
CITY OF PORTLAND UTILITIES

Bureau of Environmental Services

1120 SW 5th Ave., Suite 613 • Portland OR 97204
P: (503) 823-7740 • F: (503) 823-6995
portland.gov/bes



Portland Water Bureau

1120 SW 5th Ave., Suite 405 • Portland OR 97204
P: (503) 823-7770 • F: (503) 823-4970
portland.gov/water

March 12, 2024

The Honorable Tom 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:

On behalf of the City of Portland Water Bureau and Bureau of Environmental Services, we urge you to support the inclusion of S. 1430, the Water Systems PFAS Liability Protection Act, in any PFAS legislative package the Committee considers, to protect public utility systems from liability under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for per- and polyfluoroalkyl substances (PFAS), and to ensure that polluters, not the public, pay for PFAS cleanups.

As a public utility striving to provide safe, affordable drinking water and wastewater services to our ratepayers, Portland Water Bureau and Bureau of Environmental Services are concerned that the U.S. Environmental Protection Agency's (EPA) proposed designation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) as hazardous substances under CERCLA – which is now in final review at the U.S. Office of Management and Budget (OMB) – will cause public utilities and our ratepayers – rather than polluters – to incur environmental cleanup liability that should be faced by entities responsible for that pollution. **The Portland Water Bureau and Bureau of Environmental Services therefore ask you to support a statutory protection for water and wastewater systems from liability under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for per- and polyfluoroalkyl substances (PFAS) to help ensure polluters, not the public, pay for PFAS cleanup.**

From the start, CERCLA was built on a “polluter pays” principle, envisioned as holding companies that produced and profited from hazardous substances that were discharged into the environment responsible for their cleanup. This polluter pays principle is laudable – but unfortunately, the proposed designation of PFOA and PFOS – nondegradable “forever chemicals,” which are now ubiquitous in the

Please contact us for translation or interpretation, or for accommodations for people with disabilities.

More information · Más información · Thông tin · 欲了解更多信息 · Дополнительная информация

Mai multe informații · Подробици · Macluumaad dheeri ah · अधिक सूचना · Tichikin Poraus

www.portlandoregon.gov/water/access · 503-823-7432 (TTY: 503-823-6868, Relay: 711)

environment— means that drinking water and wastewater systems that passively receive these substances into their systems could face CERCLA cleanup liability simply because an upstream polluter deposited the chemicals in their water supplies.

A CERCLA designation for PFAS exposes drinking water and wastewater utilities like the City of Portland’s to potential litigation from the actual polluters. PFAS users and producers can abuse litigation to reduce their own clean-up costs and increase costs on public utilities – costs which we are then forced to pass along to ratepayers. Even when utilities can successfully defend themselves in court against CERCLA claims, the cost of that litigation alone could contribute to the ongoing water and sewer affordability challenge.

CERCLA liability will be an additional burden on top of the significant treatment costs utilities will incur to meet Safe Drinking Water Act and Clean Water Act PFAS regulations. CERLCA would unjustly make ratepayers pay yet again, now for the environmental remedial burden that should be borne by the companies that produced and profited from PFAS for decades.

With this proposed rule under final review this spring, it is critical that Congress move quickly to ensure that public utilities and their ratepayers are not unfairly punished for PFAS contamination for which they bear zero responsibility or blame. **We therefore urge you to support the inclusion of S. 1430, the Water Systems PFAS Liability Protection Act, in any PFAS legislative package the Committee considers.** This bill would preserve the “polluter pays” principle under CERCLA and ensure that public utilities can continue to focus their efforts on maintaining water quality, and protecting public health and the environment.

Again, we ask that you support S. 1430 and protect water and wastewater system ratepayers by providing statutory liability protections related to PFAS under CERCLA.

Thank you.

Respectfully,



Gabriel Solmer
Director
Portland Water Bureau
City of Portland

Dawn
Uchiyama



Digitally signed by
Dawn Uchiyama
Date: 2024.03.12
16:32:45 -07'00'

Dawn Uchiyama
Director
Bureau of Environmental Services
City of Portland