



N A R U C
National Association of Regulatory Utility Commissioners

December 17, 2025

The Honorable Brett Guthrie
Chairman
House Committee on Energy and Commerce
U.S. Representative, Kentucky District 2

The Honorable Frank Pallone
Ranking Member
House Committee on Energy and Commerce
U.S. Representative, New Jersey District 6

The Honorable Gary Palmer
Chairman
House E&C Subcommittee on Environment
U.S. Representative, Alabama District 6

The Honorable Paul Tonko
Ranking Member
House E&C Subcommittee on Environment
U.S. Representative, New York District 20

2125 Rayburn Office Building
Washington, DC 20515

2322 Rayburn Office Building
Washington, DC 20515

RE: ***December 18, 2025 Hearing to examine the Impact of the Environmental Protection Agency’s CERCLA designation for Two Per- and Polyfluoroalkyl Substances (“PFAS”) and Potential Policy Responses to Superfund Liability Concerns.***

Keep utility rates affordable by immediately enacting CERCLA PFAS liability exemptions for Water and Wastewater Utilities.

Chairmen Guthrie and Palmer and Ranking members Pallone and Carper:

We commend your committee for holding this important hearing to discuss potential policy responses to liability concerns caused by the Environmental Protection Agency’s (EPA) designation of Perfluorooctanoic acid (“PFOA”) and perfluorooctanesulfonic acid (“PFOS”) under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”).

EPA’s enforcement regime is of course critical, but only Congress can provide permanent solutions. The 2024 designations of PFOA and PFOS, while well-intentioned, also carry unintended consequences. Without Congressional action, water systems are left exposed to substantial legal liability potentially shifting significant costs onto ratepayers. Earlier this year, EPA Administrator Zeldin confirmed the EPA will defend those 2024 designations in court but was careful to point out that the EPA “will need new statutory language from Congress to fully address our concerns with passive receiver liability.”¹

Congress must act to ensure CERCLA functions as intended – making polluters pay for cleanups – so that communities already paying to remove PFAS from their drinking water and wastewater are not forced to navigate litigation and shoulder eventual cleanup costs as well.

¹ *Trump EPA Announces Next Steps on Regulatory PFOA and PFOS Cleanup Efforts, Provides Update on Liability and Passive Receiver Issues* (EPA Press Release September 17, 2025) available online at: <https://www.epa.gov/newsreleases/trump-epa-announces-next-steps-regulatory-pfoa-and-pfos-cleanup-efforts-provides>.

We write on behalf of the National Association of Regulatory Utility Commissioners (“NARUC”), which represents state regulatory commissions in each of your jurisdictions that regulate investor-owned public water and wastewater utilities. Our member commissions are committed to ensuring safe, reliable, and affordable water services for millions of Americans.

We also share your commitment to protect your constituents from the consequences of PFAS pollution. However, water and wastewater companies are passive receivers of PFAS. They provide services to the public but neither manufacture nor use PFAS in their operations. Without Congressional action to protect water and wastewater customers from CERCLA liability, millions of Americans, including your constituents, could be forced to pay additional costs to clean up a problem they did not create. Water and wastewater utilities are already committed to protecting public health by proactively testing and treating for PFAS at a significant expense. These public services are funded by the families who use them. That means the brunt of these clean-up costs are already borne by your constituents. Neither your constituents nor water companies had a hand in creating this PFAS problem. CERCLA is based on the principle that parties responsible for contamination should be responsible for and pay for its remediation. The producers, manufacturers and parties that used PFAS chemicals in their operations are all “responsible parties” under CERCLA. Water utilities and their customers are not. Those customers should not be exposed to the impact of Superfund liability so long as their serving water utility treats PFAS in water and wastewater streams consistent with the EPA’s guidelines.

That is why NARUC strongly supports legislative efforts to exempt water utilities from Superfund liability.² This exemption is essential to protect public entities and ratepayers from additional financial burdens while focusing accountability on the true sources of PFAS pollution.

If you have any questions about NARUC’s position, please do not hesitate to contact either of the undersigned or Brad Ramsay, NARUC’s General Counsel at 202.257.0568 or jramsay@naruc.org.

Sincerely

Ann Rendahl
NARUC President

Michael Bange
Chair, NARUC Committee on Water

cc *Members of the House Energy and Commerce Committee*
Jessica Donlon, General Counsel, Majority, Committee on Energy and Commerce
Byron Brown, Chief Counsel, Majority, Subcommittee on the Environment
Waverly Gordon, General Counsel, Minority, Committee on Energy and Commerce
Caitlin Haverman, Staff Director, Minority, Subcommittee on the Environment

² NARUC passed a resolution urging Congress to exempt water and wastewater providers that follow all applicable laws in the disposal of water treatment byproducts containing PFAS from liability related to the designation of PFAS chemicals as hazardous substances under CERCLA. See February 11, 2021 *Resolution on Exempting Water and Wastewater Utilities that Follow all Applicable Laws in the Removal and Disposal of Per- and Polyfluoroalkyl Substances from America’s Drinking Water Supply from Liability under the Comprehensive Environmental Response, Compensation, and Liability Act Stemming from the Designation of Per- and Polyfluoroalkyl Substances as Hazardous Substances* <https://pubs.naruc.org/pub/BA55ADE5-155D-0A36-3121-4F80A6C31672> According to the *Resolution*, at 3-4 “failing to exemptleaves water and wastewater systems – and their customers – subject to financial liability for PFAS cleanup, even in cases where the utility followed all applicable laws and regulations related to PFAS disposal” and at 4 “the financial burden of holding water and wastewater utilities liable for the future costs associated with PFAS cleanup will be detrimental to utilities’ ability to provide safe and affordable service.” {Emphasis Added}