



President – Craig Simpson
Vice President – Clay Scott
Treasurer – Paul Arrington
Executive Vice President – Dale Nellor

March 15, 2024

The Honorable Tom Carper
Chairman
U.S. Senate Committee on Environment
and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
U.S. Senate Committee on Environment
and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Chairman Carper and Ranking Member Capito,

On behalf of the National Water Resources Association (NWRA), I write to urge the U.S. Senate Committee on Environment and Public Works (EPW) to include language in any legislation on per- and polyfluoroalkyl substances (PFAS) that provides a narrow exemption from liability for passive receivers of PFAS under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

NWRA is a nonprofit federation of state water resources associations, regional associations, and agriculture and municipal water agencies. Our members provide water and hydropower to approximately 50 million individuals, families, agricultural producers and other industries in a manner that supports our communities large and small, our economy and our environment.

In 2022, the Environmental Protection Agency (EPA) issued a proposal to designate PFAS as hazardous substances under CERCLA. This designation would expand the scope of parties that can be held responsible for compliance and cleanup from responsible parties to involved parties such as the providers of drinking water, raw water, irrigation water, and wastewater facilities that make up the NWRA membership.

While the EPA has stated it would use its “discretionary authority” in pursuing CERCLA enforcement actions against certain parties, the EPA has also stated that it has insufficient existing legal authority to provide relief to public service providers from the impact of CERCLA contribution litigation. Claims for contribution against passive receivers would generate significant litigation costs for lawful water providers and facilities that would lead to significant cost increases to essential public service providers and the communities and residents they serve.

NWRA members values the role they play in protecting the public health and environment and recognize their need to be involved in the long-term solution of PFAS management. However, the financial risk and legal uncertainty created by not providing relief for passive receivers of PFAS cannot be overlooked. Therefore, we urge the committee to provide a narrow exemption from liability for passive receivers of PFAS under CERCLA.

Thank you for your consideration and attention on this critical issue and its impact on our nation's water system. Please do not hesitate to contact me at dnellor@nwra.org or 703-283-4913 if you would like to discuss in more detail.

Sincerely,

A handwritten signature in cursive script that reads "Dale J. Nellor".

Dale Nellor
Executive Vice President
National Water Resources Association