



U. S. SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

PFAS Action Act of 2019

Legislation to Designate PFAS as a Hazardous Substance under CERCLA

BILL LANGUAGE: *Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate all per- and polyfluoroalkyl substances as hazardous substances under section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9602(a)).*

BACKGROUND: Per- and polyfluorinated compounds (PFAS) are a class of man-made chemicals, which includes PFOA, PFOS, GenX, and many other chemicals, that have been found to be pervasive in the environment. Developed in the 1940s, PFAS can be found across industries in many products, including food packaging, nonstick pans, clothing, furniture, and firefighting foam used by the military.

AGENCY ACTION: In May 2018, former Environmental Protection Agency (EPA) Administrator Scott Pruitt announced that the agency would propose designating PFOA and PFOS as “hazardous substances” through one of the available statutory mechanisms, including CERCLA Section 102. Nearly a year later, on February 14, 2019, EPA released its long-anticipated PFAS Action Plan. The PFAS Action Plan included yet another commitment by EPA to make such as designation for PFOA and PFOS, but did not identify the available statutory mechanism it would use, nor how long the designation process would take to complete.

CONGRESSIONAL ACTION NEEDED: Clear and swift action from Congress to list PFAS chemicals as hazardous substances under CERCLA would advance the action already proposed by EPA, enabling the agency to protect human health and the environment in an expeditious manner. Because PFAS enter the environment, directly and indirectly, in a multitude of ways and from a variety of sources, a comprehensive and far-reaching approach to address PFAS contamination is needed to protect human health and the environment. Additionally, designation as a hazardous substance under CERCLA would allow federal funds to be used in the clean-up of contaminated groundwater, which is imperative given that recent federal and state-level testing has revealed the widespread presence of PFAS chemicals in drinking water systems throughout the United States.