

*Shelley Moore Capito*

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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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 \_\_\_\_\_

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**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(e) 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 (e) 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) 3II-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 (II) 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 (c) 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(e) of the Emer-  
5 gency Planning and Community Right-To-Know Act of  
6 1986 (42 U.S.C. 11023(e)) 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.”.