

116TH CONGRESS 1ST SESSION

S. 1507

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

IN THE SENATE OF THE UNITED STATES

May 16, 2019

Mrs. Capito (for herself, Mrs. Gillibrand, and Mr. Carper) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 Disclo-
 - 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(c)).
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.

- (B) SIGNIFICANT NEW USE RULE.—The date on which the Administrator finalizes a significant new use rule under subsection (a)(2) or (f) of section 5 of the Toxic Substances Control Act (15 U.S.C. 2604) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.
 - (C) Addition to existing significant New USE RULE.—The date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances is added to a list of substances covered by a significant new use rule under subsection (a)(2) or (f) of section 5 of the Toxic Substances Control Act (15 U.S.C. 2604).
 - (D) Addition as active chemical substance.—The date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that is on a list of substances covered by a significant new use rule under subsection (a)(2) or (f) of section 5 of the Toxic Substances Control Act (15 U.S.C. 2604) is added as an active 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 Abstracts Service No. 375–22–4);
 3 (M) perfluorohexanoic acid (Chemical Abstracts Abstracts Service No. 375–22–4);
 - (M) perfluorohexanoic acid (Chemical Abstracts Service No. 307–24–4); and
 - (N) a perfluoroalkyl and polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances other than those chemicals described in subparagraphs (A) through (M) that is used to manufacture fluoropolymers, as determined by the Administrator.
 - (3) Addition to toxics release inventory.—Subject to subsection (e), if the Administrator determines under paragraph (1) that a substance or a class of substances described in paragraph (2) meets the criteria described in section 313(d)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(d)(2)), the Administrator shall revise the toxics release inventory to include that substance or class of substances not later than 2 years after the date on which the Administrator makes the determination.
- 24 (e) Confidential Business Information.—

- (1) In General.—Prior to including on the toxics release inventory pursuant to subsection (b)(1), (c)(1), or (d)(3) any perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances the chemical identity of which is subject to a claim of a person of protection from disclosure under subsection (a) of section 552 of title 5, United States Code, pursuant to sub-section (b)(4) of that section, the Administrator shall—
 - (A) review that claim of protection from disclosure; and
 - (B) require that person to reassert and substantiate or resubstantiate that claim in accordance with section 14(f) of the Toxic Substances Control Act (15 U.S.C. 2613(f)).
 - (2) Nondisclosure of protection information.—If the Administrator determines that the chemical identity of a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances qualifies for protection from disclosure under paragraph (1), the Administrator shall include the substance or class of substances, 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	serting 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

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Release Disclosure Act.".