

116TH CONGRESS
1ST SESSION

S. _____

To include certain perfluoroalkyl and polyfluoroalkyl substances in the toxics release inventory, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. CAPITO (for herself, Mrs. GILLIBRAND, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To include certain perfluoroalkyl and polyfluoroalkyl substances in the toxics release inventory, 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 “PFAS Release Dislo-
5 sure Act”.

6 **SEC. 2. ADDITIONS TO TOXICS RELEASE INVENTORY.**

7 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) TOXICS RELEASE INVENTORY.—The term
5 “toxics release inventory” means the toxics release
6 inventory under section 313(c) of the Emergency
7 Planning and Community Right-To-Know Act of
8 1986 (42 U.S.C. 11023(e)).

9 (b) IMMEDIATE INCLUSION.—

10 (1) IN GENERAL.—Subject to subsection (e),
11 beginning January 1 of the calendar year following
12 the date of enactment of this Act, the following
13 chemicals shall be deemed to be included in the
14 toxics release inventory:

15 (A) Perfluorooctanoic acid (commonly re-
16 ferred to as “PFOA”) (Chemical Abstracts
17 Service No. 335–67–1).

18 (B) The salt associated with the chemical
19 described in subparagraph (A) (Chemical Ab-
20 stracts Service No. 3825–26–1).

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 stract Service Nos. 45298–90–6, 29457–72–5,
2 56773–42–3, 29081–56–9, 4021–47–0,
3 111873–33–7, and 91036–71–4).

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

7 (i) listed as an active chemical sub-
8 stance in the February 2019 update to the
9 inventory under section 8(b)(1) of the
10 Toxic Substances Control Act (15 U.S.C.
11 2607(b)(1)); and

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

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

16 (II) section 721.10536 of title
17 40, Code of Federal Regulations.

18 (2) THRESHOLD FOR REPORTING.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (B), the threshold for reporting the
21 chemicals described in paragraph (1) under sec-
22 tion 313(f)(1) of the Emergency Planning and
23 Community Right-To-Know Act of 1986 (42
24 U.S.C. 11023(f)(1)) is 100 pounds.

1 (B) REVISIONS.—Not later than 5 years
2 after the date of enactment of this Act, the Ad-
3 ministrator shall—

4 (i) determine whether revision of the
5 threshold under subparagraph (A) is war-
6 ranted; and

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

13 (c) INCLUSION FOLLOWING ASSESSMENT.—

14 (1) IN GENERAL.—Subject to subsection (e), a
15 perfluoroalkyl or polyfluoroalkyl substance or class
16 of perfluoroalkyl or polyfluoroalkyl substances shall
17 be automatically included in the toxics release inven-
18 tory beginning January 1 of the calendar year after
19 any of the following dates:

20 (A) ESTABLISHMENT OF TOXICITY
21 VALUE.—The date on which the Administrator
22 establishes a toxicity value for the
23 perfluoroalkyl or polyfluoroalkyl substance or
24 class of perfluoroalkyl or polyfluoroalkyl sub-
25 stances.

1 (B) SIGNIFICANT NEW USE RULE.—The
2 date on which the Administrator finalizes a sig-
3 nificant new use rule under subsection (a)(2) or
4 (f) of section 5 of the Toxic Substances Control
5 Act (15 U.S.C. 2604) for the perfluoroalkyl or
6 polyfluoroalkyl substance or class of
7 perfluoroalkyl or polyfluoroalkyl substances.

8 (C) ADDITION TO EXISTING SIGNIFICANT
9 NEW USE RULE.—The date on which the
10 perfluoroalkyl or polyfluoroalkyl substance or
11 class of perfluoroalkyl or polyfluoroalkyl sub-
12 stances is added to a list of substances covered
13 by a significant new use rule under subsection
14 (a)(2) or (f) of section 5 of the Toxic Sub-
15 stances Control Act (15 U.S.C. 2604).

16 (D) ADDITION AS ACTIVE CHEMICAL SUB-
17 STANCE.—The date on which the perfluoroalkyl
18 or polyfluoroalkyl substance or class of
19 perfluoroalkyl or polyfluoroalkyl substances that
20 is on a list of substances covered by a signifi-
21 cant new use rule under subsection (a)(2) or (f)
22 of section 5 of the Toxic Substances Control
23 Act (15 U.S.C. 2604) is added as an active
24 chemical substance on the inventory under sec-

1 tion 8(b)(1) of the Toxic Substances Control
2 Act (15 U.S.C. 2607(b)(1)).

3 (2) THRESHOLD FOR REPORTING.—

4 (A) IN GENERAL.—Subject to subpara-
5 graph (B), the threshold for reporting under
6 section 313(f)(1) of the Emergency Planning
7 and Community Right-To-Know Act of 1986
8 (42 U.S.C. 11203(f)(1)) the substances and
9 classes of substances included in the toxics re-
10 lease inventory under paragraph (1) is 100
11 pounds.

12 (B) REVISIONS.—Not later than 5 years
13 after the date of enactment of this Act, the Ad-
14 ministrator shall—

15 (i) determine whether revision of the
16 thresholds under subparagraph (A) is war-
17 ranted; and

18 (ii) if the Administrator determines a
19 revision to be warranted under clause (i),
20 initiate a revision under section 313(f)(2)
21 of the Emergency Planning and Commu-
22 nity Right-To-Know Act of 1986 (42
23 U.S.C. 11023(f)(2)).

24 (d) INCLUSION FOLLOWING DETERMINATION.—

1 (1) IN GENERAL.—To the extent not already
2 subject to subsection (b), not later than 2 years
3 after the date of enactment of this Act, the Adminis-
4 trator shall determine whether the substances and
5 classes of substances described in paragraph (2)
6 meet the criteria described in section 313(d)(2) of
7 the Emergency Planning and Community Right-To-
8 Know Act of 1986 (42 U.S.C. 11023(d)(2)) for in-
9 clusion in the toxics release inventory.

10 (2) SUBSTANCES DESCRIBED.—The substances
11 and classes of substances referred to in paragraph
12 (1) are perfluoroalkyl and polyfluoroalkyl substances
13 and classes of perfluoroalkyl and polyfluoroalkyl sub-
14 stances, including—

15 (A) hexafluoropropylene oxide dimer acid
16 (Chemical Abstracts Service No. 13252-13-6);

17 (B) the compounds associated with the
18 chemical described in subparagraph (A) (Chem-
19 ical Abstracts Service Nos. 62037-80-3 and
20 2062-98-8);

21 (C) perfluoro[(2-pentafluoroethoxy-
22 ethoxy)acetic acid] ammonium salt (Chemical
23 Abstracts Service No. 908020-52-0);

24 (D) 2,3,3,3-tetrafluoro 2-(1,1,2,3,3,3-
25 hexafluoro)-2-(trifluoromethoxy) propanoyl fluo-

1 ride (Chemical Abstracts Service No. 2479-75-
2 6);

3 (E) 2,3,3,3-tetrafluoro 2-(1,1,2,3,3,3-
4 hexafluoro)-2-(trifluoromethoxy) propionic acid
5 (Chemical Abstracts Service No. 2479-73-4);

6 (F) 3H-perfluoro-3-[(3-methoxy-propoxy)
7 propanoic acid] (Chemical Abstracts Service
8 No. 919005-14-4);

9 (G) the salts associated with the chemical
10 described in subparagraph (F) (Chemical Ab-
11 stracts Service Nos. 958445-44-8, 1087271-
12 46-2, and NOCAS__892452);

13 (H) 1-octanesulfonic acid
14 3,3,4,4,5,5,6,6,7,7,8,8-tridecafluoro-potassium
15 salt (Chemical Abstracts Service No. 59587-
16 38-1);

17 (I) perfluorobutanesulfonic acid (Chemical
18 Abstracts Service No. 375-73-5);

19 (J) 1-Butanesulfonic acid,
20 1,1,2,2,3,3,4,4,4-nonafluoro-potassium salt
21 (Chemical Abstracts Service No. 29420-49-3);

22 (K) the component associated with the
23 chemical described in subparagraph (J) (Chem-
24 ical Abstracts Service No. 45187-15-3);

1 (L) heptafluorobutyric acid (Chemical Ab-
2 stracts Service No. 375-22-4);

3 (M) perfluorohexanoic acid (Chemical Ab-
4 stracts Service No. 307-24-4); and

5 (N) a perfluoroalkyl and polyfluoroalkyl
6 substance or class of perfluoroalkyl or
7 polyfluoroalkyl substances other than those
8 chemicals described in subparagraphs (A)
9 through (M) that is used to manufacture
10 fluoropolymers, as determined by the Adminis-
11 trator.

12 (3) ADDITION TO TOXICS RELEASE INVEN-
13 TORY.—Subject to subsection (e), if the Adminis-
14 trator determines under paragraph (1) that a sub-
15 stance or a class of substances described in para-
16 graph (2) meets the criteria described in section
17 313(d)(2) of the Emergency Planning and Commu-
18 nity Right-To-Know Act of 1986 (42 U.S.C.
19 11023(d)(2)), the Administrator shall revise the
20 toxics release inventory to include that substance or
21 class of substances not later than 2 years after the
22 date on which the Administrator makes the deter-
23 mination.

24 (e) CONFIDENTIAL BUSINESS INFORMATION.—

1 (1) IN GENERAL.—Prior to including on the
2 toxics release inventory pursuant to subsection
3 (b)(1), (c)(1), or (d)(3) any perfluoroalkyl or
4 polyfluoroalkyl substance or class of perfluoroalkyl
5 or polyfluoroalkyl substances the chemical identity of
6 which is subject to a claim of a person of protection
7 from disclosure under subsection (a) of section 552
8 of title 5, United States Code, pursuant to sub-
9 section (b)(4) of that section, the Administrator
10 shall—

11 (A) review that claim of protection from
12 disclosure; and

13 (B) require that person to reassert and
14 substantiate or resubstantiate that claim in ac-
15 cordance with section 14(f) of the Toxic Sub-
16 stances Control Act (15 U.S.C. 2613(f)).

17 (2) NONDISCLOSURE OF PROTECTION INFORMA-
18 TION.—If the Administrator determines that the
19 chemical identity of a perfluoroalkyl or
20 polyfluoroalkyl substance or class of perfluoroalkyl
21 or polyfluoroalkyl substances qualifies for protection
22 from disclosure under paragraph (1), the Adminis-
23 trator shall include the substance or class of sub-
24 stances, as applicable, on the toxics release inventory

1 in a manner that does not disclose the protected in-
2 formation.

3 (f) EMERGENCY PLANNING AND COMMUNITY RIGHT-
4 TO-KNOW ACT OF 1986.—Section 313(c) of the Emer-
5 gency Planning and Community Right-To-Know Act of
6 1986 (42 U.S.C. 11023(c)) is amended—

7 (1) by striking the period at the end and insert-
8 ing “; and”;

9 (2) by striking “are those chemicals” and in-
10 sserting the following: “are—

11 “(1) the chemicals”; and

12 (3) by adding at the end the following:

13 “(2) the chemicals included under subsections
14 (b)(1), (c)(1), and (d)(3) of section 2 of the PFAS
15 Release Disclosure Act.”.