting manufacturers and users that have long profited from PFAS. However, this policy does not fully protect drinking water and wastewater utilities from potentially catastrophic CERCLA legal defense costs and financial liability for PFAS contamination.

Not only is the enforcement discretion policy nonbinding and subject to revision or reversal at any time, but, more pressingly, industry has already publicly indicated that it will use every legal means available to it to require public agencies to pay for PFAS cleanups. CERCLA provides an opportunity for manufacturers and users of PFAS to defray their own cost burden, brought on by their own actions, by forcing communities around the country into litigation. And, unfortunately, these communities are often those

that have been the most impacted by PFAS pollution and are therefore the least able to afford such costs. While EPA's enforcement discretion policy is well intentioned, the Agency simply cannot provide the protection that water utilities and their ratepayers need.

It is therefore necessary that Congress pass the "Water Systems PFAS Liability Protection Act" to guarantee drinking water, wastewater and stormwater system ratepayers are protected from incurring the significant costs associated with cleaning up environmental PFAS pollution caused by others.

Removing harmful chemicals like PFAS from drinking water, wastewater and stormwater is central to the public health and environmental protection mission of our members. The "Water Systems PFAS Liability Protection Act" will support the mission of providing clean and safe water while ensuring that water system ratepayers are not burdened by unwarranted liability through a misapplication of CERCLA's "polluter pays" principle. We support this legislation, and we thank you for your leadership on this important issue.

Sincerely,

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