To list certain perfluoroalkyl and polyfluoroalkyl substances as hazardous air pollutants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2021

Mr. Padilla (for himself, Mrs. Shaheen, Mrs. Gillibrand, Mrs. Feinstein, Ms. Hassan, and Mr. Blumenthal) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To list certain perfluoroalkyl and polyfluoroalkyl substances as hazardous air pollutants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Prevent Release Of Toxics Emissions, Contamination, and Transfer Act of 2021” or the “PROTECT Act of 2021”.

SEC. 2. LISTING OF PERFLUOROALKYL AND

POLYFLUOROALKYL SUBSTANCES AS HAZARDOUS AIR POLLUTANTS.

(a) Listing.—

(1) Initial listing.—Section 112(b) of the Clean Air Act (42 U.S.C. 7412(b)) is amended by adding at the end the following:

“(8) Perfluoralkyl and polyfluoralkyl substances.—

“(A) In general.—Subject to subparagraph (B), beginning on the date of enactment of the Prevent Release Of Toxics Emissions, Contamination, and Transfer Act of 2021, the following substances are included on the list of hazardous air pollutants under paragraph (1):

“(i) Perfluorooctanoic acid and its salts.

“(ii) Perfluorooctanesulfonic acid and its salts.

“(iii) Perfluorobutanesulfonic acid.

“(iv) Hexafluoropropylene oxide dimer acid and its ammonium salt (commonly referred to as ‘GenX chemicals’).

“(B) Implementing regulations.—

“(i) Source categories.—Notwithstanding any other provision of this sec-
tion, not later than 2 years after the date of enactment of the Prevent Release Of Toxics Emissions, Contamination, and Transfer Act of 2021, the Administrator shall revise the list of the categories and subcategories of major sources and area sources established under subsection (c)(1) to include the categories and subcategories of the substances described in subpara-

graph (A).

“(ii) OTHER REGULATIONS.—Notwithstanding any other provision of this section and except as provided in clause (i), not later than 5 years after the date of enactment of the Prevent Release Of Toxics Emissions, Contamination, and Transfer Act of 2021, the Administrator shall finalize the emission standards and other regulations necessary under this sec-
tion for the substances included on the list of hazardous air pollutants under subpara-

graph (A).

“(iii) SAVINGS CLAUSE.—The Admin-

istrator may not enforce the listing of any hazardous air pollutant under subpara-
graph (A) until the regulations issued under clause (ii) are finalized.”.

(2) ADDITIONAL LISTINGS.—

(A) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this Act as the “Administrator”) shall determine whether to issue, in accordance with section 112 of the Clean Air Act (42 U.S.C. 7412), final rules adding perfluoroalkyl and polyfluoroalkyl substances other than the perfluoroalkyl and polyfluoroalkyl substances described in subsection (b)(8) of that section to the list of hazardous air pollutants established under subsection (b) of that section.

(B) SOURCES CATEGORIES.—Not later than 2 years after the date on which a final rule is issued pursuant to subparagraph (A), the Administrator shall revise the list of the categories and subcategories of major sources and area sources established under section 112(c)(1) of the Clean Air Act (42 U.S.C. 7412(c)(1)) to include the categories and subcategories of major sources and area sources of
the perfluoroalkyl and polyfluoroalkyl substances listed pursuant to that final rule.

(C) OTHER REGULATIONS.—Notwithstanding any other provision of section 112 of the Clean Air Act (42 U.S.C. 7412) and except as provided in subparagraph (B), not later than 5 years after the date of enactment of this Act, the Administrator shall finalize the emission standards and other regulations necessary under that section for the substances described in subparagraph (A).

(b) PETITIONS.—Nothing in this Act or an amendment made by this Act affects the requirement that the Administrator grant or deny a petition under section 112(b)(3)(A) of the Clean Air Act (42 U.S.C. 7412(b)(3)(A)) within 18 months of the receipt of the petition, including a petition with respect to a substance described in subsection (a)(2)(A).

(c) QUANTIFICATION.—For each substance added to the list of hazardous air pollutants established under section 112(b) of the Clean Air Act (42 U.S.C. 7412(b)) pursuant to this Act or under an amendment made by this Act, the Administrator shall—

(1) provide support and services to advance the understanding of sources of emissions of the sub-
stance, or an appropriate surrogate for that substance, the state of technology for control of those emissions, and measurement approaches to quantify and measure those emissions; and

(2) to the extent practicable, continue to develop and improve the relevant source testing and ambient air measurement methodologies to facilitate—

(A) the identification of emissions sources of the substance; and

(B) the detection and reporting of the emitted amounts of the substance.