



# The House Committee on Transportation & Infrastructure

Chairman Peter A. DeFazio  
Ranking Member Sam Graves

## Fact Sheet on H.R. 2467, the PFAS Action Act of 2021

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### SUPPORT H.R. 2467, THE PFAS ACTION ACT OF 2021

T&I Chair Peter A. DeFazio and Subcommittee on Water Resources and Environment Chair Grace F. Napolitano support H.R. 2467, the PFAS Action Act of 2021. This comprehensive legislation attempts to prevent or limit human and environmental exposure to PFAS-related chemicals from a variety of pathways, as well as spur the cleanup of PFAS-related contamination.

### ADDRESSES SUPERFUND LIABILITY CONCERNS FOR AIRPORTS

Chair DeFazio and Subcommittee Chair Napolitano support the underlying bill, which includes a Superfund liability exemption for airports that use firefighting foams containing PFAS-related chemicals. Congress has directed both military and civilian airports to develop the next generation of firefighting foams that do not contain PFAS-related chemicals; however, in the interim, airports are required to maintain adequate firefighting capability and equipment (including PFAS firefighting foams) to respond to emergencies. To address this situation, H.R. 2467 includes language clarifying that airports that use PFAS firefighting foams are not liable for Superfund response costs, provided that this use is required by the Federal Aviation Administration (FAA) for compliance with existing Federal regulations, and that the use of these firefighting foams is in accordance with FAA standards and guidance. This language was developed in the 116<sup>th</sup> Congress with support from the Airports Council International (ACI) and the American Association of Airport Executives (AAAE).

### SUPERFUND CONCERNS ON USE OF BIOSOLIDS (SEWAGE SLUDGE)

Under current law, EPA regulates the management, use, and disposal of sewage sludge (biosolids) that are produced from the residuals of the wastewater treatment process. Oftentimes, biosolids are either recycled or used as fertilizer under EPA regulations for land application of biosolids. In recent years, additional attention has been focused on residual PFAS-related chemicals that may be present in land-applied biosolids, and on the consequence of designating certain PFAS-related chemicals as hazardous substances under the Superfund law, as H.R. 2467 would accomplish. However, existing Superfund law already contains a statutory exemption from Superfund liability associated with the "normal application of fertilizer." *See 42 U.S.C. 9601(22)*. In addition, the Superfund also contains a "federally permitted release" exemption that excludes parties from liability for discharges in compliance with the Clean Water Act permit limits. *See 42 U.S.C. 9607(j)*. Accordingly, H.R. 2467 should create no additional Superfund liability associated with the use of biosolids related to the normal application of fertilizer. In addition, enactment of two separate amendments to the Clean Water Act (proposed by Representatives Chris Pappas (D-NH) and Antonio Delgado (D-NY) discussed below) should limit the amount of PFAS that passes through sewage treatment plants, and accordingly, limit (or possibly eliminate) the contamination of biosolids from PFAS-related chemicals.

## **CLOSES EXISTING CLEAN WATER ACT LOOPHOLE ON PFAS DISCHARGES**

Chair DeFazio and Subcommittee Chair Napolitano support the Pappas amendment (section 17 of H.R. 2467, as modified by the Manager's Amendment). This common-sense amendment addresses an existing Clean Water Act loophole that allows companies to discharge almost unlimited quantities of PFAS-related chemicals into our Nation's rivers, streams, and lakes. The Pappas amendment establishes a formal process for the U.S. Environmental Protection Agency (EPA) to investigate ongoing discharges of PFAS-related chemicals and to establish clear and effective treatment limits for these discharges. The amendment prioritizes Federal treatment limits on those industry sectors identified as likely discharging harmful quantities of PFAS-related chemicals. This provision was already passed by the U.S. House of Representatives in June as part of H.R. 3684, the INVEST in America Act.

## **PROHIBITS RELEASES OF INDUSTRIAL PFAS SOURCES TO SEWERS**

Chair DeFazio and Subcommittee Chair Napolitano support the Delgado amendment (section 13 of H.R. 2467). This amendment makes it unlawful for industry to release PFAS-related chemicals into a municipal sewage system without first disclosing the nature, quantity, and impact of such release. Municipal sewage treatment plants are typically not designed to address industrial wastes. Pollution in industrial wastewater can interfere with treatment plant processes or may pass through the treatment works untreated, causing contamination of streams, rivers, and lakes. To address this concern, the Clean Water Act contains an industrial pretreatment authority that requires industrial dischargers to address their own wastes; however, that program is only effective when industry takes responsibility for its own waste. The Delgado amendment establishes clear responsibility for dischargers of PFAS-related chemicals by preventing industry from concealing the release of PFAS chemicals through municipal sewer systems. This amendment prohibits the discharge of PFAS-related chemicals into a municipal sewer system unless industry discloses these releases to municipal sewer operators and strengthens existing Clean Water Act authorities aimed at controlling the discharge of industrial pollutants into the Nation's waters. This provision was already passed by the U.S. House of Representatives in June as part of H.R. 3684, the INVEST in America Act.