

118TH CONGRESS
1ST SESSION

S. 1430

To exempt certain entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to releases of perfluoroalkyl and polyfluoroalkyl substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2023

Ms. LUMMIS (for herself, Mr. BOOZMAN, Mr. CRAMER, Mr. GRAHAM, Mr. MULLIN, Mr. RICKETTS, Mr. SULLIVAN, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To exempt certain entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to releases of perfluoroalkyl and polyfluoroalkyl substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Systems PFAS
5 Liability Protection Act”.

1 **SEC. 2. EXEMPTION OF WATER AND WASTEWATER TREAT-**
2 **MENT FACILITIES FROM CERCLA LIABILITY**
3 **FOR RELEASES OF PFAS.**

4 (a) DEFINITIONS.—In this section:

5 (1) COVERED PERFLUOROALKYL OR
6 POLYFLUOROALKYL SUBSTANCE.—The term “cov-
7 ered perfluoroalkyl or polyfluoroalkyl substance”
8 means a non-polymeric perfluoroalkyl or
9 polyfluoroalkyl substance that contains at least 2 se-
10 quential fully fluorinated carbon atoms, excluding
11 gases and volatile liquids, that is a hazardous sub-
12 stance (as defined in section 101 of the Comprehen-
13 sive Environmental Response, Compensation, and
14 Liability Act of 1980 (42 U.S.C. 9601)).

15 (2) INDIAN TRIBE.—The term “Indian Tribe”
16 has the meaning given the term in section 4 of the
17 Indian Self-Determination and Education Assistance
18 Act (25 U.S.C. 5304).

19 (3) PROTECTED ENTITY.—The term “protected
20 entity” means—

21 (A) a public water system (as defined in
22 section 1401 of the Safe Drinking Water Act
23 (42 U.S.C. 300f));

24 (B) a publicly or privately owned or oper-
25 ated treatment works (as defined in section 212

1 of the Federal Water Pollution Control Act (33
2 U.S.C. 1292));

3 (C) a municipality to which a permit under
4 section 402 of the Federal Water Pollution
5 Control Act (33 U.S.C. 1342) is issued for
6 stormwater discharges;

7 (D) a political subdivision of a State or a
8 special district of a State acting as a wholesale
9 water agency; and

10 (E) a contractor performing the manage-
11 ment or disposal activities described in sub-
12 section (c) for an entity described in any of sub-
13 paragraphs (A) through (D).

14 (b) EXEMPTION.—Subject to subsection (c), no per-
15 son (including the United States, any State, or an Indian
16 Tribe) may recover costs or damages from a protected en-
17 tity under the Comprehensive Environmental Response,
18 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
19 et seq.) for costs arising from a release to the environment
20 of a covered perfluoroalkyl or polyfluoroalkyl substance.

21 (c) REQUIREMENTS.—Subsection (b) shall only apply
22 if a protected entity transports, treats, disposes of, or ar-
23 ranges for the transport, treatment, or disposal of a cov-
24 ered perfluoroalkyl or polyfluoroalkyl substance—

1 (1) in a manner consistent with all applicable
2 laws at the time the activity is carried out; and

3 (2) during and following the conveyance or
4 treatment of water under Federal or State law, in-
5 cluding through—

6 (A) the management or disposal of bio-
7 solids consistent with section 405 of the Fed-
8 eral Water Pollution Control Act (33 U.S.C.
9 1345);

10 (B) the discharge of effluent in accordance
11 with a permit issued under section 402 of the
12 Federal Water Pollution Control Act (33 U.S.C.
13 1342);

14 (C) the release or disposal of water treat-
15 ment residuals or any other byproduct of drink-
16 ing water or wastewater treatment activities,
17 such as granulated activated carbon, filter
18 media, and processed waste streams; or

19 (D) the conveyance or storage of water for
20 the purpose of conserving or reclaiming the
21 water for water supply.

22 (d) SAVINGS PROVISION.—Nothing in this section
23 precludes liability for damages or costs associated with the
24 release of a covered perfluoroalkyl or polyfluoroalkyl sub-
25 stance by a protected entity if that protected entity acted

- 1 with gross negligence or willful misconduct in the dis-
- 2 charge, disposal, management, conveyance, or storage of
- 3 the covered perfluoroalkyl or polyfluoroalkyl substance.

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