



July 7, 2023

Senator Tom Carper  
Chair  
Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

Senator Shelley Moore-Capito  
Ranking Member  
Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Carper and Ranking Member Capito,

Thank you for the opportunity to provide comments on the proposed legislation to address contamination from perfluoroalkyl or polyfluoroalkyl substances (PFAS). The Council of Infrastructure Financing Authorities (CIFA) represents the Clean Water and Drinking Water State Revolving Funds (SRFs), which are the nation's premier programs for funding water infrastructure that protects public health and the environment in communities across the nation.

CIFA **strongly opposes** the use of the annual federal capitalization grant for the Clean Water and Drinking Water SRFs "to develop and maintain a list or registry of all nonresidential industrial facilities in the State that manufacture or use perfluoroalkyl or polyfluoroalkyl substances."

Developing a national list or registry of manufacturers and users of PFAS can provide valuable data to federal and state regulatory agencies, utilities, communities and other stakeholders to inform decisions about addressing emerging contaminants to protect public health. However, developing 51 stand-alone state registries with different definitions, nomenclatures and standards for data may be counter-productive to this goal.

Instead, CIFA recommends using existing federal appropriations for this purpose. In the Infrastructure Investment and Jobs Act (IIJA), Congress allowed the U.S. Environmental Protection Agency (EPA) to use 2% of each national SRF capitalization grant in fiscal years 2024, 2025 and 2026 to administer SRF funding for emerging contaminants with a focus on PFAS – that's a total \$61.5 million in federal funding over the next three years for administration. Rather than divert annual federal funding from state SRF capitalization grants, EPA should prioritize use of these existing annual appropriations to build a robust, uniform and user-friendly national registry that is accessible to the public.

Moreover, to assist with identification of PFAS contamination, Congress should consider a technical fix to allow utilities to use IIJA SRF appropriations for emerging contaminants to fund sampling, testing, monitoring and watershed studies to *detect and map* PFAS. (Sampling, testing and monitoring are ineligible under the SRFs. EPA has determined that watershed studies are

only eligible to map the sources of *known* contamination, but watershed studies to *detect* PFAS are ineligible.) Creating a national registry funded by EPA, combined with extensive mapping of PFAS contamination funded by the SRFs, would provide the high-quality data necessary to develop a well-informed, comprehensive and holistic approach to regulating and remediating these harmful forever chemicals.

Key considerations for your decision-making:

- The purpose of the SRFs is to provide affordable financing to communities to build, repair, and improve water infrastructure to meet increasingly stringent water quality standards, including those for PFAS. Diverting annual federal funding from construction of water infrastructure projects to development and maintenance of a registry of PFAS manufacturers and users doesn't have a clear and direct nexus to the well-established mission of the SRFs.
- The purpose of annual federal funding for the SRFs is to "capitalize" the SRF subsidized loan programs. Every dollar of federal funding diverted from the SRFs reduces the power of capitalization and permanently eliminates a source of recurring revenue to meet the never-ending, ever-evolving need for construction of water infrastructure.
- Diverting funding from the SRF capitalization grant for activities unrelated to construction of water infrastructure sets a bad precedent. Once this precedent is established, the SRFs will be seen as an easy target to fund a myriad of other activities.
- Diverting funding from the SRF capitalization grant further reduces annual federal funding for construction of water infrastructure projects. Over the last two years, Congress has diverted \$2.3 billion or 42% of the SRF capitalization grants to pay for water infrastructure projects funded by Congressionally Directed Spending (congressional earmarks). As a result, net federal funding for construction of clean water and drinking infrastructure (SRF funding plus congressional earmarks) has been cut in 36 states, Puerto Rico and the District of Columbia.

The chart below provides a projection of federal funding for fiscal year 2024 based on continued use of SRF capitalization grants to pay for congressional earmarks. After one-time funding in the IJJA ends in 2026, future funding for the SRFs become even more uncertain.

	<b>Clean Water SRF</b>	<b>Drinking Water SRF</b>
2022 Capitalization Grants	\$1,638,826,000	\$1,126,088,000
2024 Project Requests (House)	\$1,296,973,173	\$1,233,158,539
2024 Project Requests (Senate)	TBD	TBD
Remaining Funding	\$341,852,827	(\$107,070,539)

- Diverting funding from the SRF capitalization grant may not be necessary. The Drinking Water and Clean Water SRFs already have significant flexibility under current law to use up to 4% of their capitalization grant and to charge fees on SRF subsidized loans to pay

for program administration. If EPA determines a clear nexus between the SRFs and the proposed PFAS registry, states could use these funds to establish and maintain a list or registry without changing federal law.

- While participation is currently voluntary, Congress has a history of turning optional uses of SRF funding into federal mandates.
- Congress provided EPA with the ability to use up to \$20.5 million annually over the next three years to administer SRF funding for emerging contaminants in the IIJA. EPA has the flexibility to use this funding to build a national registry of PFAS manufacturers and users.
  - Every year for the next three years, EPA can use up to \$16 million of the Drinking Water SRF capitalization grant for emerging contaminants for administration – that’s more than the IIJA provides to Drinking Water SRFs in 38 states, Puerto Rico and the District of Columbia for construction of water infrastructure to remediate PFAS and other emerging contaminants.
  - Every year for the next three years, EPA can use up to \$4.5 million of the Clean Water SRF capitalization grant for emerging contaminants for administration – that’s more than the IIJA provides to Clean Water SRFs in 35 states, Puerto Rico and the District of Columbia for construction of water infrastructure to remediate PFAS and other emerging contaminants.
- Allowing utilities to use IIJA SRF funding for emerging contaminants to sample, test, monitor and conduct watershed studies to *detect* PFAS will accelerate identification of PFAS contamination across the nation, which is the first step to remediating emerging contaminants.

Finally, Congress may also want to consider how potential litigation for PFAS liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) may impact future investment in water infrastructure. Utilities faced with costly liability lawsuits may be forced to divert funding from capital improvements to pay for legal bills, resulting in less protection for public health and the environment.

Thank you for your support of the SRFs. Maintaining the financial integrity of the SRFs reinforces the core mission of the subsidized loan program, which is to finance construction of water infrastructure to deliver safe drinking water, treat wastewater to safely reuse or return it, and manage stormwater to protect water quality in communities across the nation.

Thanks so much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Walker', with a stylized flourish at the end.

Jeff Walker  
Executive Administrator, Texas Water Development Board  
President, Council of Infrastructure Financing Authorities

## About CIFA

CIFA is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds (SRFs), the nation's premier programs for funding water infrastructure that protects public health and the environment in communities across the nation.

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