Testimony of
Eric Volk, Executive Director
North Dakota Rural Water Systems Association
And on behalf of
The National Rural Water Association
Before the
U.S. Senate Committee on Environment and Public Works
Subject
Implementing IIJA: Perspectives on The Drinking Water and Wastewater Infrastructure Act, Part II
September 7, 2023

Good morning, Chairman Carper, Ranking Member Capito, Senator Cramer and distinguished members of the Committee. My name is Eric Volk, and I am the Executive Director of the North Dakota Rural Water Systems Association (NDRWSA). NDRWSA was established in 1974 as the unified voice of rural water development in the state. Today, the association provides technical, managerial, and financial assistance, training, and advocacy for rural & small water and wastewater systems across North Dakota. The vision of the Association is to make certain that all of North Dakota has access to affordable, ample, and quality water. A huge thanks to my staff who work tirelessly every day to make this vision a reality. It is a true honor to be here today to give a small state and rural perspective on the Implementation of the Drinking Water and Wastewater Infrastructure Act. I grew up in Granville, ND, a community of around 240 residents, so this topic is near and dear to me.

I am also here on behalf of the National Rural Water Association (NRWA), the country's largest utility association with over 31,000 members dedicated to drinking water quality, environmental protection, and public health protection. NRWA provides energy audits, certification, financial management, emergency response, disaster relief, environmental compliance, governance, and on-site technical assistance to water and wastewater utilities to enhance the public health and safety of our citizens in small and rural communities in all 50 states and Puerto Rico.

The Infrastructure Investment and Jobs Act passed by this Committee and enacted back in November 2021 will be remembered as one of the most significant public water and wastewater achievements in this country, especially in rural America. Rural Water enthusiastically supported the bill's precursor, the Drinking Water and Wastewater Infrastructure Act of 2021 which was graciously introduced by Chairman Carper at my counterpart Delaware Rural Water Association's headquarters earlier that year in April. I only mention that to highlight Rural Water's commitment to this Committee's mission and underscore our appreciation for the bill's beneficial provisions for America's small communities like the dedicated funds for emerging contaminates, lead service line replacement, grants for disadvantaged communities and expansion of the state revolving funds with corresponding technical assistance

initiatives. We are also grateful that the legislation did not include any new federal mandates on local governments. On behalf of all small and rural communities in all 50 states, thank you.

The vast majority of public water and wastewater treatment systems are communities with populations of 10,000 or less. About 91% of the approximately 50,000 community drinking water systems (typically their local governments) are small and 80% of the country's more than 16,000 wastewater systems serve fewer than 10,000 people.

In Delaware, 200, or 96%, of the total 207 community water systems serve a population of fewer than 10,000 persons.
In West Virginia, 393, or 94%, of the total 418 community water systems serve a population of fewer than 10,000 persons.
In North Dakota, 296, or 96%, of the total 306 community water systems serve a population of fewer than 10,000 persons.

These small communities have a much more challenging time complying with the myriad of federal regulations and operating complex water and wastewater treatment systems due to the lack of technical resources and economies of scale. While we have fewer resources, we are regulated in the exact same manner as a large community.

For the next few minutes, I'd like to discuss how small and rural community water systems are implementing this historic water infrastructure investment, highlight Rural Water's technical assistance initiatives, and outline challenges with PFAS and the current water industry workforce.

IIJA Implementation- North Dakota Water Systems Summary
I have enjoyed living in North Dakota my entire life and have been helping water and wastewater systems for nearly 23 years. I would like to take this opportunity to share some data about my state's water systems to give the committee an idea of the types of water systems that serve our great citizens. We have 306 active community water systems, 296 systems serve less than 10,000 in population. Of that total, 24 serve between 3,301 & 10,000, 94 serve between 501 & 3,300 and 178 serve less than 500 residents. Only 10 systems serve over 10,000 in population. Meeting the demands of repairing and replacing aging infrastructure and complying with rules and regulations are taking its toll on many small and rural water systems. Another major challenge facing rural and small water systems is the ever increasing rural to urban migration, which continues to decrease the population base, and which adds to the cost to the individual consumer. This does offer a challenge in finding affordable ways to bring quality water to rural areas. Without significant state & federal grant funding, the cost to the consumer is just too much for the average family to afford.

North Dakota Water System Needs
In 2022, NDRWSA partnered with the North Dakota Department of Water Resources and the North Dakota League of Cities to conduct a survey related to the state's aging water supply needs. The survey covered the next 10 and 20 year timeframes and looked at storage, distribution/supply lines, wells/intakes, water treatment plants and other water supply infrastructure. The results indicated a 10-year need of approximately $2.1 Billion and a 20-year need of approximately $3.6 Billion. Our State's current Drinking Water State Revolving Fund (DWSRF) Program Intended Use Plan indicates a current need of a little over $1.1 Billion and the Clean Water State Revolving Fund (CWSRF) Program shows a similar need. Huge needs for a state that only has 780,000 residents.

Current Water Project Completion Environment in North Dakota

In preparing for this hearing, I visited with several water systems, engineers, and suppliers to develop a snapshot of how projects are being completed in the state. First and foremost, they are all very appreciative of the investments being made on the federal level to help our citizens. Several systems talked about the shortage of contractors in the state. One of the key factors contributing to the shortage of contractors is labor, which has resulted in a reduction of the number of crews they operate or limits the scope of work or range that they can cover. Two major companies that specialized in rural projects also left the water business in the last four years. Historically, the more companies bidding on projects resulted in more competitive bids which normally saved the customer money. There is also a sense with the large amount funding available for all infrastructure, contractors are not as "hungry" as they were before. A great climate for contractors but not so much for water systems and the end user. There have been recent instances where the owner of the project has rejected bids and postponed project development due to high or no bids.

The cost of pipe, valves, and fittings have increased exponentially since 2019. Here are a few examples of what systems are facing in North Dakota:

2-inch class 200 PVC pipe was $0.51 per foot in 2019 is now $1.69 per foot, an increase of 231%. The 2-inch PVC is a standard size pipe used in rural water distribution systems. 6-inch class 200 PVC pipe was $4.05 per foot in 2019, today, that same pipe is $12.40 per foot, an increase of 206%. A small town (population 135) in the state replaced a fire hydrant in 2020 for $7,500 (materials/labor). They replaced a similar hydrant this summer and the price tag was $15,500.

The availability of pipe and related materials seem to be improving slowly. Domestic requirements have required American manufacturers to expand their facilities and improve upon their logistics, which has driven down lead times and improved trackability. Various products such as meters, meter pits, certain valves, drives, and generators have extraordinarily long wait times. One system has been waiting for a year and a half for a specific pressure reducing valve.

Overall, the costs of completing projects seem to be ever increasing. It is very hard for our small and rural water systems to properly plan for and to ultimately complete projects under these circumstances.

State Implementation of the BIL Funding through our SRF Programs – Highlights and Challenges

Additional Water Funding to our Drinking Water SRF (DWSRF) Program
Supplemental: $115.047M
Emerging Contaminants: $39.195M
Lead: $142.95M*
BIL Total: $297.192M

The DWSRF Program has spent all of the base cap funds for 2022 and has obligated all of the supplemental and emerging contaminants funding for 2022. The state is entering its historically busy draw request season and should see an increase of activity this fall. One thing to note about the lead funding is that DWSRF is using approximately 26% of total available funding for set-asides to provide technical assistance to water systems to complete their lead service line inventories. It has taken extra time to get the procurement completed for the technical assistance but work on those projects is going to be starting soon.

Additional Wastewater Funding to our Clean Water SRF (CWSRF) Program
Supplemental: $56.971M
Emerging Contaminants: $4.631M
BIL Total: $61.602M

The CWSRF Program is spending the funds as soon as they are available. For example, the 2023 Base Cap Grant was received in early August 2023 and spent down in two weeks of payment requests. The 2023 Supplemental Cap Grant became available at the end of August, and they anticipate spending those funds by October.

Summary of Challenges

1. Project Costs & Lack of Contractors
2. Getting the Lead Funding Out the Door has been difficult.
    a. The limits to only using 49% of the grant as additional subsidization is particularly troublesome.
    b. Partial lead service line replacements need to have flexibility.
    c. The timing of the funding is concerning. Lead Service Line Inventory deadline is Oct. 16, 2024.
3. Sunsetting of the Build America, Buy America (BABA) waivers is an issue.

On the national scale, we are hearing much of the same. Many systems and states report that the funds provided in the bill have been slow to be implemented due to cost overruns, supply chain disruptions, and the lack of engineers to do the work. Our members do an excellent job maximizing limited resources, funds, and economies of scale. However, these current, challenging industry conditions highlight how the financial health and viability of a small utility is inextricably tied to rate payment affordability, infrastructure status, and expertise of the trained workforce.

Currently, a significant portion of funding from the State Revolving Funds (SRF) is directed towards larger communities- approximately 72% of clean water SRF funding is awarded to large communities (EPA's Clean Water State Revolving Fund Annual Review) and approximately 71% of drinking water SRF funding is awarded to large communities (EPA's Drinking Water State Revolving Fund National Information Management System). However, provisions within the SRF, such as principal forgiveness, negative interest loans, and grants, or a combination thereof, can help alleviate financial burdens on smaller systems. Every year, Rural Water advocates for at least the previous fiscal year's appropriated funding level for EPA's SRF programs and associated technical assistance, emphasizing the need and results of this most important water infrastructure investment initiative.

Training & Technical Assistance
For over 45 years, the National Rural Water Association and our 50 state affiliates have been providing small, rural, tribal, and disadvantaged communities with local, on-site technical assistance and training. This is not a new concept. The Infrastructure Investment and Jobs Act of 2021 (IIJA) included multiple technical assistance provisions and set asides to provide assistance directly to communities that lack the financial, managerial, and technical capacity to access the State Revolving Fund (SRF) programs. Rural Water, through trusted relationships and exceptional technical expertise, has established itself as the premier resource and partner for small, rural, disadvantaged, and tribal communities to comply with the

numerous federal Environmental Protection Agency (EPA) regulations, avoid EPA fines, access water infrastructure funding, and safely operate drinking water and wastewater systems.

The vast majority of U.S. water systems are small; 91% of community water systems and 80% of the country's wastewater systems serve populations of 10,000 or less. Small and rural communities have more difficulty affording public water and wastewater service due to the lack of population density and economies of scale. Some communities are so small they rely on volunteers to operate their systems. These challenges are compounded by the fact that rural communities have lower average median household incomes and often have higher rates of poverty. Despite these challenges, small communities want to ensure quality water and stay in compliance—rural water provides them the shared technical resources to do so.

The EPA Water Training and Technical Assistance Program is designed to strengthen the technical capacity in small water systems, with the aim to reduce the number of systems out of compliance with health-based standards. An important part of Rural Water's long-standing public-private partnership with EPA has been to travel to small and rural communities and assist them with operating, governing, financing, upgrading, and maintaining their water and wastewater infrastructure. This includes compliance with all federal Clean Water and Safe Drinking Water Act regulations, as well as all the training needed to keep local officials and operators certified and educated on the latest rules, regulations, and technologies. This type of hands-on assistance is the most effective method to help staff and management become more successful operating their systems, and results in a better understanding of the laws' requirements. In fact, National Rural Water's combined state affiliates- including North Dakota- delivered over 75,000 on-site technical assistance visits and 150,000 hours of training to more than 37,000 utilities in 2022.

NRWA has also been afforded the opportunity to manage EPA's Region 8 Finance Center which provides finance-related training, technical assistance, finance studies, and other analytical support to help communities develop sustainable solutions for meeting environmental standards. Attached to this testimony is a presentation characterizing NRWA's approach to provide paradigm shifting technical assistance in EPA Region 8 by collaborating with our esteemed, established state affiliates listed below. This information is consistent with the other state rural water associations nationwide.

	Years in Existance	Total Employees	TA Providers	Experience	How Many Members?
Colorado	42	30	24	336	520
Montana	44	13	6	323	421
North Dakota	49	11	9	177	280
South Dakota	47	15	12	280	280
Utah	43	19	12	326	500
Wyoming	34	13	9	180	220
		101	72	**1622**	2221

On June 28, 2023, NRWA was awarded $8,000,000 in fiscal year 2022 funds from EPA's Training and Technical Assistance Program for Small Public Water Systems which will provide for 51 Training Specialists in all 50 states and Puerto Rico from August 1, 2023 to July 31, 2024. Highlights from the workplan include:

- Training and Technical Assistance (T/TA) to small, rural, disadvantaged, and tribal water systems serving populations of less than 10,000 persons.
- T/TA dedicated to natural and manmade disasters to help rural water systems prepare for and operate their systems in events like ice storms, flooding, tornados, snowstorms, drought, earthquakes, landslides, wildfires, and etc.
- Classroom training sessions in rural, disadvantaged, low-income, tribal, and manufactured housing communities' areas to small water system operators and personnel who seek training.
    - Topics could include accessing water infrastructure funding, Safe Drinking Water Act and Clean Water Act compliance, Lead and Copper Rule implementation, guidance for developing and maintaining a service line inventory, PFAS training to reduce risks and to increase understanding of the health and safety risks, Cyber Security, and developing financial planning, rate and fee structures.
- T/TA dedicated to tribal communities and Alaskan Native Villages community water systems and their personnel.
    - Rural Water works with Indian Health Services and the Bureau of Indian Affairs to help tribal water systems expand resources.
- T/TA to Puerto Rico to focus on compliance assistance to non-PRASA water systems.
- T/TA case studies and success stories to communicate and showcase the impact of the program and give a voice to the rural and small water systems.

The year prior, on August 30, 2022, NRWA received $7,800,000 in fiscal year 2021 funding from EPA's Training and Technical Assistance to Improve Water Quality and Enable Small Public Water Systems to Provide Safe Drinking Water Program. National Rural Water overperformed the workplan by providing 1,000s of additional hours of T/TA as originally intended, hosted hundreds more classroom session hours, and spent thousands of hours identifying needs, developing projects for state Intended Use Plans and/or Project Priority Lists, applying for SRF funding, designing and implementing projects, building capacity at the local level, and providing access to career paths for interested water and wastewater workers entering the water workforce.

Challenges

It is of the utmost importance for the EPA to recognize that small and rural communities are a solution, not a problem, to improving public health and protecting the environment. We urge the Agency to recognize that small, local governmental water utilities are all governed directly by local citizens to benefit local citizens. Our constituency exists to improve drinking water and sanitation in rural and small communities and on-site technical assistance initiatives are the most effective environmental protection efforts for drinking water and wastewater, ground water, source water, and compliance with the Clean and Safe Drinking Water Acts.

Many small systems face unique challenges in providing reliable drinking water and wastewater services that meet federal and state regulations, including a lack of financial resources, aging infrastructure, and high staff turnover. The onsite technical assistance we provide helps small and rural communities build the technical, managerial and financial capacity necessary to effectively operate drinking water and wastewater systems to comply with regulations, improve operations and management practices, promote system sustainability predominantly through funding access, and better protect public health and the environment. We believe this assistance is most effective when it comes from a trusted individual who is willing to travel directly to the community, has technical expertise to remedy the specific issue with existing treatment and infrastructure, and can be available on-site at any time.

Solutions

National and State Rural Water Associations are key, proven technical assistance partners with EPA and have an unmatched track record of supporting a significant majority of the country's drinking water and wastewater systems and protecting public health and the environment. In December 2015, Congress unanimously passed, and the president signed the Grassroots Rural and Small Community Water Systems Assistance Act (Public Law 114-98), which directs the EPA to provide on-site technical assistance in a manner that is most effective to small and rural communities. By following the authorities under the Act, and by leveraging the new-found resources in the Infrastructure Investment and Jobs Act of 2021, we are hopeful on-site technical assistance can be reestablished in our states and ultimately make the program more effective and easier for the EPA to implement-which is the intent of Congress.

Emerging Contaminants: PFAS

Most public water systems impacted by any future federal actions for PFAS will be small water systems who have a much more challenging time complying with federal regulations and operating complex water treatment systems due to the lack of technical resources in small communities. NRWA shares the goal of eliminating all concentrations of per- and polyfluoroalkyl substances (PFAS) from the public's drinking water and environment. However, regulation, civil enforcement and liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are not the appropriate federal remedies for addressing this problem for local governments. Small and rural communities are not responsible for introducing PFAS into the environment or the public drinking water. The regulatory and enforcement provisions of CERCLA result in the unintended consequence of penalizing the communities whose drinking water or environment was contaminated. This dynamic will be especially problematic in economically disadvantaged communities and populations with limited resources.

Challenges

In the near term, Rural Water's 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 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.

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 plans imminently to designate additional PFAS as hazardous substances.

NRWA and NDARWS want to emphasize the significant financial burden that PFAS testing and treatment costs already place on our communities. When PFAS is designated under CERCLA as a hazardous substance, the disposal costs will further exacerbate financial instability and potentially lead to insolvency. This burden cannot be overlooked, and equitable solutions must be identified.

Solutions
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.

NRWA and NDRWSA want to express our strong support for the "Water Systems PFAS Liability Protection Act" legislation, S. 1430, introduced by Senator Lummis. This legislation aligns with the goal shared by small and rural communities across the country to eliminate PFAS from the public's drinking water and environment while preserving the essential "polluter pays" principle for cleanups under CERCLA. It is crucial to recognize that small and rural communities are not responsible for introducing PFAS into the environment or public drinking water. Extending CERCLA liability to these communities, which are innocent bystanders of PFAS contamination, would have unintended consequences and unjustly penalize them. This approach would disproportionately impact economically disadvantaged communities and populations with limited resources, further exacerbating financial burdens. Instead, it is imperative to hold responsible parties accountable for the remediation, treatment, and provision of alternative sources of safe drinking water for the affected communities. They should bear the responsibility for the consequences of their actions, rather than shifting the burden onto innocent parties.

Our members and affected communities need assistance in various forms, including funding for treatment, monitoring, on-site technical assistance for immediate response, credible public health information, emergency access to safe drinking water, and compensation from the responsible parties.

Finally, the EPA's focus on reporting costs drastically underestimates the overall expenses incurred by water systems. These include biosolids management, disposal of PFAS-laden media, legal fees, fines, and potential cleanup costs, which water systems cannot absorb. Public drinking water systems could face an estimated $52 billion in treatment costs for managing PFAS-laden media alone. Biosolids management costs have already increased by approximately 37% due to PFAS concerns. In Maine, biosolids disposal costs have increased by an average of 170%, reaching up to 455% in some cases. The designation of PFAS as a hazardous substance under CERCLA could result in a 27-fold increase in annual disposal costs for water treatment residuals nationally, exceeding $3.7 billion per year. Transporting residuals to hazardous waste facilities would require significantly longer distances, increasing costs. Additionally, installing PFAS-specific carbon treatment for a public water system serving about 10,000 people in New Jersey is estimated to range from $500,000 to $1,000,000, with operating costs of approximately $80,000 per year. (Water Coalition Against PFAS Talking Points, attached)

Rural Water Apprenticeship Program
Supporting the country's public drinking water and sanitation systems is a highly skilled, low skilled and diversified labor force of water utility workers. In any given water utility, water utility personnel may be operating heavy equipment to repair broken lines, managing toxic chemicals, keeping public records, conducting tests in the laboratory, operating process controls, reviewing engineering plans, participating in the local municipal government, monitoring biological treatment processes, complying with federal environmental or labor standards, managing large construction projects, operating and maintaining pumps, engines, and generators, collecting samples, filling out operational reports, and the list goes on *ad infinitum*. The water utility workforce must be available during emergencies like rainstorms, floods, hurricanes, earthquakes and intentional acts of sabotage. Many facets of operating water utilities are inherently dangerous such as operations of heavy machinery and management of large quantities of toxic chemicals.

Water workers are often trained in emergency management response and safety. All water utilities must be operated 24 hours a day, holidays and weekends. The exact duties of water workers typically depend on the size and complexity of the water utility. In smaller utilities, one person may run and service the equipment, make repairs, perform tests, and keep records. In larger utilities with many employees, workers may be limited to specific functions such as repair crews, reading individual meters, monitoring treatment, etc.

Challenges
Safe and effective water utility management is vital to rural America and the nation. There are currently 50,067 community water supplies in the country, 91% serve less than 10,000 population and 55% serve populations of 500 or less. Employment data indicates up to 50% of this workforce will leave the water industry within the next 10 years. Rural water and wastewater utility owners and operators need a pipeline of skilled workers to help ensure clean and safe water for the public and to maintain the water infrastructure necessary to keep rural service areas economically viable. The majority of rural and small community water systems have been unable to attract, train and retain the next generation workforce due to the lack of an identifiable career path coupled with low salary levels and population density.

Solutions
Alongside unwavering support from Ranking Member Capito since 2016, National Rural Water, State Rural Water Associations, local small and rural community water utilities, and federal agencies including the U.S. Department of Agriculture, U.S. Department of Labor, and the U.S. Environmental Protection Agency have been collaborating successfully to establish the first nationally recognized Registered Apprenticeship Program for water and wastewater system operators (O*NET-SOC CODE: 51-8031.00), while creating jobs in rural America. As of this year, thirty-six State Rural Water Associations have completed the rigorous process of obtaining federally approved Registered Apprenticeship Programs and are now attracting, training, and retaining the next generation water workforce with **over 600 apprentices enrolled or graduated so far**. Because of this novel effort, water and wastewater systems are now empowered to leverage workforce development activities including an identifiable career path and a modern, systematic apprenticeship model for the first time.

The NRWA Water and Wastewater Operator Apprenticeship Programs include 4,000 hours of on-the-job training with a one-to-one mentor to apprentice ratio and 288 hours of technical instruction over a 2-year period with an increasing wage schedule suggested every six months. NRWA Apprenticeship Program graduates serve as public health officials and will often be the only person responsible for complying with the multitude of applicable federal Safe Drinking Water Act and Clean Water Act regulations to supply their small community with safe drinking water and sanitation services every second of every day.

Apprenticeship Program activities include learning the basics of the tools, pipe and other materials used in system operation, personal protective equipment and safety procedures, general plant safety and security operations, operate vehicles and heavy equipment, system operations and maintenance, perform installation and inspection of new water lines and services, implement customer metering and billing procedures, perform leak detection and understand water loss control, read water meters and interpret maps and drawings of the water system to locate valves and water mains, assist with installation, maintenance and repair of the treatment plant, storage tanks, and the distribution system, preventive maintenance, troubleshooting and repair of mechanical equipment, quality control, sampling, monitoring and testing required to maintain compliance with Federal, State and Local

regulations, learn emergency response procedures, and collaborate with other members of the industry to learn new technologies and techniques.

The Water and Wastewater System Operations Specialists Registered Apprenticeship Program allows NRWA and our state affiliates to enhance water workforce participation and retention in small, rural and tribal communities, protect the federal investment in America's water and wastewater systems, improve these vital services to customers, certify water worker proficiency with an identifiable career path, modernize the water industry's approach to workforce development, enhance professionalism and upskill the incumbent worker, increase the recognition of the public benefit that water and wastewater systems deliver to their communities, schedule wage increases, and provide access to sophisticated and advanced technology.

Thank you, Mr. Chairman and Members of the Committee, for the honor of testifying on behalf of rural America. We appreciate all the opportunities this committee has provided to rural America for crafting federal water and environmental legislation and policy.

Attachments

North Dakota Water and Wastewater BIL Highlights:

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Supplemental: $115.047M

Emerging Contaminants: $39.195M

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The DWSRF Program has spent all of the base cap funds for 2022 and has obligated all of the supplemental and emerging contaminants funding for 2022. The state is entering its historically busy draw request season and should see an increase of activity this fall. *One thing to note about the lead funding is that DWSRF is using about 26% of it for set-asides to provide technical assistance to water systems to complete their lead service line inventories. It has taken extra time to get the procurement done for the technical assistance but work on those projects is going to be starting soon.

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North Dakota Wastewater Systems who have benefited thus far: the cities of Strasburg pop. 379 (Wastewater Treatment Facility), Center pop. 588 (Wastewater Treatment Lagoon Improvements), Gardner pop. 129 (Wastewater Treatment Improvements), Northwood pop. 982 (Sanitary Sewer Project), and Fargo pop. 170,311 (Wastewater Treatment Plant Expansion and Landfill Improvements) have or will receive additional subsidization (aka loan forgiveness) from FY22 and FY23 BIL grants. In the past, only one or two cities received loan forgiveness from the base grant and this new funding has expanded to additional cities being offered loan forgiveness.

North Dakota Water Systems who have benefited thus far: Dakota RWD pop. 2,618 (WTP manganese removal), East Central RWD pop. 3,641 (WTP manganese removal), Ashley pop. 613 (water tower replacement), Bismarck pop. 73,622 (lead service line replacement), Fargo pop. 125,990 (WTP PFAS removal), Central Plains RWD pop. 3,504 (WTP improvements), and Medina pop. 264 (WTP improvements) will receive loan forgiveness from the FY22 and FY23 BIL grants.

Challenges of Implementation per the North Dakota SRF Programs:

It is just taking projects a lot longer to get started due to the increased costs and limited availability of contractors. Projects are regularly coming in significantly over the engineer's estimate and may only get one bidder. They are working on spending down their grants, but because of the above, the funds are going out slower than usual.

Getting the lead funding out the door has been difficult. The limits to only using 49% of the grant as additional subsidization is particularly troublesome. Lead service lines are found predominantly in disadvantaged communities or disadvantaged portions of communities and cannot afford to pay for 51% of the costs associated with a replacement. Replacements can cost $5,000 to $10,000 per connection depending on the circumstances. Timing is also an issue with the Lead funding. All Community Public Water Systems (CWS) and Non-Transient Non-Community Public Water Systems (NTNCWS) must develop and submit a Lead Service Line Inventory by Oct. 16, 2024. Many systems do not know if they have an issue, so the funding is ahead of the work. States need sufficient time to figure out the full extent of Lead replacement. Unfortunately, with the 2023 Lead funding, the state may not have that luxury and run the risk of those funds being reallocated to other states.

Partial lead service line replacements need to have flexibility. Utilities will typically have co-ownership of the service line. The utility will own the portion of the line from the main to the curb stop and the homeowner will own the portion from the curb stop to the home. EPA is requiring either full replacement or leaving the whole lead service line in place. Most utilities, when completing a water main replacement project, will also replace their portion of the service line at the same time. Now when they use DWSRF funding, they need to know that the homeowner will replace their portion before the utility can replace theirs. This creates a logistical nightmare for the utility where they would need to do all of this extra coordination with homeowners that they normally would not have to do. Systems cannot guarantee that their residents will consent to replacing their portion of the service line. Systems do not want to proceed under those uncertainties, so they are choosing not to use the DWSRF and instead complete the partial replacements with other funding sources. If the homeowner wants their portion of the service line replaced, they are using the DWSRF for that portion only.

Sunsetting of the Build America, Buy America (BABA) waivers is an issue. EPA proposes an end date of September 30, 2024, for waiving projects from the BABA requirements that began design prior to May 14, 2022. When the adjustment period waiver was first announced, there was no mention of a sunset. Setting a hard end date poses significant problems and cost increases for a number of projects in development. The waivers should just be allowed to naturally end.

Clean Water SRF

North Dakota

	Non-BIL	BIL Funding					
	2021	2022	2023	2024	2025	2026	BIL Total
Base	$7,779,000	$5,681,000	$3,683,000	[1] $310,219	$ -	$ -	$ -
Supplemental	-	8,738,000	10,233,000	12,000,000	13,000,000	13,000,000	56,971,000
Emerging Contaminants	-	459,000	1,043,000	1,043,000	1,043,000	1,043,000	4,631,000
CW Funding	$7,779,000	$14,878,000	$14,959,000	$13,353,219	$14,043,000	$14,043,000	$61,602,000
Additional Subsidization	-777,900	-5,876,820	-6,793,770	-6,954,022	-7,413,000	-7,413,000	-32,546,790
Added to the CW Fund	$7,001,100	$9,001,180	$8,165,230	$6,399,197	$6,630,000	$6,630,000	$29,055,210

[1] July 19, 2023, House Approved Budget for 2024 which requires 10% additional subsidization.

Drinking Water SRF

North Dakota

	Non-BIL Year	BIL Funding					
	2021	2022	2023	2024	2025	2026	BIL Total
Base	$11,001,000	$7,008,000	$4,938,000	[1] $503,012	$ -	$ -	$ -
Supplemental	-	17,992,000	21,055,000	24,000,000	26,000,000	26,000,000	115,047,000
Emerging Contaminants	-	7,555,000	7,640,000	8,000,000	8,000,000	8,000,000	39,195,000
Lead	-	28,350,000	28,650,000	28,650,000	28,650,000	28,650,000	142,950,000
DW Funding	$11,001,000	$60,905,000	$62,283,000	$61,153,012	$62,650,000	$62,650,000	297,192,000
Additional Subsidization	-3,740,340	-25,845,300	-33,279,330	-33,868,922	-34,778,500	-34,778,500	-165,613,530
Added to the DW Fund	$7,260,660	$35,059,700	$29,003,670	$27,284,090	$27,871,500	$27,871,500	$131,578,470

[1] July 19, 2023, House Approved Budget for 2024 which requires 14% additional subsidization.

Drinking Water SRF

Lead Service Lines – Potential Lost Funds

	Non-BIL Year	BIL Funding					
	2021	2022	2023	2024	2025	2026	BIL Total
Base	$11,001,000	$7,008,000	$4,938,000	$503,012	$ -	$ -	-
Supplemental	-	17,992,000	21,055,000	24,000,000	26,000,000	26,000,000	115,047,000
Emerging Contaminants	-	7,555,000	7,640,000	8,000,000	8,000,000	8,000,000	39,195,000
Lead	-	28,350,000	-	-	-	-	28,350,000
	$11,001,000	$60,905,000	$33,633,000	$32,503,012	$34,000,000	$34,000,000	182,592,000
Additional Subsidization	-3,740,340	-25,845,300	-19,240,830	-19,830,422	-20,740,000	-20,740,000	-109,459,530
Added to the DW Fund	$7,260,660	$35,059,700	$14,392,170	$12,672,590	$13,260,000	$13,260,000	$73,132,470

[1] July 19, 2023, House Approved Budget for 2024 which requires 14% additional subsidization.

Introducing the Region 8 Environmental Finance Center

David Laughlin, NRWA EFC Director

NRWA NATIONAL RURAL WATER ASSOCIATION

America's Largest Utility Membership

Introducing NRWA's Region 8 EFC

What is the Environmental Finance Center?

- A pair of technical assistance and training programs administered by the National Rural Water Association and funded by the Environmental Protection Agency

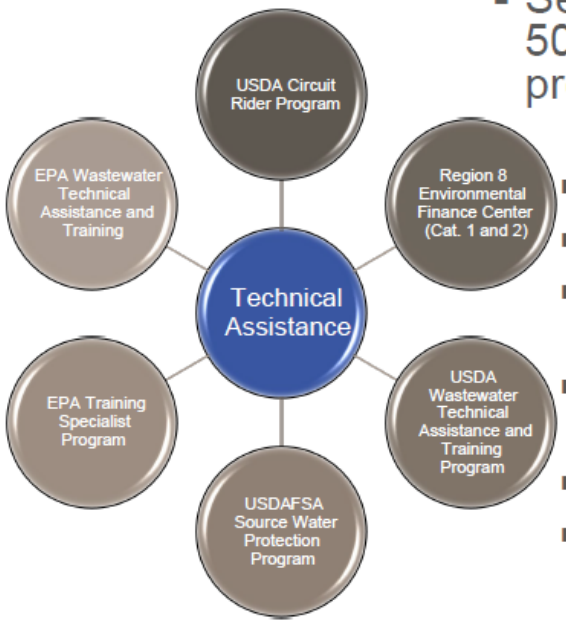
- NRWA was awarded the programs (Category 1 and 2) in Q1 2023 and began fieldwork in the summer of 2023



2

NRWA's Region 8 Impact

NRWA is no stranger to EPA's Region 8



- Serves the six-state region through six of its 50 State Affiliates and its federally funded programs
  - Colorado Rural Water Association
  - Montana Rural Water Systems
  - North Dakota Rural Water Systems Association
  - South Dakota Association of Rural Water Systems
  - Rural Water Association of Utah
  - Wyoming Rural Water Association

NRWA Region 8 Impact (*2022*)

3,320,051
Population Assisted

18,566
On-Site TA Hours

91%
Non-Remote TA

1,617
Systems Assisted

NRWA's Region 8 Impact

NRWA is no stranger to EPA's Region 8

- Colorado Rural Water Association – 42 years
- Montana Rural Water Systems – 44 years
- North Dakota Rural Water Systems Association – 49 years
- South Dakota Association of Rural Water Systems – 47 years
- Rural Water Association of Utah – 43 years
- Wyoming Rural Water Association – 34 years

NRWA Region 8

72
TA Providers on Staff

1,622 Years
Total Experience

2,200
Member Systems

Category 1 Breakdown

Programmatic Goals:

- Provide at least one in-person or hybrid training directed to rural, tribally owned, overburdened, distressed communities (water and wastewater) that are vulnerable to climate change impacts and drought conditions
- Work with one water or wastewater system to complete a Climate Change Risk Assessment using EPA's Climate Resilient Evaluation and Awareness Tool (CREAT)

Training Topics

- Conservation
- Source Protection
- Re-use Strategies
- Best Management Practices
- Funding Sources
- Project Design
- Drought Mitigation

Category 2 Breakdown

Assistance Topics

- Asset Management
- Best Management Practices
- Bid Support
- Capacity Building
- Board Education
- Emerging Contaminants
- Environmental Reviews
- Financial Planning
- Funding Application Support
- Help Identify funding Options
- Lead Service Line Inventories
- Plan Dev. and Coordination
- Plan Studies and Assessments
- Prelim. Engineering Reports
- Rate and Revenue Analysis

Programmatic Goals:

- Collaborate with State Primacy to identify systems and communities with the most need for technical assistance
- Provide at least 200 hours of on-site, hands-on technical assistance that prioritizes rural, tribally owned, overburdened, distressed, or underserved communities
- Provide engineering support or access to assistance for specialized support to help communities complete engineering requirements to progress through the SRF Process

NRWA's Goal for EFC Region 8

Paradigm-shifting Technical Assistance

- Leveraging its 40+ years as the premier technical assistance and training provider for Rural America's water and wastewater systems, NRWA – through its six State Affiliates in EPA Region 8 – will provide paradigm-shifting technical assistance and training to support, empower, and improve rural, tribally owned, overburdened, distressed, or underserved communities in EPA's Region 8 through the Environmental Finance Center Category 1 and 2 programs



NATIONAL RURAL WATER ASSOCIATION
NRWA America's Largest Utility Membership

July 13, 2023

The Honorable Thomas Carper
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito,

The National Rural Water Association (NRWA) is the non-profit association representing all 50 state rural water associations which have a combined membership of over 30,000 small and rural communities. NRWA is the largest water utility association and community-based environmental organization in the country. State Rural Water Associations are non-profit associations governed by elected board members from local communities. Our member utilities have the very important public responsibility of complying with all applicable U.S. Environmental Protection Agency (EPA) regulations and for supplying the public with safe drinking water and sanitation all day, every day.

The great majority of public water and wastewater treatment systems affected by any future federal action for per- and polyfluoroalkyl substances (PFAS) will be communities with populations of 10,000 or less. About 91% of the approximately 50,000 community drinking water systems (typically their local governments) are small and 80% of the country's more than 16,000 wastewater systems serve fewer than 10,000 people. Small and rural communities have a much more challenging time complying with the myriad of federal regulations and operating complex water and wastewater treatment systems due to the lack of technical resources in small communities. While we have fewer resources, we are regulated in the exact same manner as a large community.

NRWA appreciates the Senate Environment and Public Works (EPW) Committee's initiative in releasing draft PFAS legislation for stakeholder comment. We share the Committee's important goal of eliminating environmental and public health risks including the elimination of all concentrations of PFAS from the public's drinking water and environment. We also acknowledge the bipartisan effort and the goals set forth in the draft legislation to support EPA in addressing PFAS contamination through new research and technology development efforts, expanding EPA science related to PFAS, and assisting communities dealing with PFAS contamination through emergency remediation assistance and risk management communication strategies.

However, NRWA and our 30,000 water and wastewater system members across the country strongly urge the Committee's PFAS legislation ensures water and wastewater systems are not subject to liability claims when EPA designates PFAS compounds as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Civil enforcement and CERCLA liability are inappropriate federal solutions for addressing PFAS contamination in small communities.

Small and rural communities are not responsible for introducing PFAS into the environment or public drinking water. In fact, local governments (and non-profit water utilities) exist solely to protect and assist their citizens and do not profit from PFAS chemicals. Last year, the EPA formally announced plans to designate two of the most common PFAS "hazardous substances" under CERCLA. While 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, without legislative action by this Committee, drinking water and wastewater utility customers, the American public, will remain at risk of incurring catastrophic CERCLA legal defense fees and cleanup liability costs for PFAS, exacerbating financial instability and potentially leading to insolvency for impacted communities.

This is why NRWA expresses strong support for S. 1430, the "Water Systems PFAS Liability Protection Act" introduced on May 4, 2023, by Senator Lummis. The legislation aligns with our goal to eliminate PFAS from the public's drinking water and environment while preserving the essential "polluter pays" principle under CERCLA. The regulatory and enforcement provisions contained in CERCLA result in the unintended consequence of penalizing the communities whose drinking water or environment was contaminated. This dynamic is especially problematic in economically disadvantaged communities and populations with limited resources.

In addition, NRWA emphasizes the significant financial burden that testing, treatment, and disposal costs related to PFAS contamination place on our membership. Local governments' water and wastewater utilities are not "producers" or users of PFAS, and none of these essential public service providers utilize or profit from PFAS chemicals. Rather, we are "passive receivers" of these chemicals that were once used by manufacturers and everyday consumers and are now ubiquitous in the environment. We are saddled with the responsibility of managing traces of PFAS coming into our systems daily. This burden cannot be overlooked, and the responsible parties should be held accountable.

Finally, communities impacted by PFAS contamination need assistance in various forms, including funding for treatment, monitoring, on-site technical assistance for immediate response, credible public health information, emergency access to safe drinking water, and compensation from responsible parties for remediation, treatment, and provision of alternative sources of safe drinking water.

NRWA supports the draft legislation's goals and recommends additional language to exempt water systems and wastewater treatment facilities from CERCLA liability for releases of PFAS.

We are committed to working with the Committee to ensure the legislation effectively addresses the PFAS challenges facing local governments, while also supporting the critical public health and environmental protection services provided by our membership.

Sincerely,



Matthew Holmes, CEO

August 29, 2023

The Honorable Mark Kelly
United States Senate
Washington, D.C. 20510

Dear Senator Kelly,

On behalf of over 1,500 water and wastewater utility systems served by the Rural Water Association of Arizona (RWAAZ), we write to request your support for liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for water and wastewater systems that follow all laws and regulations in the treatment and disposal of per- and polyfluoroalkyl substances (PFAS). Our membership of small and rural communities serve people across Arizona and we are seriously concerned about the implications of potential CERCLA liability on our utilities and ratepayers.

In August 2022, the Environmental Protection Agency (EPA) proposed to designate two PFAS – PFOA and PFOS – as hazardous substances under CERCLA. EPA is also in the process of soliciting public feedback to designate additional PFAS chemicals as hazardous substances under CERCLA. Though CERCLA is intended to target manufacturers and polluters who knowingly released these chemicals into the environment, the law does not explicitly protect passive receivers like water and wastewater systems who merely convey PFAS through no fault of our own. Civil enforcement and CERCLA liability are inappropriate federal solutions for addressing PFAS contamination in our communities.

To protect public health, of over 1,500 water and wastewater utility systems served by RWAAZ will soon be responsible for treating and disposing of PFAS chemicals. Without an explicit exemption from liability under CERCLA, water and wastewater systems could incur catastrophic CERCLA legal defense fees and liability costs for the cleanup of PFAS contamination, despite having never manufactured, used, or profited from PFAS. The testing, treatment and disposal costs related to PFAS contamination will place a significant financial burden on us. This dynamic is especially problematic in our economically disadvantaged communities who serve populations with limited resources. Manufacturers and polluters should not have the opportunity to shift their own financial burden onto the ratepayers (your constituents) that we serve.

As the Senate Committee on Environment and Public Works considers legislation to address PFAS, I urge you to uphold CERCLA's "polluter pays" principle and protect

Rural Water Association of Arizona
P.O. Box 31029, Flagstaff, AZ 86003
480-982-0301 I rwwaz.org

water systems and the ratepayers we serve by supporting a narrowly tailored legislative exemption for water and wastewater utilities from PFAS-related liability.

Thank you for your time and attention to this very important request.

Sincerely,

The Rural Water Association of Arizona



Ronny Deming, President, Ponderosa DWID
Ethan Estes, Vice President, Graham County
Carol P. Shrock, Secretary, Thunderbird DWID
Robert Fickett, Director, San Simon WID
Brian Fickett, Director, Tohono O'odham Utility Authority
Matt Rencher, NRWA Director, City of Eloy

July 12, 2023

The Honorable Tom Carper
Chairman
United States Senate Environment and Public Works Committee
Washington, DC

The Honorable Shelley Moore Capito
Ranking Member
United States Senate Environment and Public Works Committee
Washington, DC

Dear Chairman Carper and Ranking Member Capito,

On behalf of organizations representing the nation's drinking water and clean water utilities, we want to commend the Senate Environment and Public Works (EPW) Committee for taking proactive steps to address the PFAS crisis through the proposed bipartisan legislation to address gaps in PFAS research and technology and enhance mitigation efforts. By opening up the opportunity for public input, the Committee has demonstrated a commitment to transparency and inclusivity. Welcoming the submission of perspectives and expertise helps ensure that the final legislation is well-informed and considers the diverse needs and concerns of those affected by per- and polyfluoroalkyl (PFAS) contamination.

Drinking water, wastewater, and stormwater utilities neither manufacture nor use PFAS but rather are passive receivers of PFAS by virtue of providing the vital public services of treating and managing local water supply, wastewater, stormwater, and biosolids. Our organizations individually have submitted comments to the Committee on specific provisions included in the draft bill. However, as the Water Coalition Against PFAS, we are jointly writing to emphasize our overarching concern that as the Committee works to advance the legislation, a provision must be incorporated protecting clean and drinking water systems from CERCLA liability for PFAS.

As stewards of their communities, public clean water and drinking water utilities stand ready to do their part under the proper Clean Water Act (CWA) and Safe Drinking Water Act (SDWA)

authorities to meet PFAS-related standards necessary to continue our mission of ensuring the highest level of protection of human health and the environment. We look forward to working with Congress and regulators to ensure these are promulgated under a proper scientific and regulatory approach.

However, as you are aware, in August of 2022 the U.S. Environmental Protection Agency (EPA) proposed designations of two of the most common PFAS chemicals, Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS), as hazardous substances under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA is also in the process of soliciting public feedback on potentially listing additional PFAS chemicals under CERCLA.

EPA has touted CERCLA as a way of providing a "polluter pays" approach to PFAS remediation activities, but unfortunately given CERCLA's construct and the ubiquity of PFAS throughout the country, clean water and drinking water utilities and the communities they serve will be exposed under EPA's approach to the threat of unprecedented PFAS cleanup costs – despite never producing, using, or profiting from these chemicals. The regulatory and enforcement provisions contained in CERCLA result in the unintended consequence of penalizing the communities whose drinking water, clean water, or environment was contaminated by PFAS.

This dynamic is especially problematic and acute in economically disadvantaged communities and populations with limited resources. Ultimately, public water utility ratepayers will bear the brunt of the costs of remediating PFAS pollution instead of the private companies that created the pollution to make a profit in the first place. Water affordability is already a significant challenge for millions of U.S. households, so ratepayers from coast to coast should not be presented with the bill to clean up industrial pollution created by others.

As such, it is imperative that as the Committee moves forward with this proposed legislation, Congress must clearly exempt "passive receivers" like clean water and drinking water utilities from PFAS-related CERCLA liability and ensure that Congressional and Agency efforts to control PFAS hold actual polluters accountable. Without legislative action by this Committee, customers of drinking water and wastewater services will remain at risk of incurring catastrophic CERCLA legal defense fees and eventual cleanup liability costs for PFAS, exacerbating financial instability for many impacted communities.

The Coalition strongly requests that as the Committee moves forward with this proposed PFAS legislation, Congress provide drinking water and clean water systems with a tailored legislative exemption from CERCLA liability for PFAS-related cleanups or ensure that any passive receivers exemption included is protective of all activities involved in the clean water and drinking water treatment process and for entities that have not benefited nor profited from the use of PFAS.

It is our hope that the comments and feedback submitted by the Coalition will be carefully considered during the legislative deliberations. The impact of PFAS contamination extends beyond partisan politics, and we urge the committee to approach this issue with a commitment

to public health, environmental sustainability, and science-based decision making. By enacting comprehensive and science-based policies, we can take significant strides towards mitigating the risks posed by PFAS and safeguarding the health and economic wellbeing of our communities.

Thank you for your time, attention, and commitment to addressing this critical issue.

Sincerely,

The Water Coalition Against PFAS:

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

April XX, 2023

The Honorable Cynthia Lummis
United States Senate
Washington, DC 20510

Dear Senator Lummis,

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 Polyfluorinated Substances (PFAS) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Last year, EPA formally announced plans to designate two of the most common PFAS – Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic acid (PFOS) – as hazardous substances under CERCLA. While 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, without congressional action drinking water and clean water utility 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 sites that are tainted with these chemicals.

This is because drinking water and clean water systems are innocent receivers of PFAS contamination from upstream polluting industries and PFAS-laden products. This causes the water system to possess residuals that contain those PFAS, which are disposed of in accordance with applicable law. However, should disposal be to a landfill or other facility that ever became a Superfund site, then the water system could be treated as a PFAS polluter — and be responsible for a portion or even all of the cleanup costs — forcing local ratepayers to cover the cleanup bill after they already paid to remove the contaminants from their source water. This challenge will become even more acute as EPA has proposed a National Primary Drinking Water Regulation for six different PFAS – which if finalized will require communities to remove these substances through treatment processes that will capture and concentrate PFAS in filtration media.

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 is pursuing an "enforcement discretion" policy that intends to concentrate the Agency's CERCLA enforcement activities related to PFAS on the polluters that have long profited from PFAS and are responsible for the contamination these chemicals have caused. However, any such policy will be wholly insufficient to ensure that drinking water and clean water utility customers will not be faced with potentially catastrophic CERCLA legal defense costs and cleanup liability for PFAS.

Not only could such a policy easily be changed by future administrations, 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. As they have done countless times in the past, corporate polluters will use the extensive means provided to them by CERCLA to defray the costs of the pollution they created directly onto the backs of the communities they have harmed by dragging public agencies into CERCLA litigation. And, unfortunately, these communities are often those that have been the most overburdened with pollution and are therefore the least able to afford such costs. As well-intentioned as EPA is, the Agency simply cannot legally stop this from happening.

Passage of the "Water Systems PFAS Liability Protection Act" is therefore necessary to guarantee drinking water, wastewater and stormwater system ratepayers are entirely protected from incurring the likely billions of dollars of costs of cleaning up environmental PFAS pollution caused by others.

As the Senate debates this issue in the coming months, we will be eager to work with you on any necessary revisions to the scope of the bill, such as to ensure that the bill's definition of covered PFAS fully captures all PFAS that EPA may choose to designate as hazardous substances under CERCLA.

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 this mission of supporting 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 Rural Water Association
Water Environment Federation

American Water Works Association
Dedicated to the World's Most Important Resource℠

ASSOCIATION OF METROPOLITAN WATER AGENCIES

NACWA
A CLEAR COMMITMENT TO AMERICA'S WATERS

NRWA NATIONAL RURAL WATER ASSOCIATION
America's Largest Utility Membership

Water Environment Federation
the water quality people®

RE: Water Coalition Against PFAS Talking Points

Cost-Specific Talking Points

- Public drinking water systems could incur $52 billion in treatment costs associated with management of PFAS-laden media *(Black & Veatch, page 6)*.
- In a study of 29 solids management facilities conducted in 2020, average biosolids management cost increased by approximately 37% in response to PFAS concerns. Notably, these cost spikes to public utilities were incurred prior to newer policies and regulations taking effect over the last two years – these impacts are anticipated to only grow. (*NACWA/NEBRA/WEF 2020 study, page ES-2*).
- In Maine, biosolids disposal costs have seen an increase of anywhere from 37% to 455%, with the latter resulting in a jump from roughly $74M to $410M. Ultimately, based on reported data from a number of utilities, biosolids disposal costs are increasing or have increased by an average of 170%, and this data does not even reflect all costs associated with biosolids management changes when PFAS screening levels were initially adopted.
- The designation of PFAS as a hazardous substance under CERCLA could result nationally in a 27-fold increase in annual disposal costs for water treatment residuals, from $138 million per year to over $3.7 billion per year *(Hazen & Sawyer, page 7)*.
    - Other costs include the handling charges for hazardous waste generators and per mile surcharges for transport based on the quantity of hazardous waste generated.
    - Transportation of residuals to hazardous waste facilities require much farther travel distances relative to a non-hazardous disposal site. On average, the transport distance increases from 10 to 200 miles.
- New Jersey estimates the cost of installing PFAS-specific GAC treatment for a PWS serving about 10,000 people ranges from $500,000 to $1,000,000, with estimated operating costs of approximately $80,000 per year" (Environmental Council of the States).
- Cost of non-hazardous disposal in a Subtitle D municipal landfill: $64.41/ton *(Hazen & Sawyer) (Page 6)* (Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances)
- Cost of hazardous disposal: The EPA unit cost for Hazardous Waste Incineration from the 2020 Interim PFAS Destruction and Disposal Guidance was used at $1,738/ton *(Hazen & Sawyer) (Page 6)*.
- EPA's Drinking Water Treatment Technology Unit Cost Models has a report on 'Reverse Osmosis/Nanofiltration Drinking Water Treatment' (which includes membrane treatment).

COALITION REPORT

Correcting PFAS Myths: Misperceptions Risk Higher Clean-up Costs for Water Ratepayers

ASSOCIATION OF METROPOLITAN WATER AGENCIES | Water Environment Federation the water quality people | American Water Works Association | NACWA THE VOICE OF CLEAN WATER UTILITIES | NRWA NATIONAL RURAL WATER ASSOCIATION America's Largest Utility Membership

Regulating forever chemicals, also known as per- and polyfluoroalkyl substances (PFAS), presents enormous challenges for lawmakers and regulators due to their unique characteristics.

In the stampede to address this complex issue, Congress and EPA have often applied faulty cost projections to remediation, ignored or downplayed input from the water sector, and created policies that hamper accountability as part of regulations that will inevitably determine who pays for the clean-up of harmful PFAS pollution. New, fact-based regulations that trace back the history of PFAS must be crafted to hold the real polluters accountable.

Forever chemicals have been used in various industrial and consumer products for decades. They are resistant to heat, water, and oil, making them ideal for applications such as firefighting foam, non-stick coatings, waterproofing materials, and more. The extensive use of PFAS in numerous industries makes it difficult to control their release and prevent further contamination.

Complex regulatory landscape – Regulating forever chemicals is complicated due to the wide range of PFAS compounds with different properties and potential risks. US EPA is on a path to implement regulations and guidelines for specific PFAS compounds, instead of taking a more comprehensive approach. Many states are also moving ahead with different PFAS regulations that are separate from what is happening at the federal level. This lack of harmonized regulations will lead to inconsistencies in holding PFAS polluters accountable and enforcing effective control measures.

Treatment and remediation – Removing PFAS from drinking water sources and as part of the wastewater treatment and stormwater management process is technically challenging and costly. Conventional treatment methods like filtration and activated carbon adsorption are not always effective in completely removing PFAS from water. Developing efficient and scalable treatment technologies is crucial to mitigate the ongoing contamination and ensure safe drinking water supplies.

Given the persistence, bioaccumulation and potential health risks associated with forever chemicals, the Water Coalition Against PFAS – a group of leading associations representing every corner of the water sector (drinking water, wastewater, stormwater, and rural utilities) believes that correcting the myths of PFAS and addressing the regulatory challenges is vital to protecting human health and the environment effectively.

PFAS Myth #1

The cost to clean up forever chemicals can be easily borne by water sector utilities and their customers

New research from the water sector and state regulators indicate that the costs to address PFAS will be much higher than Congress and EPA anticipate. These figures represent new estimates, which show that PFAS clean-up costs are actually much higher than current EPA projections being used to inform PFAS regulation in the pipeline. If nothing is done, these costs will ultimately be paid for by drinking water, clean water, and rural water utility providers and their customers – meaning that the American public will essentially be subsidizing the private, for-profit companies that made and profited from PFAS chemicals.

Drinking Water – According to a report commissioned by the American Water Works Association (AWWA) and prepared by Black & Veatch, **drinking water utilities will need to invest more than $50 billion to install and operate treatment technology over the next 20 years in order to comply with new PFAS standards.** Additional analysis by Hazen & Sawyer estimates that a hazardous substance designation for PFOA and PFOS under CERCLA could add another $3.5 billion per year in disposal costs for the water sector.

Wastewater – New information from a survey conducted by the National Association of Clean Water Agencies (NACWA) suggests that **operational costs for individual clean water utilities will increase by up to 60% as a direct result of new PFAS regulations.** Total amounts can vary from utility to utility and depend on the specific regulations implemented. Additionally, a recent study from Minnesota showed total wastewater costs to remove PFAS to be between $14 and $28 billion over 20 years in that state alone. Extrapolating this number to a national level, it is clear that wastewater utilities alone are looking at tens of billions of dollars a year in additional costs to address PFAS – all of which must be passed on to ratepayers.

Various technologies can be employed for PFAS remediation, and once the remediation technology is chosen, the design and construction of treatment systems come into play. This includes designing the system layout, purchasing necessary equipment, and constructing the infrastructure required for the treatment process. The complexity and scale of the treatment system can significantly influence the overall costs.

PFAS remediation will also require long-term operation and maintenance of drinking water and wastewater treatment systems to ensure effective and continuous treatment. This will involve regular monitoring, system maintenance, replacement of consumables (such

as activated carbon filters), and disposal of waste generated during the treatment process. The costs associated with ongoing operation and maintenance can be substantial, particularly for large-scale and long-term remediation projects.

The disposal of PFAS-contaminated waste posed a much larger cost consideration. The generated waste during remediation needs to be properly managed and disposed of in accordance with applicable regulations. Also, the treatment and disposal of PFAS-contaminated waste can be expensive due to the specialized processes and facilities required.

Finally, compliance with relevant legal and regulatory requirements can add to the overall clean-up costs. This includes obtaining necessary permits, complying with waste management regulations, and meeting reporting obligations.

The bottom line is that PFAS clean-up costs for water sector utilities – which never produced nor profited from PFAS in the first place – will be substantial, especially for large-scale or long-term remediation projects.

PFAS Myth #2

New EPA regulations will help clean water utilities to curtail costs associated with PFAS remediation

Instead of helping the water sector with the growing PFAS clean-up cost burden, a new rule proposal from EPA created to identify PFAS substances in drinking water may wind up shifting the financial burden even more onto clean water utilities and ratepayers.

EPA's new piecemeal approach will set new regulations for six PFAS compounds, including the two leading chemicals, perfluorooctanoic acid (PFOA) and perfluorobutane sulfonic acid (PFOS). With the new rule in place, water utilities will need to monitor for all six chemicals and treat water if concentrations exceed the maximum contaminant level (MCL). Water industry experts agree that implementing a new federal MCL will require additional treatment technology, which will result in added costs for utilities.

A broad-based cost projection by EPA, pegged to the new rule, estimates the annual cost for PFAS clean-up could be anywhere between $772 million to $1.2 billion, with economic benefits between $908 million and $1.2 billion. Even with such a wide-ranging estimate, leading water associations vehemently disagree with this assessment.

In March 2023, the American Water Works Association (AWWA) released new information showing the national cost for treatment systems to remove PFOA and PFOS to levels by the EPA rule would exceed $3.8 billion annually. The EPA rule as proposed would require more than 5,000 water systems to develop new water sources or install advanced treatment technologies. Another 2,500 water systems in states with established standards would need to adjust their existing PFAS treatment systems.

As for accountability, the Water Coalition Against PFAS believes the proposed hazardous substance designation of PFOS and PFOA under the Comprehensive Environmental Response, Compensation, and Liability Act (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 water sector utilities, polluters will continue to pass these costs on to American households and families, effectively creating a "public pays" principle under CERCLA.

Experts from across the water sector have expressed concerns to EPA, but the Agency believes it does not have the authority to provide any formal legal shield, leaving water systems with potential protection from EPA that would be formalized through a policy memorandum, at best.

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 water sector utilities under CERCLA.

PFAS Myth #3

Drinking water, wastewater and stormwater utilities are sources or "polluters" of PFAS

The responsibility for cleaning up PFAS is currently being shared among various stakeholders, including government agencies, the water sector, and occasionally the private sector companies that created them, which often creates a misperception among policymakers and the public that utilities are point sources for PFAS. **Despite this shared responsibility and the optics of it for lawmakers and the public, drinking water and clean water utilities themselves do not produce forever chemicals.**

PFAS compounds are discharged into water bodies as part of industrial processes or from manufacturing facilities. They can also be discharged from industrial facilities into municipal sewer systems. Additionally, PFAS chemicals are discharged from homes, where they can be found in all kinds of domestic products, into sewer systems. Wastewater treatment facilities then become passive receivers of these chemicals, which they have no role in producing or profiting from. There is no current technology that can feasibly and affordably remove PFAS during the wastewater treatment process, and the chemicals are ultimately discharged from wastewater treatment plants to local receiving water bodies.

If these water bodies serve as sources of drinking water, the PFAS can be taken up by water utilities during the treatment process. In addition, PFAS can contaminate groundwater due to releases, accidental spills, or improper disposal practices. Water utilities that rely on groundwater sources may unintentionally extract water containing PFAS and subsequently distribute it to consumers.

For these reasons, water utilities strive to provide safe drinking water to consumers and are subject to new regulatory standards for water quality. As awareness about PFAS contamination increases, water utilities will be responsible for implementing more complex measures to detect, monitor, and treat PFAS in their water supplies to ensure compliance with regulations and minimize consumer exposure.

Bearing in mind the obligation of the water sector to ensure clean water and to protect public health and the environment, the industries that have historically used PFAS or are directly responsible for dangerous contamination must be expected to contribute to the clean-up costs. That's why industries that manufactured or used PFAS-containing products, such as chemical manufacturers, textile manufacturers, and manufacturers of firefighting foam, must be held financially responsible for clean-up efforts.

It's important to note that the allocation of clean-up costs can vary depending on the jurisdiction and specific circumstances of each PFAS contamination case. The legal and regulatory framework, along with the level of government involvement and the ability to identify responsible parties, can significantly impact the distribution of financial responsibility.

PFAS MYTH #4

Water utilities – and the communities they serve – will not be saddled with legal liability for PFAS cleanups

When it comes to PFAS cleanups, environmentalists, members of Congress, and the US EPA all say the same thing: polluters should pay to get these "forever chemicals" out of our water and off our lands. And, in theory, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) – the federal statute designed to make responsible parties pay for cleanups of hazardous substances – is a good tool to achieve that goal. The reality of

CERCLA liability, however, is much more complicated. Clean water utilities collect, manage, treat, and sustainably reuse the billions of gallons of wastewater and stormwater and tons of biosolids generated throughout the country each day. These services are foundational for our modern society, but they also often fall within CERCLA's broad categorizations of "disposal" and "releases," and therefore can lead to clean water utilities being incongruously labeled as CERCLA "potentially responsible parties" (PRPs).

On the flip side, the chemical companies that created PFAS and profited from their sale often do not – in the legalese of CERCLA – ultimately "dispose" of them, but instead sell them as a "useful product." Ironically, this fact may allow the biggest "polluters" of them all – PFAS manufacturers – to escape paying for clean-ups conducted under CERCLA. In other words, CERCLA may lead to the very communities that have suffered from PFAS pollution paying for its clean-up through increased utility bills, while polluters with teams of lawyers skirt legal liability and get around paying their fair share.

EPA has indicated that it will use its CERCLA enforcement discretion to go after polluters and help shield utilities from this outcome. Public utilities appreciate this, and EPA can provide some relief under CERCLA using its discretion. But in spite of what environmentalists may say, these protections have holes big enough for PFAS manufacturers to drive trucks through, because CERCLA provides third parties – including polluters – with statutory rights to bring suits and foist cleanup costs on any PRP, like water utilities. In many cases, EPA can't do anything to stop it. And utilities make juicy targets. They are reliable sources of funding that polluters are more than willing to use to defray their own costs.

Bottom line: absent action from Congress to change the way CERCLA works in the context of PFAS, there is a significant risk that clean water utilities and the public they serve will be burdened with the costs of PFAS cleanups and legacy pollution, not polluters.

PFAS Myth #5

New technologies being developed will mitigate PFAS clean-up costs for the water sector in the future

While the field is still evolving, policymakers have started to focus on innovative technologies for PFAS remediation. To address PFAS in drinking water, the water sector is working to implement advanced treatment processes to remove or reduce PFAS concentrations, ensuring the provision of clean and safe drinking water to consumers. **However, new technologies are not a silver bullet for the utilities, and they can be very expensive. Also, the cost of remediation technologies can vary dramatically, depending on the extent of contamination, the selected remediation method, and the scale of the project.**

Advanced oxidation processes (AOPs) involve the use of chemical reactions to break down and destroy PFAS compounds. Techniques such as ultraviolet (UV) light, ozone, or hydrogen peroxide are applied to generate highly reactive radicals that can degrade PFAS molecules. AOPs have shown effectiveness in treating PFAS-contaminated water, although further research is needed to optimize the process and ensure complete degradation.

Electrochemical methods use an electric current to induce reactions that can degrade or remove PFAS compounds. Electrochemical oxidation and electrocoagulation are two approaches that have been investigated for PFAS remediation. These techniques can be effective in treating both water and soil contaminated with PFAS.

Researchers are developing novel adsorbent materials specifically designed to capture PFAS from water sources. These materials have high affinity and selectivity for PFAS, allowing for efficient removal. Examples include modified clays, activated carbon-based materials, and nanomaterials. Research efforts focus on enhancing adsorption capacity, stability, and cost-effectiveness of these materials.

Membrane-based separation processes, such as reverse osmosis (RO) and nanofiltration (NF), have been effective in removing PFAS from contaminated water. These technologies work by selectively rejecting PFAS compounds while allowing clean water to pass through. Advances in membrane materials and processes aim to improve PFAS removal efficiency and reduce energy consumption.

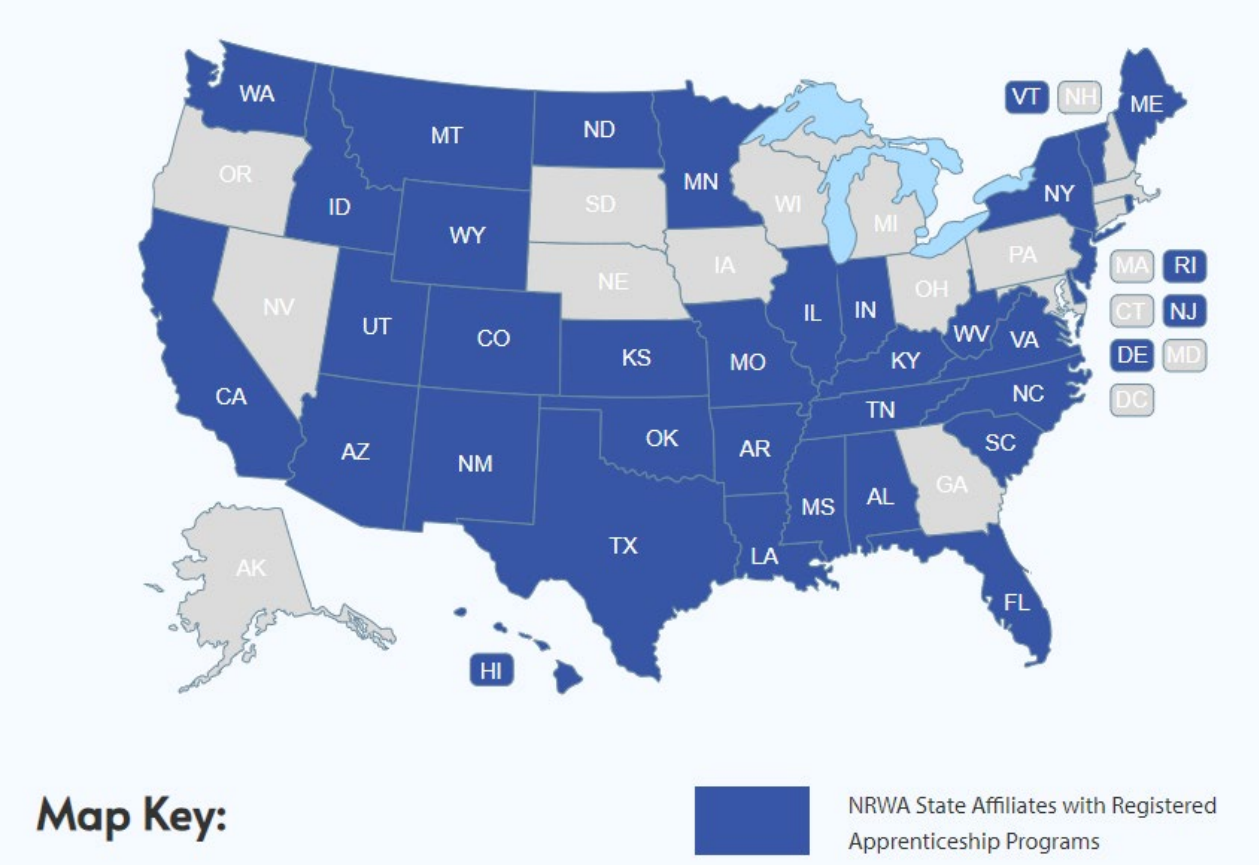
It's worth noting that while these technologies show promise, each has its own limitations, and their effectiveness may depend on the specific PFAS compounds, concentrations, and site conditions. Continued research and development are essential to optimize these technologies and make them commercially viable for large-scale PFAS clean-up efforts.

Other cost factors to consider include research and development efforts. Investing in innovation and improving the efficiency and effectiveness of existing technologies can could help reduce overall expenses. PFAS remediation also obviously requires perpetual operation and maintenance to ensure effective treatment. The costs associated with operating treatment systems, including energy, chemicals, consumables, and personnel, can be substantial, particularly for long-term remediation projects.

Lawmakers and media must work to debunk the common myths associated with PFAS so that Americans from all walks of life understand who is responsible and what must transpire to fix this massive problem. While the costs associated with PFAS remediation can be significant, it's important to weigh them against the potential risks of contamination to human health and the environment. That's why Congress and EPA must work together and listen to water industry experts to ensure that the American public is not forever on the hook for cleaning-up forever chemicals.



NRWA Apprenticeship Program



The Need for Apprentices

It takes more than 380,000 highly skilled water and wastewater professionals to ensure the public supply of safe drinking water and to protect our lakes, streams and groundwater. If there are water and wastewater services in your community, state laws require that there must be certified operators in responsible charge of those facilities. This means that even in the most rural of communities, job opportunities exist in the water and wastewater industry.

Over the next decade, the water sector is expected to lose between 30 – 50 percent of its workforce to retirement. Many of these water professionals have worked at the same utility for the majority of their careers and they will depart with decades of valuable institutional knowledge. Furthermore, advancements in water treatment and supply technology have increased the skills and training required of this workforce. Our industry must address the need to train the next generation of skilled workers in order to protect and provide what is arguably the most valuable resource that is essential to all life—clean water.

About the NRWA Apprenticeship Program

The NRWA Apprenticeship Program provides guidelines to states to assist with developing their own apprenticeship programs to meet the training demands of the next generation of water professionals. With little to no cost, apprentices will attend an approximate 2-year training program made up of classroom technical instruction and on-the-job training, providing apprentices the tools necessary to become successful operations specialists in their communities. During the apprenticeship program,

apprentices will earn-while-they-learn with knowledgeable, passionate people who strive to deliver clean drinking water to their community and treat wastewater before returning to the environment. This program starts as a job and emerges as a solid and secure career as either a Water Operations Specialist or Wastewater Operations Specialist.

Benefits of Apprenticeship

- ❖ Earn & Learn: From their first day of work, apprentices receive a paycheck that is guaranteed to increase as their training progresses. Apprentices also complete a combination of job-related instruction and hands-on training at the job site leading to a nationally-recognized, portable credential.
- ❖ Hands-on career training: Apprentices receive practical on-the-job training resulting in improved skills and competencies as well as the potential to earn college credit toward an associate's or bachelor's degree.
- ❖ A career: Once the apprenticeship is complete, workers are on their way to a successful long-term career with a competitive salary and little or no educational debt.
- ❖ National credential: When an apprentice graduates from a career training program, he or she earns a certified portable credential accepted by industries and employers across the nation.
- ❖ Community Impact: apprenticeship offers an opportunity for the apprentice to make a difference in their own communities. They will be providing clean water to their family and friends. That is surely something to take pride in!

Who Can Apply?

To be eligible, applicants must:

- Be 18 years old or older
- Have a high school diploma or GED
- Have a valid driver's license
- Be physically capable of performing the essential functions of the apprenticeship program

**Note: Please review your State's apprenticeship program standards for any additional eligibility requirements that may exist.*

Non-Discrimination Statement

NRWA and our State Affiliate Registered Apprenticeship Program sponsors will not discriminate against apprenticeship applicants or apprentices based on race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, genetic information, or because they are an individual with a disability or a person 40 years old or older. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, part 30.