



ASSOCIATION OF
METROPOLITAN
WATER AGENCIES



American Water Works
Association



February 3, 2023

Hello,

We are reaching out to you today to introduce ourselves as the Water Coalition Against PFAS (Coalition). Our members consist of national water associations joined together by the shared recognition of the need to address public health and environmental concerns related to per- and polyfluoroalkyl substances (PFAS) while ensuring regulations do so in a way that appropriately assigns liability to those responsible for creating the contamination. Collectively, the Coalition forms a unified voice seeking to communicate the impact imminent federal action will have on those who are responsible for protecting public health through providing drinking water and wastewater services across the nation.

In the near term, our primary focus is on protecting water systems and their customers from the potential legal liability, remediation costs, and reputational risks associated with the Environmental Protection Agency's (EPA) proposed hazardous substance designation of PFOS and PFOA under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA is intended to uphold a "polluter pays" principle, whereby those responsible for releasing hazardous substances into the environment are held liable for the cost of cleaning up contaminated sites. However, absent a statutory exemption from PFAS liability for drinking water and wastewater systems who merely passively receive PFAS in providing their respective public health services, polluters could pass these costs on to our customers and your constituents, effectively creating a "public pays" principle under CERCLA.

We have taken our concerns to EPA, and the Agency has indicated that they recognize water utilities should not be liable. However, EPA does not have the authority to provide any formal legal shield, leaving water systems with a commitment that would be formalized through a policy memorandum, at best. This leaves water systems and their customers vulnerable to litigation by potentially responsible parties who may attempt to reduce their own cleanup costs by recovering from others, especially as EPA examines whether to designate additional PFAS as hazardous substances this Spring. For this reason, the only viable option for water systems and ultimately the public is for Congress to provide a statutory exemption from PFAS liability for drinking water and wastewater systems under CERCLA. We look forward to working with you on this issue as well as other priorities and concerns you may have related to PFAS with respect to water systems.

Sincerely,

Water Coalition Against PFAS

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