

116TH CONGRESS  
2D SESSION

# H. R. 535

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## AN ACT

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “PFAS Action Act of 2019”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Designation as hazardous substances.
- Sec. 3. Testing of perfluoroalkyl and polyfluoroalkyl substances.
- Sec. 4. Manufacturing and processing notices for perfluoroalkyl and polyfluoroalkyl substances.
- Sec. 5. National primary drinking water regulations for PFAS.
- Sec. 6. Enforcement.
- Sec. 7. Establishment of PFAS infrastructure grant program.
- Sec. 8. Listing of perfluoroalkyl and polyfluoroalkyl substances as hazardous air pollutants.
- Sec. 9. Prohibition on unsafe waste incineration of PFAS.
- Sec. 10. Label for PFAS-free products.
- Sec. 11. Guidance on minimizing the use of firefighting foam and other related equipment containing any PFAS.
- Sec. 12. Investigation of prevention of contamination by GenX.
- Sec. 13. Disclosure of introductions of PFAS.
- Sec. 14. Household well water testing website.
- Sec. 15. Risk-communication strategy.
- Sec. 16. Assistance to Territories for addressing emerging contaminants, with a focus on perfluoroalkyl and polyfluoroalkyl substances.
- Sec. 17. Clean Water Act effluent standards, pretreatment standards, and water quality criteria for PFAS.

6 **SEC. 2. DESIGNATION AS HAZARDOUS SUBSTANCES.**

7 (a) DESIGNATION.—Not later than 1 year after the  
8 date of enactment of this Act, the Administrator of the  
9 Environmental Protection Agency shall designate  
10 perfluorooctanoic acid and its salts, and  
11 perfluoroactanesulfonic acid and its salts, as hazardous  
12 substances under section 102(a) of the Comprehensive En-  
13 vironmental Response, Compensation, and Liability Act of  
14 1980 (42 U.S.C. 9602(a)).

1 (b) DEADLINE FOR ADDITIONAL DETERMINA-  
2 TIONS.—Not later than 5 years after the date of enact-  
3 ment of this Act, the Administrator of the Environmental  
4 Protection Agency shall determine whether to designate  
5 all perfluoroalkyl and polyfluoroalkyl substances, other  
6 than those perfluoroalkyl and polyfluoroalkyl substances  
7 designated pursuant to subsection (a), as hazardous sub-  
8 stances under section 102(a) of the Comprehensive Envi-  
9 ronmental Response, Compensation, and Liability Act of  
10 1980 (42 U.S.C. 9602(a)) individually or in groups.

11 (c) AIRPORT SPONSORS.—

12 (1) IN GENERAL.—No sponsor, including a  
13 sponsor of the civilian portion of a joint-use airport  
14 or a shared-use airport (as such terms are defined  
15 in section 139.5 of title 14, Code of Federal Regula-  
16 tions (or a successor regulation)), shall be liable  
17 under the Comprehensive Environmental Response,  
18 Compensation, and Liability Act of 1980 (42 U.S.C.  
19 9601 et seq.) for the costs of responding to, or dam-  
20 ages resulting from, a release to the environment of  
21 a perfluoroalkyl or polyfluoroalkyl substance des-  
22 igned as a hazardous substance under section  
23 102(a) of such Act that resulted from the use of  
24 aqueous film forming foam agent, if such use was—

1 (A) required by the Federal Aviation Ad-  
2 ministration for compliance with part 139 of  
3 title 14, Code of Federal Regulations; and

4 (B) carried out in accordance with Federal  
5 Aviation Administration standards and guid-  
6 ance on the use of such substance.

7 (2) SPONSOR DEFINED.—In this subsection, the  
8 term “sponsor” has the meaning given such term in  
9 section 47102 of title 49, United States Code.

10 (d) PUBLIC AVAILABILITY.—Not later than 60 days  
11 after making a determination under subsection (b), the  
12 Administrator of the Environmental Protection Agency  
13 shall make the results of such determination publicly avail-  
14 able on the website of the Environmental Protection Agen-  
15 cy.

16 (e) REVIEW.—

17 (1) IN GENERAL.—Not later than 5 years after  
18 the date of the enactment of this Act, the Adminis-  
19 trator of the Environmental Protection Agency shall  
20 submit to the appropriate congressional committees  
21 a report containing a review of actions by the Envi-  
22 ronmental Protection Agency to clean up contamina-  
23 tion of the substances designated pursuant to sub-  
24 section (a).

1           (2) MATTERS INCLUDED.— The report under  
2 paragraph (1) shall include an assessment of clean-  
3 up progress and effectiveness, including the fol-  
4 lowing:

5           (A) The number of sites where the Envi-  
6 ronmental Protection Agency has acted to re-  
7 mediate contamination of the substances des-  
8 ignated pursuant to subsection (a).

9           (B) Which types of chemicals relating to  
10 such substances were present at each site and  
11 the extent to which each site was contaminated.

12           (C) An analysis of discrepancies in cleanup  
13 between Federal and non-Federal contamina-  
14 tion sites.

15           (D) Any other elements the Administrator  
16 may determine necessary.

17           (3) APPROPRIATE CONGRESSIONAL COMMIT-  
18 TEES DEFINED.—In this subsection, the term “ap-  
19 propriate congressional committees” means the fol-  
20 lowing:

21           (A) The Committee on Energy and Com-  
22 merce of the House of Representatives.

23           (B) The Committee on the Environment  
24 and Public Works of the Senate.

1 **SEC. 3. TESTING OF PERFLUOROALKYL AND**  
2 **POLYFLUOROALKYL SUBSTANCES.**

3 (a) TESTING REQUIREMENTS.—Section 4(a) of the  
4 Toxic Substances Control Act (15 U.S.C. 2603(a)) is  
5 amended by adding at the end the following:

6 “(5) PERFLUOROALKYL AND  
7 POLYFLUOROALKYL SUBSTANCES RULE.—

8 “(A) RULE.—Notwithstanding paragraphs  
9 (1) through (3), the Administrator shall, by  
10 rule, require that comprehensive toxicity testing  
11 be conducted on all chemical substances that  
12 are perfluoroalkyl or polyfluoroalkyl substances.

13 “(B) REQUIREMENTS.—In issuing a rule  
14 under subparagraph (A), the Administrator—

15 “(i) may establish categories of  
16 perfluoroalkyl and polyfluoroalkyl sub-  
17 stances based on hazard characteristics or  
18 chemical properties;

19 “(ii) shall require the development of  
20 information relating to perfluoroalkyl and  
21 polyfluoroalkyl substances that the Admin-  
22 istrator determines is likely to be useful in  
23 evaluating the hazard and risk posed by  
24 such substances in land, air, and water (in-  
25 cluding drinking water), as well as in prod-  
26 ucts; and

1           “(iii) may allow for varied or tiered  
2           testing requirements based on hazard char-  
3           acteristics or chemical properties of  
4           perfluoroalkyl and polyfluoroalkyl sub-  
5           stances or categories of perfluoroalkyl and  
6           polyfluoroalkyl substances.

7           “(C) DEADLINES.—The Administrator  
8           shall issue—

9                   “(i) a proposed rule under subpara-  
10                  graph (A) not later than 6 months after  
11                  the date of enactment of this paragraph;  
12                  and

13                   “(ii) a final rule under subparagraph  
14                  (A) not later than 2 years after the date  
15                  of enactment of this paragraph.”.

16           (b) PERSONS SUBJECT TO RULE.—Section 4(b)(3) of  
17           the Toxic Substances Control Act (15 U.S.C. 2603(b)(3))  
18           is amended—

19                   (1) in subparagraph (A), by striking “subpara-  
20                  graph (B) or (C)” and inserting “subparagraph (B),  
21                  (C), or (D)”; and

22                   (2) by adding at the end the following:

23                   “(D) A rule under subsection (a)(5) shall require the  
24                  development of information by any person who manufac-  
25                  tures or processes, or intends to manufacture or process,

1 a chemical substance that is a perfluoroalkyl or  
2 polyfluoroalkyl substance.”.

3 (c) PERFLUOROALKYL AND POLYFLUOROALKYL SUB-  
4 STANCES.—Section 4 of the Toxic Substances Control Act  
5 (15 U.S.C. 2603) is amended by adding at the end the  
6 following:

7 “(i) PERFLUOROALKYL AND POLYFLUOROALKYL  
8 SUBSTANCES.—

9 “(1) TESTING REQUIREMENT RULE.—

10 “(A) PROTOCOLS AND METHODOLOGIES.—

11 In determining the protocols and methodologies  
12 to be included pursuant to subsection (b)(1) in  
13 a rule under subsection (a)(5), the Adminis-  
14 trator shall allow for protocols and methodolo-  
15 gies that test chemical substances that are  
16 perfluoroalkyl and polyfluoroalkyl substances as  
17 a class.

18 “(B) PERIOD.—In determining the period  
19 to be included pursuant to subsection (b)(1) in  
20 a rule under subsection (a)(5), the Adminis-  
21 trator shall ensure that the period is as short  
22 as possible while allowing for completion of the  
23 required testing.

24 “(2) EXEMPTIONS.—In carrying out subsection  
25 (c) with respect to a chemical substance that is a



1 perfluoroalkyl or polyfluoroalkyl substance, the Ad-  
2 ministrator—

3 “(A) may only determine under subsection  
4 (c)(2) that information would be duplicative if  
5 the chemical substance with respect to which  
6 the application for exemption is submitted is in  
7 the same category, as established under sub-  
8 section (a)(5)(B)(i), as a chemical substance for  
9 which information has been submitted to the  
10 Administrator in accordance with a rule, order,  
11 or consent agreement under subsection (a) or  
12 for which information is being developed pursu-  
13 ant to such a rule, order, or consent agreement;  
14 and

15 “(B) shall publish a list of all such chem-  
16 ical substances for which an exemption under  
17 subsection (c) is granted.”.

18 **SEC. 4. MANUFACTURING AND PROCESSING NOTICES FOR**  
19 **PERFLUOROALKYL AND POLYFLUOROALKYL**  
20 **SUBSTANCES.**

21 Section 5 of the Toxic Substances Control Act (15  
22 U.S.C. 2604) is amended—

23 (1) in subsection (h), by adding at the end the  
24 following:

1 “(7) This subsection does not apply to any chemical  
2 substance that is a perfluoroalkyl or polyfluoroalkyl sub-  
3 stance.”; and

4 (2) by adding at the end the following:

5 “(j) PERFLUOROALKYL AND POLYFLUOROALKYL  
6 SUBSTANCES.—

7 “(1) DETERMINATION.—For a period of 5  
8 years beginning on the date of enactment of this  
9 subsection, any chemical substance that is a  
10 perfluoroalkyl or polyfluoroalkyl substance for which  
11 a notice is submitted under subsection (a) shall be  
12 deemed to have been determined by the Adminis-  
13 trator to present an unreasonable risk of injury to  
14 health or the environment under paragraph (3)(A)  
15 of such subsection.

16 “(2) ORDER.—Notwithstanding subsection  
17 (a)(3)(A), for a chemical substance described in  
18 paragraph (1) of this subsection, the Administrator  
19 shall issue an order under subsection (f)(3) to pro-  
20 hibit the manufacture, processing, and distribution  
21 in commerce of such chemical substance.”.

1 **SEC. 5. NATIONAL PRIMARY DRINKING WATER REGULA-**  
2 **TIONS FOR PFAS.**

3 Section 1412(b) of the Safe Drinking Water Act (42  
4 U.S.C. 300g–1(b)) is amended by adding at the end the  
5 following:

6 “(16) PERFLUOROALKYL AND  
7 POLYFLUOROALKYL SUBSTANCES.—

8 “(A) IN GENERAL.—Not later than 2 years  
9 after the date of enactment of this paragraph,  
10 the Administrator shall, after notice and oppor-  
11 tunity for public comment, promulgate a na-  
12 tional primary drinking water regulation for  
13 perfluoroalkyl and polyfluoroalkyl substances,  
14 which shall, at a minimum, include standards  
15 for—

16 “(i) perfluorooctanoic acid (commonly  
17 referred to as ‘PFOA’); and

18 “(ii) perfluorooctane sulfonic acid  
19 (commonly referred to as ‘PFOS’).

20 “(B) ALTERNATIVE PROCEDURES.—

21 “(i) IN GENERAL.—Not later than 1  
22 year after the validation by the Adminis-  
23 trator of an equally effective quality con-  
24 trol and testing procedure to ensure com-  
25 pliance with the national primary drinking  
26 water regulation promulgated under sub-

1 paragraph (A) to measure the levels de-  
2 scribed in clause (ii) or other methods to  
3 detect and monitor perfluoroalkyl and  
4 polyfluoroalkyl substances in drinking  
5 water, the Administrator shall add the pro-  
6 cedure or method as an alternative to the  
7 quality control and testing procedure de-  
8 scribed in such national primary drinking  
9 water regulation by publishing the proce-  
10 dure or method in the Federal Register in  
11 accordance with section 1401(1)(D).

12 “(ii) LEVELS DESCRIBED.—The levels  
13 referred to in clause (i) are—

14 “(I) the level of a perfluoroalkyl  
15 or polyfluoroalkyl substance;

16 “(II) the total levels of  
17 perfluoroalkyl and polyfluoroalkyl sub-  
18 stances; and

19 “(III) the total levels of organic  
20 fluorine.

21 “(C) INCLUSIONS.—The Administrator  
22 may include a perfluoroalkyl or polyfluoroalkyl  
23 substance or class of perfluoroalkyl or  
24 polyfluoroalkyl substances on—

1           “(i) the list of contaminants for con-  
2           sideration of regulation under paragraph  
3           (1)(B)(i), in accordance with such para-  
4           graph; and

5           “(ii) the list of unregulated contami-  
6           nants to be monitored under section  
7           1445(a)(2)(B)(i), in accordance with such  
8           section.

9           “(D) MONITORING.—When establishing  
10          monitoring requirements for public water sys-  
11          tems as part of a national primary drinking  
12          water regulation under subparagraph (A) or  
13          subparagraph (G)(ii), the Administrator shall  
14          tailor the monitoring requirements for public  
15          water systems that do not detect or are reliably  
16          and consistently below the maximum contami-  
17          nant level (as defined in section 1418(b)(2)(B))  
18          for the perfluoroalkyl or polyfluoroalkyl sub-  
19          stance or class of perfluoroalkyl or  
20          polyfluoroalkyl substances subject to the na-  
21          tional primary drinking water regulation.

22          “(E) HEALTH PROTECTION.—The national  
23          primary drinking water regulation promulgated  
24          under subparagraph (A) shall be protective of

1 the health of subpopulations at greater risk, as  
2 described in section 1458.

3 “(F) HEALTH RISK REDUCTION AND COST  
4 ANALYSIS.—In meeting the requirements of  
5 paragraph (3)(C), the Administrator may rely  
6 on information available to the Administrator  
7 with respect to one or more specific  
8 perfluoroalkyl or polyfluoroalkyl substances to  
9 extrapolate reasoned conclusions regarding the  
10 health risks and effects of a class of  
11 perfluoroalkyl or polyfluoroalkyl substances of  
12 which the specific perfluoroalkyl or  
13 polyfluoroalkyl substances are a part.

14 “(G) REGULATION OF ADDITIONAL SUB-  
15 STANCES.—

16 “(i) DETERMINATION.—The Adminis-  
17 trator shall make a determination under  
18 paragraph (1)(A), using the criteria de-  
19 scribed in clauses (i) through (iii) of that  
20 paragraph, whether to include a  
21 perfluoroalkyl or polyfluoroalkyl substance  
22 or class of perfluoroalkyl or polyfluoroalkyl  
23 substances in the national primary drink-  
24 ing water regulation under subparagraph

1 (A) not later than 18 months after the  
2 later of—

3 “(I) the date on which the  
4 perfluoroalkyl or polyfluoroalkyl sub-  
5 stance or class of perfluoroalkyl or  
6 polyfluoroalkyl substances is listed on  
7 the list of contaminants for consider-  
8 ation of regulation under paragraph  
9 (1)(B)(i); and

10 “(II) the date on which—

11 “(aa) the Administrator has  
12 received the results of monitoring  
13 under section 1445(a)(2)(B) for  
14 the perfluoroalkyl or  
15 polyfluoroalkyl substance or class  
16 of perfluoroalkyl or  
17 polyfluoroalkyl substances; or

18 “(bb) the Administrator has  
19 received reliable water data or  
20 water monitoring surveys for the  
21 perfluoroalkyl or polyfluoroalkyl  
22 substance or class of  
23 perfluoroalkyl or polyfluoroalkyl  
24 substances from a Federal or  
25 State agency that the Adminis-

1                   trator determines to be of a qual-  
2                   ity sufficient to make a deter-  
3                   mination under paragraph  
4                   (1)(A).

5                   “(ii) PRIMARY DRINKING WATER REG-  
6                   ULATIONS.—

7                   “(I) IN GENERAL.—For each  
8                   perfluoroalkyl or polyfluoroalkyl sub-  
9                   stance or class of perfluoroalkyl or  
10                  polyfluoroalkyl substances that the  
11                  Administrator determines to regulate  
12                  under clause (i), the Administrator—

13                  “(aa) not later than 18  
14                  months after the date on which  
15                  the Administrator makes the de-  
16                  termination, shall propose a na-  
17                  tional primary drinking water  
18                  regulation for the perfluoroalkyl  
19                  or polyfluoroalkyl substance or  
20                  class of perfluoroalkyl or  
21                  polyfluoroalkyl substances; and

22                  “(bb) may publish the pro-  
23                  posed national primary drinking  
24                  water regulation described in  
25                  item (aa) concurrently with the



1 publication of the determination  
2 to regulate the perfluoroalkyl or  
3 polyfluoroalkyl substance or class  
4 of perfluoroalkyl or  
5 polyfluoroalkyl substances.

6 “(II) DEADLINE.—

7 “(aa) IN GENERAL.—Not  
8 later than 1 year after the date  
9 on which the Administrator pub-  
10 lishes a proposed national pri-  
11 mary drinking water regulation  
12 under clause (i)(I) and subject to  
13 item (bb), the Administrator  
14 shall take final action on the pro-  
15 posed national primary drinking  
16 water regulation.

17 “(bb) EXTENSION.—The  
18 Administrator, on publication of  
19 notice in the Federal Register,  
20 may extend the deadline under  
21 item (aa) by not more than 6  
22 months.

23 “(H) HEALTH ADVISORY.—

24 “(i) IN GENERAL.—Subject to clause  
25 (ii), the Administrator shall publish a

1 health advisory under paragraph (1)(F) for  
2 a perfluoroalkyl or polyfluoroalkyl sub-  
3 stance or class of perfluoroalkyl or  
4 polyfluoroalkyl substances not subject to a  
5 national primary drinking water regulation  
6 not later than 1 year after the later of—

7 “(I) the date on which the Ad-  
8 ministrator finalizes a toxicity value  
9 for the perfluoroalkyl or  
10 polyfluoroalkyl substance or class of  
11 perfluoroalkyl or polyfluoroalkyl sub-  
12 stances; and

13 “(II) the date on which the Ad-  
14 ministrator validates an effective qual-  
15 ity control and testing procedure for  
16 the perfluoroalkyl or polyfluoroalkyl  
17 substance or class of perfluoroalkyl or  
18 polyfluoroalkyl substances.

19 “(ii) WAIVER.—The Administrator  
20 may waive the requirements of clause (i)  
21 with respect to a perfluoroalkyl or  
22 polyfluoroalkyl substance or class of  
23 perfluoroalkyl and polyfluoroalkyl sub-  
24 stances if the Administrator determines  
25 that there is a substantial likelihood that

1           the perfluoroalkyl or polyfluoroalkyl sub-  
2           stance or class of perfluoroalkyl or  
3           polyfluoroalkyl substances will not occur in  
4           drinking water with sufficient frequency to  
5           justify the publication of a health advisory,  
6           and publishes such determination, includ-  
7           ing the information and analysis used, and  
8           basis for, such determination, in the Fed-  
9           eral Register.”.

10 **SEC. 6. ENFORCEMENT.**

11           Notwithstanding any other provision of law, the Ad-  
12           ministrator of the Environmental Protection Agency may  
13           not impose financial penalties for the violation of a na-  
14           tional primary drinking water regulation (as defined in  
15           section 1401 of the Safe Drinking Water Act (42 U.S.C.  
16           300f)) with respect to a perfluoroalkyl or polyfluoroalkyl  
17           substance or class of perfluoroalkyl or polyfluoroalkyl sub-  
18           stances for which a national primary drinking water regu-  
19           lation has been promulgated under section 1412(b)(16) of  
20           the Safe Drinking Water Act earlier than the date that  
21           is 5 years after the date on which the Administrator pro-  
22           mulgates the national primary drinking water regulation.

1 **SEC. 7. ESTABLISHMENT OF PFAS INFRASTRUCTURE**  
2 **GRANT PROGRAM.**

3 Part E of the Safe Drinking Water Act (42 U.S.C.  
4 300j et seq.) is amended by adding at the end the fol-  
5 lowing new section:

6 **“SEC. 1459E. ASSISTANCE FOR COMMUNITY WATER SYS-**  
7 **TEMS AFFECTED BY PFAS.**

8 “(a) ESTABLISHMENT.—Not later than 180 days  
9 after the date of enactment of this section, the Adminis-  
10 trator shall establish a program to award grants to af-  
11 fected community water systems to pay for capital costs  
12 associated with the implementation of eligible treatment  
13 technologies.

14 “(b) APPLICATIONS.—

15 “(1) GUIDANCE.—Not later than 12 months  
16 after the date of enactment of this section, the Ad-  
17 ministrator shall publish guidance describing the  
18 form and timing for community water systems to  
19 apply for grants under this section.

20 “(2) REQUIRED INFORMATION.—The Adminis-  
21 trator shall require a community water system ap-  
22 plying for a grant under this section to submit—

23 “(A) information showing the presence of  
24 PFAS in water of the community water system;  
25 and

1           “(B) a certification that the treatment  
2           technology in use by the community water sys-  
3           tem at the time of application is not sufficient  
4           to remove all detectable amounts of PFAS.

5           “(c) LIST OF ELIGIBLE TREATMENT TECH-  
6 NOLOGIES.—Not later than 150 days after the date of en-  
7 actment of this section, and every 2 years thereafter, the  
8 Administrator shall publish a list of treatment tech-  
9 nologies that the Administrator, after providing an oppor-  
10 tunity for public comment, determines are effective at re-  
11 moving all detectable amounts of PFAS from drinking  
12 water.

13           “(d) PRIORITY FOR FUNDING.—In awarding grants  
14 under this section, the Administrator shall prioritize af-  
15 fected community water systems that—

16           “(1) serve a disadvantaged community or a dis-  
17 proportionately exposed community;

18           “(2) will provide at least a 10-percent cost  
19 share for the cost of implementing an eligible treat-  
20 ment technology; or

21           “(3) demonstrate the capacity to maintain the  
22 eligible treatment technology to be implemented  
23 using the grant.

24           “(e) NO INCREASED BONDING AUTHORITY.—  
25 Amounts awarded to affected community water systems

1 under this section may not be used as a source of payment  
2 of, or security for (directly or indirectly), in whole or in  
3 part, any obligation the interest on which is exempt from  
4 the tax imposed under chapter 1 of the Internal Revenue  
5 Code of 1986.

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—

7 “(1) IN GENERAL.—There is authorized to be  
8 appropriated to carry out this section not more  
9 than—

10 “(A) \$125,000,000 for each of fiscal years  
11 2020 and 2021; and

12 “(B) \$100,000,000 for each of fiscal years  
13 2022 through 2024.

14 “(2) SPECIAL RULE.—Of the amounts author-  
15 ized to be appropriated by paragraph (1),  
16 \$25,000,000 are authorized to be appropriated for  
17 each of fiscal years 2020 and 2021 for grants under  
18 subsection (a) to pay for capital costs associated  
19 with the implementation of eligible treatment tech-  
20 nologies during the period beginning on October 1,  
21 2014, and ending on the date of enactment of this  
22 section.

23 “(g) DEFINITIONS.—In this section:

24 “(1) AFFECTED COMMUNITY WATER SYSTEM.—

25 The term ‘affected community water system’ means

1 a community water system that is affected by the  
2 presence of PFAS in the water in the community  
3 water system.

4 “(2) DISADVANTAGED COMMUNITY.—The term  
5 ‘disadvantaged community’ has the meaning given  
6 that term in section 1452.

7 “(3) DISPROPORTIONATELY EXPOSED COMMU-  
8 NITY.—The term ‘disproportionately exposed com-  
9 munity’ means a community in which climate  
10 change, pollution, or environmental destruction have  
11 exacerbated systemic racial, regional, social, environ-  
12 mental, and economic injustices by disproportion-  
13 ately affecting indigenous peoples, communities of  
14 color, migrant communities, deindustrialized commu-  
15 nities, depopulated rural communities, the poor, low-  
16 income workers, women, the elderly, the unhoused,  
17 people with disabilities, or youth.

18 “(4) ELIGIBLE TREATMENT TECHNOLOGY.—  
19 The term ‘eligible treatment technology’ means a  
20 treatment technology included on the list published  
21 under subsection (c).

22 “(5) PFAS.—The term ‘PFAS’ means a  
23 perfluoroalkyl or polyfluoroalkyl substance with at  
24 least one fully fluorinated carbon atom, including the  
25 chemical GenX.”.

1 **SEC. 8. LISTING OF PERFLUOROALKYL AND**  
2 **POLYFLUOROALKYL SUBSTANCES AS HAZ-**  
3 **ARDOUS AIR POLLUTANTS.**

4 (a) LISTING.—

5 (1) INITIAL LISTING.—Not later than 180 days  
6 after the date of enactment of this Act, the Adminis-  
7 trator of the Environmental Protection Agency shall  
8 issue a final rule adding perfluorooctanoic acid and  
9 its salts, and perfluoroactanesulfonic acid and its  
10 salts, to the list of hazardous air pollutants under  
11 section 112(b) of the Clean Air Act (42 U.S.C.  
12 7412(b)).

13 (2) ADDITIONAL LISTINGS.—Not later than 5  
14 years after the date of enactment of this Act, the  
15 Administrator of the Environmental Protection  
16 Agency shall determine whether to issue, in accord-  
17 ance with section 112 of the Clean Air Act (42  
18 U.S.C. 7412), any final rules adding perfluoroalkyl  
19 and polyfluoroalkyl substances, other than those  
20 perfluoroalkyl and polyfluoroalkyl substances listed  
21 pursuant to paragraph (1), to the list of hazardous  
22 air pollutants under section 112(b) of such Act.

23 (b) SOURCES CATEGORIES.—Not later than 365 days  
24 after any final rule is issued pursuant to subsection (a),  
25 the Administrator of the Environmental Protection Agen-  
26 cy shall revise the list under section 112(c)(1) of the Clean



1 Air Act (42 U.S.C. 7412(c)(1)) to include categories and  
2 subcategories of major sources and area sources of  
3 perfluoroalkyl and polyfluoroalkyl substances listed pursu-  
4 ant to such final rule.

5 **SEC. 9. PROHIBITION ON UNSAFE WASTE INCINERATION OF**  
6 **PFAS.**

7 Section 3004 of the Solid Waste Disposal Act (42  
8 U.S.C. 6924) is amended by adding at the end the fol-  
9 lowing new subsection:

10 “(z) PFAS WASTES.—

11 “(1) FIREFIGHTING FOAM.—Not later than 6  
12 months after the date of enactment of this sub-  
13 section, the Administrator shall promulgate regula-  
14 tions requiring that when materials containing  
15 perfluoroalkyl and polyfluoroalkyl substances or  
16 aqueous film forming foam are disposed—

17 “(A) all incineration is conducted in a  
18 manner that eliminates perfluoroalkyl and  
19 polyfluoroalkyl substances while also minimizing  
20 perfluoroalkyl and polyfluoroalkyl substances  
21 emitted into the air to the extent feasible;

22 “(B) all incineration is conducted in ac-  
23 cordance with the requirements of the Clean Air  
24 Act, including controlling hydrogen fluoride;

1           “(C) any materials containing  
2           perfluoroalkyl and polyfluoroalkyl substances  
3           that are designated for disposal are stored in  
4           accordance with the requirement under part  
5           264 of title 40, Code of Federal Regulations;  
6           and

7           “(D) all incineration is conducted at a fa-  
8           cility that has been permitted to receive waste  
9           regulated under this subtitle.

10          “(2) PENALTIES.—For purposes of section  
11          3008(d), a waste subject to a prohibition under this  
12          subsection shall be considered a hazardous waste  
13          identified or listed under this subtitle.”.

14          **SEC. 10. LABEL FOR PFAS-FREE PRODUCTS.**

15          (a) LABEL FOR PFAS-FREE PRODUCTS.—Not later  
16          than 1 year after the date of enactment of this Act, the  
17          Administrator of the Environmental Protection Agency  
18          shall—

19                 (1) revise the Safer Choice Standard of the  
20                 Safer Choice Program to identify the requirements  
21                 for a pot, pan, cooking utensil, carpet, or rug, cloth-  
22                 ing, or upholstered furniture, or a stain resistant,  
23                 water resistant, or grease resistant coating not sub-  
24                 ject to requirements under section 409 of the Fed-  
25                 eral Food, Drug, and Cosmetic Act to meet in order

1 to be labeled with a Safer Choice label, including a  
2 requirement that any such pot, pan, cooking utensil,  
3 carpet, rug, clothing, or upholstered furniture, or  
4 stain resistant, water resistant, or grease resistant  
5 coating does not contain any PFAS; or

6 (2) establish a voluntary label that is available  
7 to be used by any manufacturer of any pot, pan,  
8 cooking utensil, carpet, rug, clothing, or upholstered  
9 furniture, or stain resistant, water resistant, or  
10 grease resistant coating not subject to requirements  
11 under section 409 of the Federal Food, Drug, and  
12 Cosmetic Act that the Administrator has reviewed  
13 and found does not contain any PFAS.

14 (b) DEFINITION.—In this section, the term “PFAS”  
15 means a perfluoroalkyl or polyfluoroalkyl substance with  
16 at least one fully fluorinated carbon atom.

17 **SEC. 11. GUIDANCE ON MINIMIZING THE USE OF FIRE-**  
18 **FIGHTING FOAM AND OTHER RELATED**  
19 **EQUIPMENT CONTAINING ANY PFAS.**

20 (a) GUIDANCE.—Not later than 1 year after the date  
21 of enactment of this Act, the Administrator of the Envi-  
22 ronmental Protection Agency, in consultation with the  
23 head of the U.S. Fire Administration, Federal Aviation  
24 Administration, and other relevant Federal departments  
25 or agencies and representatives of State and local building

1 and fire code enforcement jurisdictions, shall issue guid-  
2 ance on minimizing the use of, or contact with, firefighting  
3 foam and other related equipment containing any PFAS  
4 by firefighters, police officers, paramedics, emergency  
5 medical technicians, and other first responders, in order  
6 to minimize the risk to such firefighters, police officers,  
7 paramedics, emergency medical technicians, and other  
8 first responders, and the environment, without jeopard-  
9 izing firefighting efforts.

10 (b) ANNUAL REPORT.—Not later than 2 years after  
11 the date of the enactment of this Act, and annually there-  
12 after, the Administrator, in consultation with the head of  
13 the U.S. Fire Administration, shall submit to Congress a  
14 report on the effectiveness of the guidance issued under  
15 subsection (a). Such report shall include recommendations  
16 for congressional actions that the Administrator deter-  
17 mines appropriate to assist efforts to reduce exposure to  
18 PFAS by firefighters and the other persons described in  
19 subsection (a).

20 (c) REPORT.—Not later than 1 year after the date  
21 of enactment of this Act, the Administrator of the Envi-  
22 ronmental Protection Agency, in consultation with the  
23 head of the U.S. Fire Administration and other relevant  
24 Federal departments or agencies, shall report to Congress  
25 on the efforts of the Environmental Protection Agency and

1 other relevant Federal departments and agencies to iden-  
2 tify viable alternatives to firefighting foam and other re-  
3 lated equipment containing any PFAS.

4 (d) DEFINITION.—In this section, the term “PFAS”  
5 means perfluorooctanoic acid, perfluorooctanesulfonic  
6 acid, and any other perfluoroalkyl or polyfluoroalkyl sub-  
7 stance with at least one fully fluorinated carbon atom that  
8 the Administrator of the Environmental Protection Agen-  
9 cy determines is used in firefighting foam and other re-  
10 lated equipment.

11 **SEC. 12. INVESTIGATION OF PREVENTION OF CONTAMINA-**  
12 **TION BY GENX.**

13 The Administrator of the Environmental Protection  
14 Agency shall investigate methods and means to prevent  
15 contamination by GenX of surface waters, including  
16 source waters used for drinking water purposes.

17 **SEC. 13. DISCLOSURE OF INTRODUCTIONS OF PFAS.**

18 (a) IN GENERAL.—The introduction of any  
19 perfluoroalkyl or polyfluoroalkyl substance by the owner  
20 or operator of an industrial source shall be unlawful unless  
21 such owner or operator first notifies the owner or operator  
22 of the applicable treatment works of—

- 23 (1) the identity and quantity of such substance;  
24 (2) whether such substance is susceptible to  
25 treatment by such treatment works; and

1           (3) whether such substance would interfere with  
2           the operation of the treatment works.

3           (b) VIOLATIONS.—A violation of this section shall be  
4           treated in the same manner as a violation of a regulation  
5           promulgated under subsection 307(b) of the Federal  
6           Water Pollution Control Act (33 U.S.C. 1317(b)).

7           (c) DEFINITIONS.—In this section:

8           (1) INTRODUCTION.—The term “introduction”  
9           means the introduction of pollutants into treatment  
10          works, as described in section 307(b) of the Federal  
11          Water Pollution Control Act (33 U.S.C. 1317).

12          (2) TREATMENT WORKS.—The term “treatment  
13          works” has the meaning given that term in section  
14          212 of the Federal Water Pollution Control Act (33  
15          U.S.C. 1292).

16 **SEC. 14. HOUSEHOLD WELL WATER TESTING WEBSITE.**

17          (a) IN GENERAL.—Not later than 1 year after the  
18          date of enactment of this Act, the Administrator of the  
19          Environmental Protection Agency shall establish a website  
20          containing information relating to the testing of household  
21          well water.

22          (b) CONTENTS.—The Administrator shall include on  
23          the website established under subsection (a) the following:

24                  (1) Information on how to get groundwater that  
25                  is the source for a household water well tested by a

1 well inspector who is certified by a qualified third  
2 party.

3 (2) A list of laboratories that analyze water  
4 samples and are certified by a State or the Adminis-  
5 trator.

6 (3) State-specific information, developed in co-  
7 ordination with each State, on naturally occurring  
8 and human-induced contaminants.

9 (4) Information that, using accepted risk com-  
10 munication techniques, clearly communicates wheth-  
11 er a test result value exceeds a level determined by  
12 the Administrator or the State to pose a health risk.

13 (5) Information on treatment options, including  
14 information relating to water treatment systems cer-  
15 tified by the National Science Foundation or the  
16 American National Standards Institute, and people  
17 who are qualified to install such systems.

18 (6) A directory of whom to contact to report a  
19 test result value that exceeds a level determined by  
20 the Administrator or the State to pose a health risk.

21 (7) Information on financial assistance that is  
22 available for homeowners to support water treat-  
23 ment, including grants under section 306E of the  
24 Consolidated Farm and Rural Development Act (7  
25 U.S.C. 1926e) and State resources.

1           (8) Any other information the Administrator  
2           considers appropriate.

3           (c) COORDINATION.—The Administrator shall coordi-  
4           nate with the Secretary of Health and Human Services,  
5           the Secretary of Agriculture, and appropriate State agen-  
6           cies in carrying out this section.

7           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
8           authorized to be appropriated to carry out this section  
9           \$1,000,000 for fiscal year 2021.

10 **SEC. 15. RISK-COMMUNICATION STRATEGY.**

11           The Administrator of the Environmental Protection  
12           Agency shall develop a risk-communication strategy to in-  
13           form the public about the hazards or potential hazards  
14           of perfluoroalkyl and polyfluoroalkyl substances, or cat-  
15           egories of perfluoroalkyl and polyfluoroalkyl substances,  
16           by—

17           (1) disseminating information about the risks  
18           or potential risks posed by such substances or cat-  
19           egories in land, air, water (including drinking  
20           water), and products;

21           (2) notifying the public about exposure path-  
22           ways and mitigation measures through outreach and  
23           educational resources; and

24           (3) consulting with States that have dem-  
25           onstrated effective risk-communication strategies for



1 best practices in developing a national risk-commu-  
2 nication strategy.

3 **SEC. 16. ASSISTANCE TO TERRITORIES FOR ADDRESSING**  
4 **EMERGING CONTAMINANTS, WITH A FOCUS**  
5 **ON PERFLUOROALKYL AND**  
6 **POLYFLUOROALKYL SUBSTANCES.**

7 Section 1452(t) of the Safe Drinking Water Act (42  
8 U.S.C. 300j–12) is amended—

9 (1) by redesignating paragraph (2) as para-  
10 graph (3); and

11 (2) by inserting after paragraph (1) the fol-  
12 lowing new paragraph:

13 “(2) ASSISTANCE TO TERRITORIES.—Of the  
14 amounts made available under this subsection, the  
15 Administrator may use funds to provide grants to  
16 the Virgin Islands, the Commonwealth of the North-  
17 ern Mariana Islands, American Samoa, and Guam  
18 for the purpose of addressing emerging contami-  
19 nants, with a focus on perfluoroalkyl and  
20 polyfluoroalkyl substances.”.

21 **SEC. 17. CLEAN WATER ACT EFFLUENT STANDARDS,**  
22 **PRETREATMENT STANDARDS, AND WATER**  
23 **QUALITY CRITERIA FOR PFAS.**

24 (a) REVIEW AND REGULATION OF SUBSTANCES AND  
25 SOURCES.—

## 1 (1) REVIEW.—

2 (A) IN GENERAL.—As soon as practicable,  
3 but not later than September 30, 2021, and bi-  
4 ennially thereafter, the Administrator shall pub-  
5 lish in the Federal Register a plan under sub-  
6 section (m) of section 304 of the Federal Water  
7 Pollution Control Act (33 U.S.C. 1314) that  
8 contains the results of a review, conducted in  
9 accordance with such section, of the introduc-  
10 tion or discharge of perfluoroalkyl and  
11 polyfluoroalkyl substances from classes and cat-  
12 egories of point sources (other than publicly  
13 owned treatment works).

14 (B) INCLUSIONS.—The Administrator shall  
15 include in each plan published pursuant to sub-  
16 paragraph (A)—

17 (i) information on potential introduc-  
18 tion or discharges of perfluoroalkyl and  
19 polyfluoroalkyl substances;

20 (ii) any information gaps on such in-  
21 troduction or discharges and the process  
22 by which the Administrator will address  
23 such gaps;

24 (iii) for each measurable  
25 perfluoroalkyl and polyfluoroalkyl sub-

1           stance that is not on the list of toxic pol-  
2           lutants described in section 307(a) of the  
3           Federal Water Pollution Control Act, a de-  
4           termination, in accordance with the re-  
5           quirements of such section, whether or not  
6           to add the substance to such list; and

7                   (iv) a determination, in accordance  
8           with the requirements of the Federal  
9           Water Pollution Control Act, whether or  
10          not to establish effluent limitations and  
11          pretreatment standards for the introduc-  
12          tion or discharge of each substance de-  
13          scribed in clause (iii) that the Adminis-  
14          trator determines under such clause not to  
15          add to such list and for which the Admin-  
16          istrator has not developed such limitations  
17          or standards.

18           (2) REGULATION.—Based on the results of  
19          each review conducted under paragraph (1) and in  
20          accordance with the requirements of the Federal  
21          Water Pollution Control Act, the Administrator  
22          shall—

23                   (A) in accordance with the plan published  
24          under paragraph (1), as soon as practicable—

1 (i) for each measurable perfluoroalkyl  
2 and polyfluoroalkyl substance that the Ad-  
3 ministrator determines under paragraph  
4 (1)(B)(iii) to add to the list of toxic pollut-  
5 ants described in section 307(a) of such  
6 Act, initiate the process for adding the  
7 substance to such list; and

8 (ii) for each measurable perfluoroalkyl  
9 and polyfluoroalkyl substance that the Ad-  
10 ministrator determines under paragraph  
11 (1)(B)(iv) to establish effluent limitations  
12 and pretreatment standards, establish such  
13 effluent limitations and pretreatment  
14 standards (which limitations and standards  
15 may be established by substance or by  
16 class or category of substances); and

17 (B) not later than 2 years after the date  
18 on which each plan is published under para-  
19 graph (1), publish human health water quality  
20 criteria for measurable perfluoroalkyl and  
21 polyfluoroalkyl substances and classes and cat-  
22 egories of perfluoroalkyl and polyfluoroalkyl  
23 substances for which the Administrator has not  
24 published such criteria.

1 (b) DEADLINES FOR COVERED PERFLUOROALKYL  
2 SUBSTANCES.—

3 (1) WATER QUALITY CRITERIA.—Not later than  
4 2 years after the date of enactment of this section,  
5 the Administrator shall publish in the Federal Reg-  
6 ister human health water quality criteria for each  
7 covered perfluoroalkyl substance.

8 (2) EFFLUENT LIMITATIONS AND  
9 PRETREATMENT STANDARDS FOR PRIORITY INDUS-  
10 TRY CATEGORIES.—As soon as practicable, but not  
11 later than 4 years after the date of enactment of  
12 this section, the Administrator shall publish in the  
13 Federal Register a final rule establishing, for each  
14 priority industry category, effluent limitations and  
15 pretreatment standards for the introduction or dis-  
16 charge of each covered perfluoroalkyl substance.

17 (c) NOTIFICATION.—The Administrator shall notify  
18 the Committee on Transportation and Infrastructure of  
19 the House of Representatives and the Committee on Envi-  
20 ronment and Public Works of the Senate of each publica-  
21 tion made under this section.

22 (d) IMPLEMENTATION ASSISTANCE FOR PUBLICLY  
23 OWNED TREATMENT WORKS.—

24 (1) IN GENERAL.—The Administrator shall  
25 award grants, in amounts not to exceed \$100,000,

1 to owners and operators of publicly owned treatment  
2 works, to be used for the implementation of a  
3 pretreatment standard developed by the Adminis-  
4 trator for a perfluoroalkyl or polyfluoroalkyl sub-  
5 stance.

6 (2) AUTHORIZATION OF APPROPRIATIONS.—  
7 There is authorized to be appropriated to the Ad-  
8 ministrator to carry out this subsection  
9 \$100,000,000 for each of fiscal years 2021 through  
10 2025, to remain available until expended.

11 (e) DEFINITIONS.—In this section:

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

15 (2) COVERED PERFLUOROALKYL SUBSTANCE.—  
16 The term “covered perfluoroalkyl substance” means  
17 perfluorooctanoic acid, perfluorooctane sulfonic acid,  
18 or a salt associated with perfluorooctanoic acid or  
19 perfluorooctane sulfonic acid.

20 (3) EFFLUENT LIMITATION.—The term “efflu-  
21 ent limitation” means an effluent limitation under  
22 section 301(b) of the Federal Water Pollution Con-  
23 trol Act (33 U.S.C. 1311).

24 (4) INTRODUCTION.—The term “introduction”  
25 means the introduction of pollutants into treatment

1 works, as described in section 307(b) of the Federal  
2 Water Pollution Control Act (33 U.S.C. 1317).

3 (5) MEASURABLE.—The term “measurable”  
4 means, with respect to a chemical substance or class  
5 or category of chemical substances, capable of being  
6 measured using—

7 (A) test procedures established under sec-  
8 tion 304(h) of the Federal Water Pollution  
9 Control Act (33 U.S.C. 1314);

10 (B) applicable protocols and methodologies  
11 required pursuant to section 4(a) of the Toxic  
12 Substances Control Act (15 U.S.C. 2603); or

13 (C) any other analytical method developed  
14 by the Administrator for detecting pollutants,  
15 as such term is defined in section 502 of the  
16 Federal Water Pollution Control Act (33 U.S.C.  
17 1362).

18 (6) PRETREATMENT STANDARD.—The term  
19 “pretreatment standard” means a pretreatment  
20 standard under section 307(b) of the Federal Water  
21 Pollution Control Act (33 U.S.C. 1317).

22 (7) PRIORITY INDUSTRY CATEGORY.—The term  
23 “priority industry category” means the following  
24 point source categories:

1 (A) Organic chemicals, plastics, and syn-  
2 thetic fibers, as identified in part 414 of title  
3 40, Code of Federal Regulations.

4 (B) Pulp, paper, and paperboard, as iden-  
5 tified in part 430 of title 40, Code of Federal  
6 Regulations.

7 (C) Textile mills, as identified in part 410  
8 of title 40, Code of Federal Regulations.

9 (8) TREATMENT WORKS.—The term “treatment  
10 works” has the meaning given that term in section  
11 212 of the Federal Water Pollution Control Act (33  
12 U.S.C. 1292).

13 (9) WATER QUALITY CRITERIA.—The term  
14 “water quality criteria” means criteria for water  
15 quality under section 304(a)(1) of the Federal  
16 Water Pollution Control Act (33 U.S.C. 1314).

Passed the House of Representatives January 10,  
2020.

Attest:

*Clerk.*





116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 535

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## AN ACT

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.