116TH CONGRESS
1ST SESSION

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

IN THE SENATE OF THE UNITED STATES

Mrs. CAPITTO (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 Disclo-
5 sure Act”.
6 SEC. 2. ADDITIONS TO TOXICS RELEASE INVENTORY.
7 (a) DEFINITIONS.—In this section:
(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) TOXICS RELEASE INVENTORY.—The term "toxics release inventory" means the toxics release inventory under section 313(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(c)).

(b) IMMEDIATE INCLUSION.—

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

(A) Perfluorooctanoic acid (commonly referred to as "PFOA") (Chemical Abstracts Service No. 335–67–1).

(B) The salt associated with the chemical described in subparagraph (A) (Chemical Abstracts Service No. 3825–26–1).

(C) Perfluorooctane sulfonic acid (commonly referred to as "PFOS") (Chemical Abstracts Service No. 1763–23–1).

(D) The salts associated with the chemical described in subparagraph (C) (Chemical Ab-
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(E) A perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that is—

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

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

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


(2) THRESHOLD FOR REPORTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the threshold for reporting the chemicals described in paragraph (1) under section 313(f)(1) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(f)(1)) is 100 pounds.
(B) REVISIONS.—Not later than 5 years after the date of enactment of this Act, the Administrator shall—

(i) determine whether revision of the threshold under subparagraph (A) is warranted; and

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

(c) INCLUSION FOLLOWING ASSESSMENT.—

(1) IN GENERAL.—Subject to subsection (e), a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances shall be automatically included in the toxics release inventory beginning January 1 of the calendar year after any of the following dates:

(A) ESTABLISHMENT OF TOXICITY VALUE.—The date on which the Administrator establishes a toxicity value for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.
(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-
tion 8(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2607(b)(1)).

(2) Threshold for Reporting.—

(A) In general.—Subject to subparagraph (B), the threshold for reporting under section 313(f)(1) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11203(f)(1)) the substances and classes of substances included in the toxics release inventory under paragraph (1) is 100 pounds.

(B) Revisions.—Not later than 5 years after the date of enactment of this Act, the Administrator shall—

(i) determine whether revision of the thresholds under subparagraph (A) is warranted; and

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

(d) Inclusion Following Determination.—
(1) IN GENERAL.—To the extent not already subject to subsection (b), not later than 2 years after the date of enactment of this Act, the Administrator shall determine whether the substances and classes of substances described in paragraph (2) meet 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)) for inclusion in the toxic release inventory.

(2) SUBSTANCES DESCRIBED.—The substances and classes of substances referred to in paragraph (1) are perfluoroalkyl and polyfluoroalkyl substances and classes of perfluoroalkyl and polyfluoroalkyl substances, including—

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

(B) the compounds associated with the chemical described in subparagraph (A) (Chemical Abstracts Service Nos. 62037-80-3 and 2062-98-8);

(C) perfluoro(2-pentafluoroethoxyethoxy)acetic acid ammonium salt (Chemical Abstracts Service No. 908020-52-0);

(D) 2,3,3,3-tetrafluoro 2-(1,1,2,3,3,3-hexafluoro)-2-(trifluoromethoxy) propanoyl fluo-
ride (Chemical Abstracts Service No. 2479–75–6);

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

(F) 3II-perfluoro-3-(3-methoxy-propoxy) propanoic acid] (Chemical Abstracts Service
No. 919005–14–4);

(G) the salts associated with the chemical
described in subparagraph (F) (Chemical Ab-
stracts Service Nos. 958445–44–8, 1087271–
46–2, and NO(CAS_892452);

(II) 1-octanesulfonic acid
3,3,4,4,5,5,6,6,7,7,8,8-tridecafluoro-potassium
salt (Chemical Abstracts Service No. 59587–
38–1);

(I) perfluorobutanesulfonic acid (Chemical
Abstracts Service No. 375–73–5);

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

(K) the component associated with the
chemical described in subparagraph (J) (Chem-
ical Abstracts Service No. 45187–15–3);
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(I.) heptafluorobutyric acid (Chemical 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.

(c) 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 subsection (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
in a manner that does not disclose the protected in-
formation.

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

(1) by striking the period at the end and insert-
ing "; and";

(2) by striking "are those chemicals" and in-
serting the following: "are—

"(1) the chemicals"; and

(3) by adding at the end the following:

"(2) the chemicals included under subsections
(b)(1), (c)(1), and (d)(3) of section 2 of the PFAS
Release Disclosure Act.".