

March 14, 2024

The Honorable Tom Carper, Chairman
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:

As the Committee on Environment and Public Works plans to consider the issue of passive receiver liability for Per- and polyfluoroalkyl Substances (PFAS) cleanups under CERCLA, the City of Sacramento (City) wants to emphasize how important this issue is for our water utility, as well as many other drinking water and wastewater systems across the country.


While the City agrees that the Environmental Protection Agency (EPA) should take steps to eliminate and cleanup sites contaminated by Perfluorooctanoic Acid (PFOA), Perfluorooctane Sulfonate (PFOS), and other PFAS, water utilities do not use, manufacture, or sell these compounds. Rather, we receive them from waters polluted by manufactured products or waste discharges. In the course of treating our water, we concentrate these and other impurities, and then appropriately dispose of the solids or sludge from the water treatment process consistent with all applicable laws.

EPA has stated that it intends to employ “enforcement discretion,” and not pursue CERCLA cleanup liability against drinking water and wastewater systems related to PFAS. However, this does not protect water systems against CERCLA claims filed by polluters themselves or other entities, using the courts in an attempt to offload some of the cleanup responsibility onto water systems or other passive receivers that had no role in introducing PFAS into the environment.

Subjecting water system ratepayers to CERCLA litigation filed by polluters is in direct contrast with the “polluter pays” principle at the core of CERCLA and will only result in increased water and wastewater rates nationwide. Congress must protect water systems and their ratepayers against these frivolous claims.

On behalf of the City of Sacramento, I urge you to protect water and wastewater system ratepayers nationwide by providing clear and targeted liability protections for passive receivers like water systems that appropriately handle and dispose of PFAS.

Sincerely,


Pravani Vandeyar (Mar 14, 2024 16:08 PDT)

Pravani Vandeyar
Director of Utilities
City of Sacramento