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116TH CONGRESS
1ST SESSION

H. R. 535

[Report No. 116–364, Part I]

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Mrs. DINGELL (for herself, Mr. UPTON, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JANUARY 2, 2020

Additional sponsors: Ms. WILD, Mr. KHANNA, Mr. DELGADO, Mr. POCAN, Mr. CARBAJAL, Mr. PAPPAS, Ms. SLOTKIN, Ms. DEAN, Ms. LOFGREN, Mr. BLUMENAUER, Mr. LUJÁN, Ms. KUSTER of New Hampshire, Ms. PINGREE, Mr. NEGUSE, Mr. HUDSON, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. MOORE, Mr. LEVIN of Michigan, Ms. HAALAND, Mr. WELCH, Mr. MCNERNEY, Mr. HASTINGS, Ms. TLAIB, Mr. SOTO, Ms. WASSERMAN SCHULTZ, Ms. SHALALA, Mr. COHEN, Mr. SEAN PATRICK MALONEY of New York, Ms. OMAR, Ms. MENG, Ms. NORTON, Mr. GARCÍA of Illinois, Mr. RASKIN, Mr. FITZPATRICK, Mr. GRIJALVA, Mr. GOLDEN, Mr. KIM, Ms. SCANLON, Mrs. LURIA, Ms. LEE of California, Mr. ROUZER, Mr. PRICE of North Carolina, Ms. JUDY CHU of California, Mr. PETERS, Mr. SIREs, Mr. MOULTON, Ms. BONAMICI, Ms. SCHAKOWSKY, Mr. CISNEROS, Mr. LARSON of Connecticut, Mr. PERLMUTTER, Mr. RUPPERSBERGER, Mr. MCGOVERN, Mr. KIND, Mr. HIMES, Mr. CICILLINE, Mr. MALINOWSKI, Ms. SÁNCHEZ, Mrs. KIRKPATRICK, Mrs. WATSON COLEMAN, Mrs. TRAHAN, Mr. SCOTT of Virginia, Mr. CÁRDENAS, and Ms. STEVENS

JANUARY 2, 2020

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JANUARY 2, 2020

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 14, 2019]

A BILL

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“PFAS Action Act of 2019”.*

6 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Designation as hazardous substances.

Sec. 3. Testing of perfluoroalkyl and polyfluoroalkyl substances.

Sec. 4. Manufacturing and processing notices for perfluoroalkyl and polyfluoroalkyl substances.

Sec. 5. National primary drinking water regulations for PFAS.

Sec. 6. Monitoring and detection.

Sec. 7. Enforcement.

Sec. 8. Drinking water state revolving funds.

Sec. 9. Additions to toxics release inventory.

Sec. 10. PFAS data call.

Sec. 11. Significant new use rule for long-chain PFAS.

Sec. 12. PFAS destruction and disposal guidance.

Sec. 13. Establishment of PFAS infrastructure grant program.

Sec. 14. Cooperative agreements with States for removal and remedial actions to address drinking, surface, and ground water and soil contamination from PFAS.

Sec. 15. Listing of perfluoroalkyl and polyfluoroalkyl substances as hazardous air pollutants.

Sec. 16. Prohibition on waste incineration of PFAS.

Sec. 17. Label for pots, pans, and cooking utensils.

Sec. 18. Guidance on minimizing the use of firefighting foam and other related equipment containing any PFAS.

7 **SEC. 2. DESIGNATION AS HAZARDOUS SUBSTANCES.**

8 (a) *DESIGNATION.*—*Not later than 1 year after the*
 9 *date of enactment of this Act, the Administrator of the En-*
 10 *vironmental Protection Agency shall designate*
 11 *perfluorooctanoic acid and its salts, and*
 12 *perfluoroactanesulfonic acid and its salts, as hazardous sub-*
 13 *stances under section 102(a) of the Comprehensive Environ-*

1 *mental Response, Compensation, and Liability Act of 1980*
2 *(42 U.S.C. 9602(a)).*

3 *(b) DEADLINE FOR ADDITIONAL DETERMINATIONS.—*
4 *Not later than 5 years after the date of enactment of this*
5 *Act, the Administrator of the Environmental Protection*
6 *Agency shall determine whether to designate all*
7 *perfluoroalkyl and polyfluoroalkyl substances, other than*
8 *those perfluoroalkyl and polyfluoroalkyl substances des-*
9 *ignated pursuant to subsection (a), as hazardous substances*
10 *under section 102(a) of the Comprehensive Environmental*
11 *Response, Compensation, and Liability Act of 1980 (42*
12 *U.S.C. 9602(a)) individually or in groups.*

13 **SEC. 3. TESTING OF PERFLUOROALKYL AND**
14 **POLYFLUOROALKYL SUBSTANCES.**

15 *(a) TESTING REQUIREMENTS.—Section 4(a) of the*
16 *Toxic Substances Control Act (15 U.S.C. 2603(a)) is*
17 *amended by adding at the end the following:*

18 *“(5) PERFLUOROALKYL AND POLYFLUOROALKYL*
19 *SUBSTANCES RULE.—*

20 *“(A) RULE.—Notwithstanding paragraphs*
21 *(1) through (3), the Administrator shall, by rule,*
22 *require that comprehensive toxicity testing be*
23 *conducted on all chemical substances that are*
24 *perfluoroalkyl or polyfluoroalkyl substances.*

1 “(B) *REQUIREMENTS.*—*In issuing a rule*
2 *under subparagraph (A), the Administrator—*

3 “(i) *may establish categories of*
4 *perfluoroalkyl and polyfluoroalkyl sub-*
5 *stances based on hazard characteristics or*
6 *chemical properties;*

7 “(ii) *shall require the development of*
8 *information relating to perfluoroalkyl and*
9 *polyfluoroalkyl substances that the Adminis-*
10 *trator determines is likely to be useful in*
11 *evaluating the hazard and risk posed by*
12 *such substances in land, air, and water (in-*
13 *cluding drinking water), as well as in prod-*
14 *ucts; and*

15 “(iii) *may allow for varied or tiered*
16 *testing requirements based on hazard char-*
17 *acteristics or chemical properties of*
18 *perfluoroalkyl and polyfluoroalkyl sub-*
19 *stances or categories of perfluoroalkyl and*
20 *polyfluoroalkyl substances.*

21 “(C) *DEADLINES.*—*The Administrator shall*
22 *issue—*

23 “(i) *a proposed rule under subpara-*
24 *graph (A) not later than 6 months after the*
25 *date of enactment of this paragraph; and*

1 “(ii) a final rule under subparagraph
2 (A) not later than 2 years after the date of
3 enactment of this paragraph.”.

4 (b) *PERSONS SUBJECT TO RULE.*—Section 4(b)(3) of
5 *the Toxic Substances Control Act (15 U.S.C. 2603(b)(3))*
6 *is amended—*

7 (1) *in subparagraph (A), by striking “subpara-*
8 *graph (B) or (C)” and inserting “subparagraph (B),*
9 *(C), or (D)”;* and

10 (2) *by adding at the end the following:*

11 “(D) A rule under subsection (a)(5) shall require the
12 *development of information by any person who manufac-*
13 *tures or processes, or intends to manufacture or process, a*
14 *chemical substance that is a perfluoroalkyl or*
15 *polyfluoroalkyl substance.”.*

16 (c) *PERFLUOROALKYL AND POLYFLUOROALKYL SUB-*
17 *STANCES.*—Section 4 of the *Toxic Substances Control Act*
18 *(15 U.S.C. 2603)* is amended by adding at the end the fol-
19 *lowing:*

20 “(i) *PERFLUOROALKYL AND POLYFLUOROALKYL SUB-*
21 *STANCES.*—

22 “(1) *TESTING REQUIREMENT RULE.*—

23 “(A) *PROTOCOLS AND METHODOLOGIES.*—

24 *In determining the protocols and methodologies*
25 *to be included pursuant to subsection (b)(1) in*

1 *a rule under subsection (a)(5), the Administrator*
2 *shall allow for protocols and methodologies that*
3 *test chemical substances that are perfluoroalkyl*
4 *and polyfluoroalkyl substances as a class.*

5 “(B) *PERIOD.*—*In determining the period*
6 *to be included pursuant to subsection (b)(1) in*
7 *a rule under subsection (a)(5), the Administrator*
8 *shall ensure that the period is as short as pos-*
9 *sible while allowing for completion of the re-*
10 *quired testing.*

11 “(2) *EXEMPTIONS.*—*In carrying out subsection*
12 *(c) with respect to a chemical substance that is a*
13 *perfluoroalkyl or polyfluoroalkyl substance, the Ad-*
14 *ministrator—*

15 “(A) *may only determine under subsection*
16 *(c)(2) that information would be duplicative if*
17 *the chemical substance with respect to which the*
18 *application for exemption is submitted is in the*
19 *same category, as established under subsection*
20 *(a)(5)(B)(i), as a chemical substance for which*
21 *information has been submitted to the Adminis-*
22 *trator in accordance with a rule, order, or con-*
23 *sent agreement under subsection (a) or for which*
24 *information is being developed pursuant to such*
25 *a rule, order, or consent agreement; and*

1 “(B) shall publish a list of all such chemical
2 substances for which an exemption under sub-
3 section (c) is granted.”.

4 **SEC. 4. MANUFACTURING AND PROCESSING NOTICES FOR**
5 **PERFLUOROALKYL AND POLYFLUOROALKYL**
6 **SUBSTANCES.**

7 Section 5 of the Toxic Substances Control Act (15
8 U.S.C. 2604) is amended—

9 (1) in subsection (h), by adding at the end the
10 following:

11 “(7) This subsection does not apply to any chemical
12 substance that is a perfluoroalkyl or polyfluoroalkyl sub-
13 stance.”; and

14 (2) by adding at the end the following:

15 “(j) **PERFLUOROALKYL AND POLYFLUOROALKYL SUB-**
16 **STANCES.**—

17 “(1) **DETERMINATION.**—For a period of 5 years
18 beginning on the date of enactment of this subsection,
19 any chemical substance that is a perfluoroalkyl or
20 polyfluoroalkyl substance for which a notice is sub-
21 mitted under subsection (a) shall be deemed to have
22 been determined by the Administrator to present an
23 unreasonable risk of injury to health or the environ-
24 ment under paragraph (3)(A) of such subsection.

1 “(2) *ORDER.*—*Notwithstanding subsection*
2 *(a)(3)(A), for a chemical substance described in para-*
3 *graph (1) of this subsection, the Administrator shall*
4 *issue an order under subsection (f)(3) to prohibit the*
5 *manufacture, processing, and distribution in com-*
6 *merce of such chemical substance.”.*

7 **SEC. 5. NATIONAL PRIMARY DRINKING WATER REGULA-**
8 **TIONS FOR PFAS.**

9 *Section 1412(b) of the Safe Drinking Water Act (42*
10 *U.S.C. 300g–1(b)) is amended by adding at the end the fol-*
11 *lowing:*

12 “(16) *PERFLUOROALKYL AND POLYFLUOROALKYL*
13 *SUBSTANCES.—*

14 “(A) *IN GENERAL.*—*Not later than 2 years*
15 *after the date of enactment of this paragraph, the*
16 *Administrator shall, after notice and oppor-*
17 *tunity for public comment, promulgate a na-*
18 *tional primary drinking water regulation for*
19 *perfluoroalkyl and polyfluoroalkyl substances,*
20 *which shall, at a minimum, include standards*
21 *for—*

22 “(i) *perfluorooctanoic acid (commonly*
23 *referred to as ‘PFOA’); and*

24 “(ii) *perfluorooctane sulfonic acid*
25 *(commonly referred to as ‘PFOS’).*

1 “(B) *ALTERNATIVE PROCEDURES.*—

2 “(i) *IN GENERAL.*—Not later than 1
3 year after the validation by the Adminis-
4 trator of an equally effective quality control
5 and testing procedure to ensure compliance
6 with the national primary drinking water
7 regulation promulgated under subpara-
8 graph (A) to measure the levels described in
9 clause (ii) or other methods to detect and
10 monitor perfluoroalkyl and polyfluoroalkyl
11 substances in drinking water, the Adminis-
12 trator shall add the procedure or method as
13 an alternative to the quality control and
14 testing procedure described in such national
15 primary drinking water regulation by pub-
16 lishing the procedure or method in the Fed-
17 eral Register in accordance with section
18 1401(1)(D).

19 “(ii) *LEVELS DESCRIBED.*—The levels
20 referred to in clause (i) are—

21 “(I) the level of a perfluoroalkyl
22 or polyfluoroalkyl substance;

23 “(II) the total levels of
24 perfluoroalkyl and polyfluoroalkyl sub-
25 stances; and

1 “(III) the total levels of organic
2 fluorine.

3 “(C) INCLUSIONS.—The Administrator may
4 include a perfluoroalkyl or polyfluoroalkyl sub-
5 stance or class of perfluoroalkyl or
6 polyfluoroalkyl substances on—

7 “(i) the list of contaminants for con-
8 sideration of regulation under paragraph
9 (1)(B)(i), in accordance with such para-
10 graph; and

11 “(ii) the list of unregulated contami-
12 nants to be monitored under section
13 1445(a)(2)(B)(i), in accordance with such
14 section.

15 “(D) MONITORING.—When establishing
16 monitoring requirements for public water sys-
17 tems as part of a national primary drinking
18 water regulation under subparagraph (A) or sub-
19 paragraph (G)(ii), the Administrator shall tailor
20 the monitoring requirements for public water
21 systems that do not detect or are reliably and
22 consistently below the maximum contaminant
23 level (as defined in section 1418(b)(2)(B)) for the
24 perfluoroalkyl or polyfluoroalkyl substance or
25 class of perfluoroalkyl or polyfluoroalkyl sub-

1 *stances subject to the national primary drinking*
2 *water regulation.*

3 “(E) *HEALTH PROTECTION.*—*The national*
4 *primary drinking water regulation promulgated*
5 *under subparagraph (A) shall be protective of the*
6 *health of subpopulations at greater risk, as de-*
7 *scribed in section 1458.*

8 “(F) *HEALTH RISK REDUCTION AND COST*
9 *ANALYSIS.*—*In meeting the requirements of para-*
10 *graph (3)(C), the Administrator may rely on in-*
11 *formation available to the Administrator with*
12 *respect to 1 or more specific perfluoroalkyl or*
13 *polyfluoroalkyl substances to extrapolate rea-*
14 *soned conclusions regarding the health risks and*
15 *effects of a class of perfluoroalkyl or*
16 *polyfluoroalkyl substances of which the specific*
17 *perfluoroalkyl or polyfluoroalkyl substances are a*
18 *part.*

19 “(G) *REGULATION OF ADDITIONAL SUB-*
20 *STANCES.*—

21 “(i) *DETERMINATION.*—*The Adminis-*
22 *trator shall make a determination under*
23 *paragraph (1)(A), using the criteria de-*
24 *scribed in clauses (i) through (iii) of that*
25 *paragraph, whether to include a*

1 *perfluoroalkyl or polyfluoroalkyl substance*
2 *or class of perfluoroalkyl or polyfluoroalkyl*
3 *substances in the national primary drink-*
4 *ing water regulation under subparagraph*
5 *(A) not later than 18 months after the later*
6 *of—*

7 “(I) the date on which the
8 *perfluoroalkyl or polyfluoroalkyl sub-*
9 *stance or class of perfluoroalkyl or*
10 *polyfluoroalkyl substances is listed on*
11 *the list of contaminants for consider-*
12 *ation of regulation under paragraph*
13 *(1)(B)(i); and*

14 “(II) the date on which—

15 “(aa) the Administrator has
16 *received the results of monitoring*
17 *under section 1445(a)(2)(B) for*
18 *the perfluoroalkyl or*
19 *polyfluoroalkyl substance or class*
20 *of perfluoroalkyl or*
21 *polyfluoroalkyl substances; or*

22 “(bb) the Administrator has
23 *received reliable water data or*
24 *water monitoring surveys for the*
25 *perfluoroalkyl or polyfluoroalkyl*

1 substance or class of
2 perfluoroalkyl or polyfluoroalkyl
3 substances from a Federal or
4 State agency that the Adminis-
5 trator determines to be of a qual-
6 ity sufficient to make a deter-
7 mination under paragraph
8 (1)(A).

9 “(ii) *PRIMARY DRINKING WATER REGU-*
10 *LATIONS.—*

11 “(I) *IN GENERAL.—*For each
12 perfluoroalkyl or polyfluoroalkyl sub-
13 stance or class of perfluoroalkyl or
14 polyfluoroalkyl substances that the Ad-
15 ministrator determines to regulate
16 under clause (i), the Administrator—

17 “(aa) not later than 18
18 months after the date on which
19 the Administrator makes the de-
20 termination, shall propose a na-
21 tional primary drinking water
22 regulation for the perfluoroalkyl
23 or polyfluoroalkyl substance or
24 class of perfluoroalkyl or
25 polyfluoroalkyl substances; and

1 “(bb) may publish the pro-
2 posed national primary drinking
3 water regulation described in item
4 (aa) concurrently with the publi-
5 cation of the determination to reg-
6 ulate the perfluoroalkyl or
7 polyfluoroalkyl substance or class
8 of perfluoroalkyl or
9 polyfluoroalkyl substances.

10 “(II) DEADLINE.—

11 “(aa) IN GENERAL.—Not
12 later than 1 year after the date on
13 which the Administrator publishes
14 a proposed national primary
15 drinking water regulation under
16 clause (i)(I) and subject to item
17 (bb), the Administrator shall take
18 final action on the proposed na-
19 tional primary drinking water
20 regulation.

21 “(bb) EXTENSION.—The Ad-
22 ministrator, on publication of no-
23 tice in the Federal Register, may
24 extend the deadline under item
25 (aa) by not more than 6 months.

1 “(H) *HEALTH ADVISORY.*—

2 “(i) *IN GENERAL.*—*Subject to clause*
3 *(ii), the Administrator shall publish a*
4 *health advisory under paragraph (1)(F) for*
5 *a perfluoroalkyl or polyfluoroalkyl substance*
6 *or class of perfluoroalkyl or polyfluoroalkyl*
7 *substances not subject to a national pri-*
8 *mary drinking water regulation not later*
9 *than 1 year after the later of—*

10 “(I) *the date on which the Admin-*
11 *istrator finalizes a toxicity value for*
12 *the perfluoroalkyl or polyfluoroalkyl*
13 *substance or class of perfluoroalkyl or*
14 *polyfluoroalkyl substances; and*

15 “(II) *the date on which the Ad-*
16 *ministrator validates an effective qual-*
17 *ity control and testing procedure for*
18 *the perfluoroalkyl or polyfluoroalkyl*
19 *substance or class of perfluoroalkyl or*
20 *polyfluoroalkyl substances.*

21 “(ii) *WAIVER.*—*The Administrator*
22 *may waive the requirements of clause (i)*
23 *with respect to a perfluoroalkyl or*
24 *polyfluoroalkyl substance or class of*
25 *perfluoroalkyl and polyfluoroalkyl sub-*

1 *stances if the Administrator determines that*
2 *there is a substantial likelihood that the*
3 *perfluoroalkyl or polyfluoroalkyl substance*
4 *or class of perfluoroalkyl or polyfluoroalkyl*
5 *substances will not occur in drinking water*
6 *with sufficient frequency to justify the pub-*
7 *lication of a health advisory, and publishes*
8 *such determination, including the informa-*
9 *tion and analysis used, and basis for, such*
10 *determination, in the Federal Register.”.*

11 **SEC. 6. MONITORING AND DETECTION.**

12 *(a) MONITORING PROGRAM FOR UNREGULATED CON-*
13 *TAMINANTS.—*

14 *(1) IN GENERAL.—The Administrator of the En-*
15 *vironmental Protection Agency shall include each sub-*
16 *stance described in paragraph (2) in the fifth publica-*
17 *tion of the list of unregulated contaminants to be*
18 *monitored under section 1445(a)(2)(B)(i) of the Safe*
19 *Drinking Water Act (42 U.S.C. 300j-4(a)(2)(B)(i)).*

20 *(2) SUBSTANCES DESCRIBED.—The substances*
21 *referred to in paragraph (1) are perfluoroalkyl and*
22 *polyfluoroalkyl substances and classes of*
23 *perfluoroalkyl and polyfluoroalkyl substances—*

24 *(A) for which a method to measure the level*
25 *in drinking water has been validated by the Ad-*

1 *ministrator of the Environmental Protection*
2 *Agency; and*

3 *(B) that are not subject to a national pri-*
4 *mary drinking water regulation under subpara-*
5 *graph (A) or (G)(ii) of paragraph (16) of section*
6 *1412(b) of the Safe Drinking Water Act (42*
7 *U.S.C. 300g-1(b)).*

8 (3) *EXCEPTION.—The perfluoroalkyl and*
9 *polyfluoroalkyl substances and classes of*
10 *perfluoroalkyl and polyfluoroalkyl substances included*
11 *in the list of unregulated contaminants to be mon-*
12 *itored under section 1445(a)(2)(B)(i) of the Safe*
13 *Drinking Water Act (42 U.S.C. 300j-4(a)(2)(B)(i))*
14 *under paragraph (1) shall not count towards the*
15 *limit of 30 unregulated contaminants to be monitored*
16 *by public water systems under that section.*

17 (b) *APPLICABILITY.—*

18 (1) *IN GENERAL.—The Administrator of the En-*
19 *vironmental Protection Agency shall—*

20 (A) *require public water systems serving*
21 *more than 10,000 persons to monitor for the sub-*
22 *stances described in subsection (a)(2);*

23 (B) *subject to paragraph (2) and the avail-*
24 *ability of appropriations, require public water*
25 *systems serving not fewer than 3,300 and not*

1 *more than 10,000 persons to monitor for the sub-*
2 *stances described in subsection (a)(2); and*

3 *(C) subject to paragraph (2) and the avail-*
4 *ability of appropriations, ensure that only a rep-*
5 *resentative sample of public water systems serv-*
6 *ing fewer than 3,300 persons are required to*
7 *monitor for the substances described in sub-*
8 *section (a)(2).*

9 (2) *REQUIREMENT.*—*If the Administrator of the*
10 *Environmental Protection Agency determines that*
11 *there is not sufficient laboratory capacity to carry out*
12 *the monitoring required under subparagraphs (B)*
13 *and (C) of paragraph (1), the Administrator may*
14 *waive the monitoring requirements in those subpara-*
15 *graphs.*

16 (3) *FUNDS.*—*The Administrator of the Environ-*
17 *mental Protection Agency shall pay the reasonable*
18 *cost of such testing and laboratory analysis as is nec-*
19 *essary to carry out the monitoring required under*
20 *subparagraphs (B) and (C) of paragraph (1) using—*

21 *(A) funds made available pursuant to sub-*
22 *section (a)(2)(H) or subsection (j)(5) of section*
23 *1445 of the Safe Drinking Water Act (42 U.S.C.*
24 *300j-4); or*

1 (B) any other funds made available for that
2 purpose.

3 **SEC. 7. ENFORCEMENT.**

4 Notwithstanding any other provision of law, the Ad-
5 ministrator of the Environmental Protection Agency may
6 not impose financial penalties for the violation of a na-
7 tional primary drinking water regulation (as defined in
8 section 1401 of the Safe Drinking Water Act (42 U.S.C.
9 300f)) with respect to a perfluoroalkyl or polyfluoroalkyl
10 substance or class of perfluoroalkyl or polyfluoroalkyl sub-
11 stances for which a national primary drinking water regu-
12 lation has been promulgated under clause (i) or (vi) of sub-
13 paragraph (D) of section 1412(b)(2) of the Safe Drinking
14 Water Act (42 U.S.C. 300g-1(b)(2)) earlier than the date
15 that is 5 years after the date on which the Administrator
16 promulgates the national primary drinking water regula-
17 tion.

18 **SEC. 8. DRINKING WATER STATE REVOLVING FUNDS.**

19 Section 1452 of the Safe Drinking Water Act (42
20 U.S.C. 300j-12) is amended—

21 (1) in subsection (a)(2), by adding at the end the
22 following:

23 “(G) *EMERGING CONTAMINANTS.*—

24 “(i) *IN GENERAL.*—Notwithstanding
25 any other provision of law and subject to

1 *clause (ii), amounts deposited under sub-*
2 *section (t) in a State loan fund established*
3 *under this section may only be used to pro-*
4 *vide grants for the purpose of addressing*
5 *emerging contaminants, with a focus on*
6 *perfluoroalkyl and polyfluoroalkyl sub-*
7 *stances.*

8 “(ii) *REQUIREMENTS.—*

9 “(I) *SMALL AND DISADVANTAGED*
10 *COMMUNITIES.—Not less than 25 per-*
11 *cent of the amounts described in clause*
12 *(i) shall be used to provide grants to—*

13 “(aa) *disadvantaged commu-*
14 *nities (as defined in subsection*
15 *(d)(3)); or*

16 “(bb) *public water systems*
17 *servicing fewer than 25,000 persons.*

18 “(II) *PRIORITIES.—In selecting*
19 *the recipient of a grant using amounts*
20 *described in clause (i), a State shall*
21 *use the priorities described in sub-*
22 *section (b)(3)(A).*

23 “(iii) *NO INCREASED BONDING AU-*
24 *THORITY.—The amounts deposited in the*
25 *State loan fund of a State under subsection*

1 *(t) may not be used as a source of payment*
2 *of, or security for (directly or indirectly), in*
3 *whole or in part, any obligation the interest*
4 *on which is exempt from the tax imposed*
5 *under chapter 1 of the Internal Revenue*
6 *Code of 1986.”;*

7 *(2) in subsection (m)(1), in the matter preceding*
8 *subparagraph (A), by striking “this section” and in-*
9 *serting “this section, except for subsections (a)(2)(G)*
10 *and (t)”;* and

11 *(3) by adding at the end the following:*

12 *“(t) EMERGING CONTAMINANTS.—*

13 *“(1) IN GENERAL.—Amounts made available*
14 *under this subsection shall be allotted to a State as*
15 *if allotted under subsection (a)(1)(D) as a capitaliza-*
16 *tion grant, for deposit into the State loan fund of the*
17 *State, for the purposes described in subsection*
18 *(a)(2)(G).*

19 *“(2) AUTHORIZATION OF APPROPRIATIONS.—*
20 *There is authorized to be appropriated to carry out*
21 *this subsection \$100,000,000 for each of fiscal years*
22 *2020 through 2024, to remain available until ex-*
23 *pended.”.*

1 **SEC. 9. ADDITIONS TO TOXICS RELEASE INVENTORY.**

2 (a) *DEFINITION OF TOXICS RELEASE INVENTORY.*—*In*
3 *this section, the term “toxics release inventory” means the*
4 *list of toxic chemicals subject to the requirements of section*
5 *313(c) of the Emergency Planning and Community Right-*
6 *To-Know Act of 1986 (42 U.S.C. 11023(c)).*

7 (b) *IMMEDIATE INCLUSION.*—

8 (1) *IN GENERAL.*—*Subject to subsection (e), be-*
9 *ginning January 1 of the calendar year following the*
10 *date of enactment of this Act, the Administrator of the*
11 *Environmental Protection Agency shall deem the fol-*
12 *lowing chemicals to be included in the toxics release*
13 *inventory:*

14 (A) *Perfluorooctanoic acid (commonly re-*
15 *ferred to as “PFOA”) (Chemical Abstracts Serv-*
16 *ice No. 335-67-1).*

17 (B) *The salts associated with the chemical*
18 *described in subparagraph (A) (Chemical Ab-*
19 *stracts Service Nos. 3825-26-1, 335-95-5, and*
20 *68141-02-6).*

21 (C) *Perfluorooctane sulfonic acid (com-*
22 *monly referred to as “PFOS”) (Chemical Ab-*
23 *stracts Service No. 1763-23-1).*

24 (D) *The salts associated with the chemical*
25 *described in subparagraph (C) (Chemical Ab-*

1 *stracts Service Nos. 2795–39–3, 29457–72–5,*
2 *56773–42–3, 29081–56–9, and 70225–14–8).*

3 *(E) A perfluoroalkyl or polyfluoroalkyl sub-*
4 *stance or class of perfluoroalkyl or*
5 *polyfluoroalkyl substances that is—*

6 *(i) listed as an active chemical sub-*
7 *stance in the February 2019 update to the*
8 *inventory under section 8(b)(1) of the Toxic*
9 *Substances Control Act (15 U.S.C.*
10 *2607(b)(1)); and*

11 *(ii) on the date of enactment of this*
12 *Act, subject to the provisions of—*

13 *(I) section 721.9582 of title 40,*
14 *Code of Federal Regulations; or*

15 *(II) section 721.10536 of title 40,*
16 *Code of Federal Regulations.*

17 *(F) Hexafluoropropylene oxide dimer acid*
18 *(commonly referred to as “GenX”) (Chemical*
19 *Abstracts Service No. 13252–13–6).*

20 *(G) The compound associated with the*
21 *chemical described in subparagraph (F) identi-*
22 *fied by Chemical Abstracts Service No. 62037–*
23 *80–3.*

1 (H) *Perfluorononanoic acid (commonly re-*
2 *ferred to as “PFNA”) (Chemical Abstracts Serv-*
3 *ice No. 375–95–1).*

4 (I) *Perfluorohexanesulfonic acid (commonly*
5 *referred to as “PFHxS”) (Chemical Abstracts*
6 *Service No. 355–46–4).*

7 (2) *THRESHOLD FOR REPORTING.—*

8 (A) *IN GENERAL.—Subject to subparagraph*
9 *(B), the threshold for reporting the chemicals de-*
10 *scribed in paragraph (1) under section 313 of*
11 *the Emergency Planning and Community Right-*
12 *To-Know Act of 1986 (42 U.S.C. 11023) is 100*
13 *pounds.*

14 (B) *REVISIONS.—Not later than 5 years*
15 *after the date of enactment of this Act, the Ad-*
16 *ministrator of the Environmental Protection*
17 *Agency shall—*

18 (i) *determine whether revision of the*
19 *threshold under subparagraph (A) is war-*
20 *ranted for any chemical described in para-*
21 *graph (1); and*

22 (ii) *if the Administrator determines a*
23 *revision to be warranted under clause (i),*
24 *initiate a revision under section 313(f)(2) of*
25 *the Emergency Planning and Community*

1 *Right-To-Know Act of 1986 (42 U.S.C.*
2 *11023(f)(2)).*

3 (c) *INCLUSION FOLLOWING ASSESSMENT.—*

4 (1) *IN GENERAL.—*

5 (A) *DATE OF INCLUSION.—Subject to sub-*
6 *section (e), notwithstanding section 313 of the*
7 *Emergency Planning and Community Right-To-*
8 *Know Act of 1986, the Administrator of the En-*
9 *vironmental Protection Agency shall deem a*
10 *perfluoroalkyl or polyfluoroalkyl substance or*
11 *class of perfluoroalkyl or polyfluoroalkyl sub-*
12 *stances not described in subsection (b)(1) to be*
13 *included in the toxics release inventory begin-*
14 *ning January 1 of the calendar year after any*
15 *of the following dates:*

16 (i) *FINAL TOXICITY VALUE.—The date*
17 *on which the Administrator finalizes a tox-*
18 *icity value for the perfluoroalkyl or*
19 *polyfluoroalkyl substance or class of*
20 *perfluoroalkyl or polyfluoroalkyl substances.*

21 (ii) *SIGNIFICANT NEW USE RULE.—The*
22 *date on which the Administrator makes a*
23 *covered determination for the perfluoroalkyl*
24 *or polyfluoroalkyl substance or class of*
25 *perfluoroalkyl or polyfluoroalkyl substances.*

1 (iii) *ADDITION TO EXISTING SIGNIFI-*
2 *CANT NEW USE RULE.*—*The date on which*
3 *the perfluoroalkyl or polyfluoroalkyl sub-*
4 *stance or class of perfluoroalkyl or*
5 *polyfluoroalkyl substances is added to a list*
6 *of substances covered by a covered deter-*
7 *mination.*

8 (iv) *ADDITION AS ACTIVE CHEMICAL*
9 *SUBSTANCE.*—*The date on which the*
10 *perfluoroalkyl or polyfluoroalkyl substance*
11 *or class of perfluoroalkyl or polyfluoroalkyl*
12 *substances to which a covered determination*
13 *applies is—*

14 (I) *added to the list published*
15 *under paragraph (1) of section 8(b) of*
16 *the Toxic Substances Control Act and*
17 *designated as an active chemical sub-*
18 *stance under paragraph (5)(A) of such*
19 *section; or*

20 (II) *designated as an active chem-*
21 *ical substance on such list under para-*
22 *graph (5)(B) of such section.*

23 (B) *COVERED DETERMINATION.*—*For pur-*
24 *poses of this paragraph, a covered determination*
25 *is a determination made, by rule, under section*

1 5(a)(2) of the Toxic Substances Control Act that
2 a use of a perfluoroalkyl or polyfluoroalkyl sub-
3 stance or class of perfluoroalkyl or
4 polyfluoroalkyl substances is a significant new
5 use (except such a determination made in con-
6 nection with a determination described in sec-
7 tion 5(a)(3)(B) or section 5(a)(3)(C) of such
8 Act).

9 (2) *THRESHOLD FOR REPORTING.*—

10 (A) *IN GENERAL.*—Subject to subparagraph
11 (B), notwithstanding subsection (f)(1) of section
12 313 of the Emergency Planning and Community
13 Right-To-Know Act of 1986 (42 U.S.C. 11023),
14 the threshold for reporting under such section
15 313 the substances and classes of substances in-
16 cluded in the toxics release inventory under
17 paragraph (1) is 100 pounds.

18 (B) *REVISIONS.*—Not later than 5 years
19 after the date on which a perfluoroalkyl or
20 polyfluoroalkyl substance or class of
21 perfluoroalkyl or polyfluoroalkyl substances is
22 included in the toxics release inventory under
23 paragraph (1), the Administrator of the Envi-
24 ronmental Protection Agency shall—

1 (i) determine whether revision of the
2 threshold under subparagraph (A) is war-
3 ranted for the substance or class of sub-
4 stances; and

5 (ii) if the Administrator determines a
6 revision to be warranted under clause (i),
7 initiate a revision under section 313(f)(2) of
8 the *Emergency Planning and Community*
9 *Right-To-Know Act of 1986* (42 U.S.C.
10 11023(f)(2)).

11 (d) *INCLUSION FOLLOWING DETERMINATION.*—

12 (1) *IN GENERAL.*—Not later than 2 years after
13 the date of enactment of this Act, the Administrator
14 of the *Environmental Protection Agency* shall deter-
15 mine whether the substances and classes of substances
16 described in paragraph (2) meet any one of the cri-
17 teria described in section 313(d)(2) of the *Emergency*
18 *Planning and Community Right-To-Know Act of*
19 *1986* (42 U.S.C. 11023(d)(2)) for inclusion in the
20 *toxics release inventory.*

21 (2) *SUBSTANCES DESCRIBED.*—The substances
22 and classes of substances referred to in paragraph (1)
23 are *perfluoroalkyl and polyfluoroalkyl substances* and
24 *classes of perfluoroalkyl and polyfluoroalkyl sub-*
25 *stances not described in subsection (b)(1), including—*

1 (A) *perfluoro*[(2-pentafluoroethoxy-
2 *ethoxy*)acetic acid] ammonium salt (*Chemical*
3 *Abstracts Service No. 908020-52-0*);

4 (B) 2,3,3,3-tetrafluoro 2-(1,1,2,3,3,3-
5 hexafluoro)-2-(trifluoromethoxy) propanoyl fluo-
6 ride (*Chemical Abstracts Service No. 2479-75-*
7 6);

8 (C) 2,3,3,3-tetrafluoro 2-(1,1,2,3,3,3-
9 hexafluoro)-2-(trifluoromethoxy) propionic acid
10 (*Chemical Abstracts Service No. 2479-73-4*);

11 (D) 3*H*-perfluoro-3-[(3-methoxy-propoxy)
12 propanoic acid] (*Chemical Abstracts Service No.*
13 919005-14-4);

14 (E) the salts associated with the chemical
15 described in subparagraph (D) (*Chemical Ab-*
16 *stracts Service Nos. 958445-44-8, 1087271-46-*
17 2, and *NOCAS 892452*);

18 (F) 1-octanesulfonic acid
19 3,3,4,4,5,5,6,6,7,7,8,8-tridecafluoro-potassium salt
20 (*Chemical Abstracts Service No. 59587-38-1*);

21 (G) perfluorobutanesulfonic acid (*Chemical*
22 *Abstracts Service No. 375-73-5*);

23 (H) 1-Butanesulfonic acid, 1,1,2,2,3,3,4,4,4-
24 nonafluoro-potassium salt (*Chemical Abstracts*
25 *Service No. 29420-49-3*);

1 (I) the component associated with the chem-
2 ical described in subparagraph (H) (Chemical
3 Abstracts Service No. 45187-15-3);

4 (J) heptafluorobutyric acid (Chemical Ab-
5 stracts Service No. 375-22-4);

6 (K) perfluorohexanoic acid (Chemical Ab-
7 stracts Service No. 307-24-4);

8 (L) the compound associated with the chem-
9 ical described in subsection (b)(1)(F) identified
10 by Chemical Abstracts Service No. 2062-98-8;

11 (M) perfluoroheptanoic acid (commonly re-
12 ferred to as “PFHpA”) (Chemical Abstracts
13 Service No. 375-85-9);

14 (N) each perfluoroalkyl or polyfluoroalkyl
15 substance or class of perfluoroalkyl or
16 polyfluoroalkyl substances for which a method to
17 measure levels in drinking water has been vali-
18 dated by the Administrator; and

19 (O) a perfluoroalkyl and polyfluoroalkyl
20 substance or class of perfluoroalkyl or
21 polyfluoroalkyl substances other than the chemi-
22 cals described in subparagraphs (A) through (N)
23 that is used to manufacture fluorinated poly-
24 mers, as determined by the Administrator.

1 (3) *ADDITION TO TOXICS RELEASE INVENTORY.*—
2 *Subject to subsection (e), if the Administrator deter-*
3 *mines under paragraph (1) that a substance or a*
4 *class of substances described in paragraph (2) meets*
5 *any one of the criteria described in section 313(d)(2)*
6 *of the Emergency Planning and Community Right-*
7 *To-Know Act of 1986 (42 U.S.C. 11023(d)(2)), the*
8 *Administrator shall revise the toxics release inventory*
9 *in accordance with such section 313(d) to include that*
10 *substance or class of substances not later than 2 years*
11 *after the date on which the Administrator makes the*
12 *determination.*

13 (e) *CONFIDENTIAL BUSINESS INFORMATION.*—

14 (1) *IN GENERAL.*—*Prior to including on the*
15 *toxics release inventory pursuant to subsection (b)(1),*
16 *(c)(1), or (d)(3) any perfluoroalkyl or polyfluoroalkyl*
17 *substance or class of perfluoroalkyl or polyfluoroalkyl*
18 *substances the chemical identity of which is subject to*
19 *a claim of a person of protection from disclosure*
20 *under subsection (a) of section 552 of title 5, United*
21 *States Code, pursuant to subsection (b)(4) of that sec-*
22 *tion, the Administrator of the Environmental Protec-*
23 *tion Agency shall—*

24 (A) *review any such claim of protection*
25 *from disclosure; and*

1 (B) require that person to reassert and sub-
2 stantiate or resubstantiate that claim in accord-
3 ance with section 14(f) of the Toxic Substances
4 Control Act (15 U.S.C. 2613(f)).

5 (2) *NONDISCLOSURE OF PROTECTION INFORMA-*
6 *TION.—If the Administrator determines that the*
7 *chemical identity of a perfluoroalkyl or*
8 *polyfluoroalkyl substance or class of perfluoroalkyl or*
9 *polyfluoroalkyl substances qualifies for protection*
10 *from disclosure pursuant to paragraph (1), the Ad-*
11 *ministrator shall include the substance or class of sub-*
12 *stances, as applicable, on the toxics release inventory*
13 *in a manner that does not disclose the protected infor-*
14 *mation.*

15 (f) *EMERGENCY PLANNING AND COMMUNITY RIGHT-*
16 *TO-KNOW ACT OF 1986.—Section 313(c) of the Emergency*
17 *Planning and Community Right-To-Know Act of 1986 (42*
18 *U.S.C. 11023(c)) is amended—*

19 (1) *by striking the period at the end and insert-*
20 *ing “; and”;*

21 (2) *by striking “are those chemicals” and insert-*
22 *ing the following: “are—*

23 *“(1) the chemicals”;* and

24 (3) *by adding at the end the following:*

1 **SEC. 12. PFAS DESTRUCTION AND DISPOSAL GUIDANCE.**

2 (a) *IN GENERAL.*—Not later than 1 year after the date
3 of enactment of this Act, the Administrator of the Environ-
4 mental Protection Agency shall publish interim guidance
5 on the destruction and disposal of perfluoroalkyl and
6 polyfluoroalkyl substances and materials containing
7 perfluoroalkyl and polyfluoroalkyl substances, including—

8 (1) soil and biosolids;

9 (2) textiles treated with perfluoroalkyl and
10 polyfluoroalkyl substances;

11 (3) spent filters, membranes, resins, granular
12 carbon, and other waste from water treatment;

13 (4) landfill leachate containing perfluoroalkyl
14 and polyfluoroalkyl substances; and

15 (5) solid, liquid, or gas waste streams containing
16 perfluoroalkyl and polyfluoroalkyl substances from fa-
17 cilities manufacturing or using perfluoroalkyl and
18 polyfluoroalkyl substances.

19 (b) *CONSIDERATIONS; INCLUSIONS.*—The interim
20 guidance under subsection (a) shall—

21 (1) take into consideration—

22 (A) the potential for releases of
23 perfluoroalkyl and polyfluoroalkyl substances
24 during destruction or disposal, including
25 through volatilization, air dispersion, or leach-
26 ate; and

1 (B) potentially vulnerable populations liv-
 2 ing near likely destruction or disposal sites; and
 3 (2) provide guidance on testing and monitoring
 4 air, effluent, and soil near potential destruction or
 5 disposal sites for releases described in paragraph
 6 (1)(A).

7 (c) *REVISIONS.*—The Administrator shall publish revi-
 8 sions to the interim guidance under subsection (a) as the
 9 Administrator determines to be appropriate, but not less
 10 frequently than once every 3 years.

11 **SEC. 13. ESTABLISHMENT OF PFAS INFRASTRUCTURE**
 12 **GRANT PROGRAM.**

13 Part E of the Safe Drinking Water Act (42 U.S.C. 300j
 14 et seq.) is amended by adding at the end the following new
 15 section:

16 **“SEC. 1459E. ASSISTANCE FOR COMMUNITY WATER SYS-**
 17 **TEMS AFFECTED BY PFAS.**

18 “(a) *ESTABLISHMENT.*—Not later than 180 days after
 19 the date of enactment of this section, the Administrator
 20 shall establish a program to award grants to affected com-
 21 munity water systems to pay for capital costs associated
 22 with the implementation of eligible treatment technologies.

23 “(b) *APPLICATIONS.*—

24 “(1) *GUIDANCE.*—Not later than 12 months after
 25 the date of enactment of this section, the Adminis-

1 *trator shall publish guidance describing the form and*
2 *timing for community water systems to apply for*
3 *grants under this section.*

4 “(2) *REQUIRED INFORMATION.—The Adminis-*
5 *trator shall require a community water system apply-*
6 *ing for a grant under this section to submit—*

7 “(A) *information showing the presence of*
8 *PFAS in water of the community water system;*
9 *and*

10 “(B) *a certification that the treatment tech-*
11 *nology in use by the community water system at*
12 *the time of application is not sufficient to re-*
13 *move all detectable amounts of PFAS.*

14 “(c) *LIST OF ELIGIBLE TREATMENT TECH-*
15 *NOLOGIES.—Not later than 150 days after the date of enact-*
16 *ment of this section, and every two years thereafter, the Ad-*
17 *ministrator shall publish a list of treatment technologies*
18 *that the Administrator determines are effective at removing*
19 *all detectable amounts of PFAS from drinking water.*

20 “(d) *PRIORITY FOR FUNDING.—In awarding grants*
21 *under this section, the Administrator shall prioritize af-*
22 *fected community water systems that—*

23 “(1) *serve a disadvantaged community;*

1 “(2) will provide at least a 10-percent cost share
2 for the cost of implementing an eligible treatment
3 technology; or

4 “(3) demonstrate the capacity to maintain the
5 eligible treatment technology to be implemented using
6 the grant.

7 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
8 *authorized to be appropriated to carry out this section not*
9 *more than \$100,000,000 for each of fiscal years 2020*
10 *through 2021.*

11 “(f) *DEFINITIONS.*—*In this section:*

12 “(1) *AFFECTED COMMUNITY WATER SYSTEM.*—
13 *The term ‘affected community water system’ means a*
14 *community water system that is affected by the pres-*
15 *ence of PFAS in the water in the community water*
16 *system.*

17 “(2) *DISADVANTAGED COMMUNITY.*—*The term*
18 *‘disadvantaged community’ has the meaning given*
19 *that term in section 1452.*

20 “(3) *ELIGIBLE TREATMENT TECHNOLOGY.*—*The*
21 *term ‘eligible treatment technology’ means a treat-*
22 *ment technology included on the list published under*
23 *subsection (c).*

1 “(4) *PFAS*.—*The term ‘PFAS’ means a*
2 *perfluoroalkyl or polyfluoroalkyl substance with at*
3 *least one fully fluorinated carbon atom.*”.

4 **SEC. 14. COOPERATIVE AGREEMENTS WITH STATES FOR RE-**
5 **MOVAL AND REMEDIAL ACTIONS TO ADDRESS**
6 **DRINKING, SURFACE, AND GROUND WATER**
7 **AND SOIL CONTAMINATION FROM PFAS.**

8 (a) *DEFINITIONS*.—*In this section:*

9 (1) *FEDERAL FACILITY*.—

10 (A) *IN GENERAL*.—*The term “Federal facil-*
11 *ity” means a facility (as defined in section 101*
12 *of the Comprehensive Environmental Response,*
13 *Compensation, and Liability Act of 1980 (42*
14 *U.S.C. 9601)) that is owned or operated by the*
15 *Federal Government.*

16 (B) *INCLUSION*.—*The term “Federal facil-*
17 *ity” includes—*

18 (i) *a facility or site—*

19 (I) *owned by, leased to, or other-*
20 *wise possessed by the United States; or*

21 (II) *under the jurisdiction of the*
22 *Secretary of Defense;*

23 (ii) *a facility or site that, at the time*
24 *of the actions leading to contamination or*
25 *suspected contamination of drinking water,*

1 *surface water, or groundwater or land sur-*
2 *face or subsurface strata from a*
3 *perfluorinated compound, was—*

4 *(I) owned by, leased to, or other-*
5 *wise possessed by the United States; or*

6 *(II) under the jurisdiction of the*
7 *Secretary of Defense; and*

8 *(iii) land owned and operated by a*
9 *State when the land is used for training the*
10 *National Guard pursuant to chapter 5 of*
11 *title 32, United States Code, with funds*
12 *provided by the Secretary of Defense or the*
13 *Secretary of a military department, even*
14 *though that land is not under the jurisdic-*
15 *tion of the Secretary of Defense.*

16 (2) *FULLY FLUORINATED CARBON ATOM.*—*The*
17 *term “fully fluorinated carbon atom” means a carbon*
18 *atom on which all the hydrogen substituents have*
19 *been replaced by fluorine.*

20 (3) *PERFLUORINATED COMPOUND.*—*The term*
21 *“perfluorinated compound” means a perfluoroalkyl*
22 *substance or a polyfluoroalkyl substance (or “PFAS”)*
23 *that is manmade with at least 1 fully fluorinated car-*
24 *bon atom.*

1 (4) *STATE.*—*The term “State” has the meaning*
2 *given the term in section 101 of the Comprehensive*
3 *Environmental Response, Compensation, and Liabil-*
4 *ity Act of 1980 (42 U.S.C. 9601).*

5 (b) *COOPERATIVE AGREEMENT.*—

6 (1) *IN GENERAL.*—*On request by the Governor or*
7 *chief executive of a State, a Federal department or*
8 *agency shall work expeditiously to finalize a coopera-*
9 *tive agreement for, or to amend an existing coopera-*
10 *tive agreement to address, testing, monitoring, re-*
11 *moval, and remedial actions to address contamina-*
12 *tion or suspected contamination of drinking water,*
13 *surface water, or groundwater or land surface or sub-*
14 *surface strata from a perfluorinated compound origi-*
15 *nating from a Federal facility.*

16 (2) *MINIMUM STANDARDS.*—*A cooperative agree-*
17 *ment finalized or amended under paragraph (1) shall*
18 *require the area subject to the cooperative agreement*
19 *to meet or exceed the most stringent of the following*
20 *standards for perfluorinated compounds in any envi-*
21 *ronmental media:*

22 (A) *An enforceable State standard, in effect*
23 *in that State, for drinking water, surface water,*
24 *or groundwater or land surface or subsurface*
25 *strata, as required under section 121(d) of the*

1 *Comprehensive Environmental Response, Com-*
2 *ensation, and Liability Act of 1980 (42 U.S.C.*
3 *9621(d)).*

4 *(B) A health advisory under section*
5 *1412(b)(1)(F) of the Safe Drinking Water Act*
6 *(42 U.S.C. 300g–1(b)(1)(F)).*

7 *(C) Any Federal standard, requirement, cri-*
8 *terion, or limit, including a standard, require-*
9 *ment, criterion, or limit issued under—*

10 *(i) the Toxic Substances Control Act*
11 *(15 U.S.C. 2601 et seq.);*

12 *(ii) the Safe Drinking Water Act (42*
13 *U.S.C. 300f et seq.);*

14 *(iii) the Clean Air Act (42 U.S.C. 7401*
15 *et seq.);*

16 *(iv) the Federal Water Pollution Con-*
17 *trol Act (33 U.S.C. 1251 et seq.);*

18 *(v) the Marine Protection, Research,*
19 *and Sanctuaries Act of 1972 (commonly*
20 *known as the “Ocean Dumping Act”) (33*
21 *U.S.C. 1401 et seq.); or*

22 *(vi) the Solid Waste Disposal Act (42*
23 *U.S.C. 6901 et seq.).*

24 *(3) OTHER AUTHORITY.—In addition to the re-*
25 *quirements for a cooperative agreement under para-*

1 *graph (1), when otherwise authorized to expend funds*
2 *for the purpose of addressing ground or surface water*
3 *contaminated by a perfluorinated compound, the head*
4 *of a Federal department or agency may, to expend*
5 *those funds, enter into a grant agreement, cooperative*
6 *agreement, or contract with—*

7 *(A) the local water authority with jurisdic-*
8 *tion over the contamination site, including—*

9 *(i) a public water system (as defined*
10 *in section 1401 of the Safe Drinking Water*
11 *Act (42 U.S.C. 300f)); and*

12 *(ii) a publicly owned treatment works*
13 *(as defined in section 212 of the Federal*
14 *Water Pollution Control Act (33 U.S.C.*
15 *1292)); or*

16 *(B) a State, local, or Tribal government.*

17 *(c) NOTIFICATION REQUIREMENT.—*

18 *(1) DEFINITION OF APPROPRIATE CONGRES-*
19 *SIONAL COMMITTEES.—In this subsection, the term*
20 *“appropriate congressional committees” means—*

21 *(A) the Committee on Environment and*
22 *Public Works of the Senate;*

23 *(B) the Committee on Homeland Security*
24 *and Governmental Affairs of the Senate;*

1 (C) *the Committee on Energy and Com-*
2 *merce of the House of Representatives; and*

3 (D) *the Committee on Oversight and Re-*
4 *form of the House of Representatives.*

5 (2) *REPORT.—*

6 (A) *IN GENERAL.—If a cooperative agree-*
7 *ment is not finalized or amended under sub-*
8 *section (b) by the date that is 1 year after the*
9 *date on which a request by the Governor or chief*
10 *executive of a State was made, the President*
11 *shall submit a report described in subparagraph*
12 *(B) to—*

13 (i) *the appropriate congressional com-*
14 *mittees;*

15 (ii) *each Senator from the State af-*
16 *ected by the perfluorinated compound con-*
17 *tamination; and*

18 (iii) *each member of Congress that rep-*
19 *resents a district affected by the*
20 *perfluorinated compound contamination.*

21 (B) *REPORT DESCRIBED.—The report re-*
22 *ferred to in subparagraph (A) shall include—*

23 (i) *a detailed explanation of why a co-*
24 *operative agreement has not been finalized*
25 *or amended, as applicable; and*

1 (ii) a projected timeline for finalizing
2 or amending a cooperative agreement, as
3 applicable.

4 **SEC. 15. LISTING OF PERFLUOROALKYL AND**
5 **POLYFLUOROALKYL SUBSTANCES AS HAZ-**
6 **ARDOUS AIR POLLUTANTS.**

7 (a) *LISTING.*—Not later than 180 days after the date
8 of enactment of this Act, the Administrator of the Environ-
9 mental Protection Agency shall issue a final rule adding
10 as a class all perfluoroalkyl and polyfluoroalkyl substances
11 with at least one fully fluorinated carbon atom to the list
12 of hazardous air pollutants under section 112(b) of the
13 Clean Air Act (42 U.S.C. 7412(b)).

14 (b) *SOURCES CATEGORIES.*—Not later than 365 days
15 after the final rule is issued pursuant to subsection (a), the
16 Administrator of the Environmental Protection Agency
17 shall revise the list under section 112(c)(1) of the Clean Air
18 Act (42 U.S.C. 7412(c)(1)) to include categories and subcat-
19 egories of major sources and area sources of perfluoroalkyl
20 and polyfluoroalkyl substances listed pursuant to such final
21 rule.

22 **SEC. 16. PROHIBITION ON WASTE INCINERATION OF PFAS.**

23 Section 3004 of the Solid Waste Disposal Act (42
24 U.S.C. 6924) is amended by adding at the end the following
25 new subsection:

1 “(z) *PFAS WASTES.*—

2 “(1) *FIREFIGHTING FOAM.*—Not later than 6
3 months after the date of enactment of this subsection,
4 the Administrator shall promulgate regulations re-
5 quiring that when materials containing
6 perfluoroalkyl and polyfluoroalkyl substances or aque-
7 ous film forming foam are disposed—

8 “(A) all incineration is conducted in a
9 manner that eliminates perfluoroalkyl and
10 polyfluoroalkyl substances while also minimizing
11 perfluoroalkyl and polyfluoroalkyl substances
12 emitted into the air to the extent feasible;

13 “(B) all incineration is conducted in ac-
14 cordance with the requirements of the Clean Air
15 Act, including controlling hydrogen fluoride;

16 “(C) any materials containing
17 perfluoroalkyl and polyfluoroalkyl substances
18 that are designated for disposal are stored in ac-
19 cordance with the requirement under part 264 of
20 title 40, Code of Federal Regulations; and

21 “(D) all incineration is conducted at a fa-
22 cility that has been permitted to receive waste
23 regulated under this subtitle.

24 “(2) *PENALTIES.*—For purposes of section
25 3008(d), a waste subject to a prohibition under this

1 *subsection shall be considered a hazardous waste iden-*
2 *tified or listed under this subtitle.”.*

3 **SEC. 17. LABEL FOR POTS, PANS, AND COOKING UTENSILS.**

4 *(a) LABEL FOR POTS, PANS, AND COOKING UTEN-*
5 *SILS.—Not later than 1 year after the date of enactment*
6 *of this Act, the Administrator of the Environmental Protec-*
7 *tion Agency shall—*

8 *(1) revise the Safer Choice Standard of the Safer*
9 *Choice Program to identify the requirements for a*
10 *pot, pan, or cooking utensil to meet in order to be la-*
11 *beled with a Safer Choice label, including a require-*
12 *ment that any such pot, pan, or cooking utensil does*
13 *not contain any PFAS; or*

14 *(2) establish voluntary label available to be used*
15 *by any manufacturer of any pot, pan, or cooking*
16 *utensil that the Administrator has reviewed and*
17 *found does not contain any PFAS.*

18 *(b) DEFINITION.—In this section, the term “PFAS”*
19 *means a perfluoroalkyl or polyfluoroalkyl substance with at*
20 *least one fully fluorinated carbon atom.*

21 **SEC. 18. GUIDANCE ON MINIMIZING THE USE OF FIRE-**
22 **FIGHTING FOAM AND OTHER RELATED**
23 **EQUIPMENT CONTAINING ANY PFAS.**

24 *(a) GUIDANCE.—Not later than one year after the date*
25 *of enactment of this Act, the Administrator of the Environ-*

1 *mental Protection Agency, in consultation with the head of*
2 *the U.S. Fire Administration and other relevant Federal*
3 *departments or agencies, shall issue guidance on mini-*
4 *mizing the use of firefighting foam and other related equip-*
5 *ment containing any PFAS by firefighters, police officers,*
6 *paramedics, emergency medical technicians, and other first*
7 *responders, in order to minimize the risk to such fire-*
8 *fighters, police officers, paramedics, emergency medical*
9 *technicians, and other first responders, and the environ-*
10 *ment, without jeopardizing firefighting efforts.*

11 *(b) DEFINITION.—In this section, the term “PFAS”*
12 *means perfluorooctanoic acid, perfluorooctanesulfonic acid,*
13 *and any other perfluoroalkyl or polyfluoroalkyl substance*
14 *with at least one fully fluorinated carbon atom that the Ad-*
15 *ministrator of the Environmental Protection Agency deter-*
16 *mines is used in firefighting foam.*

Union Calendar No. 289

116TH CONGRESS
1ST Session

H. R. 535

[Report No. 116-364, Part I]

A BILL

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

JANUARY 2, 2020

Reported from the Committee on Energy and Commerce
with an amendment

JANUARY 2, 2020

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed