118TH CONGRESS
1ST SESSION

S._____

To exempt certain entities from liability under the Comprehensive Environ-
mental 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

Ms. LUMMIS introduced the following bill; which was read twice and referred
to the Committee on _________

A BILL

To exempt certain entities from liability under the Com-
prehensive 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”.


SEC. 2. EXEMPTION OF WATER AND WASTEWATER TREATMENT FACILITIES FROM CERCLA LIABILITY FOR RELEASES OF PFAS.

(a) DEFINITIONS.—In this section:

(1) COVERED PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCE.—The term ‘‘covered perfluoroalkyl or polyfluoroalkyl substance’’ means a non-polymeric perfluoroalkyl or polyfluoroalkyl substance that contains at least 2 sequential fully fluorinated carbon atoms, excluding gases and volatile liquids, that is a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

(2) INDIAN TRIBE.—The term ‘‘Indian Tribe’’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) PROTECTED ENTITY.—The term ‘‘protected entity’’ means—

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

(B) a publicly or privately owned or operated treatment works (as defined in section 212
of the Federal Water Pollution Control Act (33 U.S.C. 1292));

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

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

(E) a contractor performing the management or disposal activities described in subsection (c) for an entity described in any of subparagraphs (A) through (D).

(b) Exemption.—Subject to subsection (c), no person (including the United States, any State, or an Indian Tribe) may recover costs or damages from a protected entity under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for costs arising from a release to the environment of a covered perfluoroalkyl or polyfluoroalkyl substance.

(c) Requirements.—Subsection (b) shall only apply if a protected entity transports, treats, disposes of, or arranges for the transport, treatment, or disposal of a covered perfluoroalkyl or polyfluoroalkyl substance—
(1) in a manner consistent with all applicable laws at the time the activity is carried out; and

(2) during and following the conveyance or treatment of water under Federal or State law, including through—

(A) the management or disposal of biosolids consistent with section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345);

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

(C) the release or disposal of water treatment residuals or any other byproduct of drinking water or wastewater treatment activities, such as granulated activated carbon, filter media, and processed waste streams; or

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

(d) SAVINGS PROVISION.—Nothing in this section precludes liability for damages or costs associated with the release of a covered perfluoroalkyl or polyfluoroalkyl substance by a protected entity if that protected entity acted
with gross negligence or willful misconduct in the discharge, disposal, management, conveyance, or storage of the covered perfluoroalkyl or polyfluoroalkyl substance.