



**American Water Works  
Association**

*Dedicated to the World's Most Important Resource®*

July 19, 2021

The Honorable James P. McGovern  
Chair  
The Honorable Tom Cole  
Ranking Member  
House Committee on Rules

Dear Chairman McGovern and Ranking Member Cole,

As your committee deliberates the rule for H.R. 2467, the PFAS Action Act, the American Water Works Association (AWWA) urges you to approve Amendment 18 for consideration by the full House of Representatives. This amendment, offered by Reps. David McKinley, Josh Gottheimer and Lisa McClain, would exempt drinking water and wastewater utilities from PFAS liability except when such utilities have released the chemicals as a result of gross negligence or willful misconduct.

We understand the interest in designating PFAS compounds as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). However, we must flag some unintended consequences of such actions that need to be taken into account.

While EPA has never gone after municipalities in CERCLA actions before. In the past, “potentially responsible parties” in CERCLA actions have sued more than 650 municipalities and counties in 12 states for contributions for cleanup costs (Salzman & Thompson, 2019).

If any PFAS compounds are to be designated hazardous substances under CERCLA, we urge Congress to keep liability for PFAS cleanup with PFAS manufacturers and formulators. Congress should not hold community drinking water and wastewater facilities liable for PFAS contamination caused by PFAS products that the country now realizes should not have been allowed into commerce in the United States.

Designating PFAS as a CERCLA hazardous substance would help communities that have a known responsible party with financial means to pay for cleanup. However, it could also create liability for communities that encounter PFAS in their water treatment activities. Once PFAS is removed from water, it then must be disposed of. A water utility that properly disposes of residuals containing PFAS, in a manner consistent with applicable laws, must not be held liable under CERCLA for future costs associated with PFAS cleanup. Those costs and responsibilities must remain with the original polluters that introduced PFAS into the environment. Failure to protect water utilities from this liability would victimize the public twice: once when they are forced to pay to remove PFAS from their water, and again when they are forced to pay to clean up PFAS elsewhere.

Wastewater utilities receive and treat water from a range of sources from homeowners to industries. That water may contain PFAS compounds. Even though they are not the source of these compounds, wastewater or stormwater utilities could end up liable for cleaning up these substances. If biosolids from wastewater treatment plants have been applied to land as fertilizer, such liability increases. Removing PFAS from wastewater requires advanced technologies, such as granular activated carbon, ion exchange or reverse osmosis. Then, as often the case with advance drinking water treatment techniques, there is the issue of how to dispose of the concentrated PFAS mix. A recent report found that the impacts of this could include an increase in disposal costs of more than 35% for biosolids.

AWWA's 50,000 members represent the full spectrum of water utilities – small and large, rural and urban, municipal and investor-owned. We are an international, non-profit, scientific and educational society dedicated to protecting public health through the provision of safe drinking water.

Again, please approve Amendment 18 to H.R. 2467 for consideration by the full House.

Sincerely,

Sincerely,

A handwritten signature in black ink that reads "G. Tracy Mehan, III". The signature is written in a cursive style with a stylized "G" and "M".

G. Tracy Mehan, III  
Executive Director for Government Affairs  
American Water Works Association  
[tmehan@awwa.org](mailto:tmehan@awwa.org)

Cc/ Members, House Committee on Rules