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1ST SESSION

H. R. 2467

IN THE SENATE OF THE UNITED STATES

JULY 22, 2021

Received; read twice and referred to the Committee on Environment and
Public Works

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 2021”.

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 limitations guidelines and standards and water quality criteria for PFAS.
- Sec. 18. School drinking water testing and filtration grant program.
- Sec. 19. Analytical reference standards 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 and water used for

1 agricultural purposes), as well as in prod-
2 ucts; and

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

9 “(C) DEADLINES.—The Administrator
10 shall issue—

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

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

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

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

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

1 “(D) A rule under subsection (a)(5) shall require the
2 development of information by any person who manufac-
3 tures or processes, or intends to manufacture or process,
4 a chemical substance that is a perfluoroalkyl or
5 polyfluoroalkyl substance.”.

6 (c) PERFLUOROALKYL AND POLYFLUOROALKYL SUB-
7 STANCES.—Section 4 of the Toxic Substances Control Act
8 (15 U.S.C. 2603) is amended by adding at the end the
9 following:

10 “(i) PERFLUOROALKYL AND POLYFLUOROALKYL
11 SUBSTANCES.—

12 “(1) TESTING REQUIREMENT RULE.—

13 “(A) PROTOCOLS AND METHODOLOGIES.—

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

21 “(B) PERIOD.—In determining the period
22 to be included pursuant to subsection (b)(1) in
23 a rule under subsection (a)(5), the Adminis-
24 trator shall ensure that the period is as short

1 as possible while allowing for completion of the
2 required testing.

3 “(2) EXEMPTIONS.—In carrying out subsection
4 (c) with respect to a chemical substance that is a
5 perfluoroalkyl or polyfluoroalkyl substance, the Ad-
6 ministrator—

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

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

1 **SEC. 4. MANUFACTURING AND PROCESSING NOTICES FOR**
2 **PERFLUOROALKYL AND POLYFLUOROALKYL**
3 **SUBSTANCES.**

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

6 (1) in subsection (h), by adding at the end the
7 following:

8 “(7) PFAS.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), this subsection does not
11 apply to any chemical substance that is a
12 perfluoroalkyl or polyfluoroalkyl substance.

13 “(B) DRUGS AND DEVICES.—Paragraph
14 (3) applies to a chemical substance that is a
15 perfluoroalkyl or polyfluoroalkyl substance
16 which is manufactured or processed, or pro-
17 posed to be manufactured or processed, solely
18 for purposes of—

19 “(i) scientific experimentation or anal-
20 ysis with respect to a drug or device (as
21 such terms are defined in section 201 of
22 the Federal Food, Drug, and Cosmetic
23 Act) or personal protective equipment (as
24 such term is defined in section 20005 of
25 the CARES Act); or

1 “(ii) chemical research on, or analysis
2 of, such a chemical substance for the devel-
3 opment of a drug or device (as such terms
4 are defined in section 201 of the Federal
5 Food, Drug, and Cosmetic Act) or personal
6 protective equipment (as such term is de-
7 fined in section 20005 of the CARES
8 Act).”; and

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

10 “(j) PERFLUOROALKYL AND POLYFLUOROALKYL
11 SUBSTANCES.—

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

21 “(2) ORDER.—Notwithstanding subsection
22 (a)(3)(A), for a chemical substance described in
23 paragraph (1) of this subsection, the Administrator
24 shall issue an order under subsection (f)(3) to pro-

1 hibit the manufacture, processing, and distribution
2 in commerce of such chemical substance.”.

3 **SEC. 5. NATIONAL PRIMARY DRINKING WATER REGULA-**
4 **TIONS FOR PFAS.**

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

8 “(16) PERFLUOROALKYL AND
9 POLYFLUOROALKYL SUBSTANCES.—

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

18 “(i) perfluorooctanoic acid (commonly
19 referred to as ‘PFOA’); and

20 “(ii) perfluorooctane sulfonic acid
21 (commonly referred to as ‘PFOS’).

22 “(B) ALTERNATIVE PROCEDURES.—

23 “(i) IN GENERAL.—Not later than 1
24 year after the validation by the Adminis-
25 trator of an equally effective quality con-

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

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

17 “(I) the level of a perfluoroalkyl
18 or polyfluoroalkyl substance;

19 “(II) the total levels of
20 perfluoroalkyl and polyfluoroalkyl sub-
21 stances; and

22 “(III) the total levels of organic
23 fluorine.

24 “(C) INCLUSIONS.—The Administrator
25 may include a perfluoroalkyl or polyfluoroalkyl

1 substance or class of perfluoroalkyl or
2 polyfluoroalkyl substances on—

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

7 “(ii) the list of unregulated contami-
8 nants to be monitored under section
9 1445(a)(2)(B)(i), in accordance with such
10 section.

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

24 “(E) HEALTH PROTECTION.—The national
25 primary drinking water regulation promulgated

1 under subparagraph (A) shall be protective of
2 the health of subpopulations at greater risk, as
3 described in section 1458.

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

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

17 “(i) DETERMINATION.—The Adminis-
18 trator shall make a determination under
19 paragraph (1)(A), using the criteria de-
20 scribed in clauses (i) through (iii) of that
21 paragraph, whether to include a
22 perfluoroalkyl or polyfluoroalkyl substance
23 or class of perfluoroalkyl or polyfluoroalkyl
24 substances in the national primary drink-
25 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 meet all applicable standards, and all appli-
5 cable health advisories published pursuant to
6 section 1412(b)(1)(F), for perfluoroalkyl and
7 polyfluoroalkyl substances.

8 “(c) LIST OF ELIGIBLE TREATMENT TECH-
9 NOLOGIES.—Not later than 150 days after the date of en-
10 actment of this section, and every 2 years thereafter, the
11 Administrator shall publish a list of treatment tech-
12 nologies that the Administrator determines are the most
13 effective at removing perfluoroalkyl and polyfluoroalkyl
14 substances from drinking water.

15 “(d) PRIORITY FOR FUNDING.—In awarding grants
16 under this section, the Administrator shall prioritize an
17 affected community water system that—

18 “(1) serves a disadvantaged community;

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

22 “(3) demonstrates the capacity to maintain the
23 eligible treatment technology to be implemented
24 using the grant; or

1 “(4) is located within an area with respect to
2 which the Administrator has published a determina-
3 tion under the first sentence of section 1424(e) re-
4 lating to an aquifer that is the sole or principal
5 drinking water source for the area.

6 “(e) NO INCREASED BONDING AUTHORITY.—
7 Amounts awarded to affected community water systems
8 under this section may not be used as a source of payment
9 of, or security for (directly or indirectly), in whole or in
10 part, any obligation the interest on which is exempt from
11 the tax imposed under chapter 1 of the Internal Revenue
12 Code of 1986.

13 “(f) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There is authorized to be
15 appropriated to carry out this section not more than
16 \$500,000,000 for each of fiscal years 2022 through
17 2026.

18 “(2) SPECIAL RULE.—Of the amounts author-
19 ized to be appropriated by paragraph (1),
20 \$25,000,000 are authorized to be appropriated for
21 each of fiscal years 2022 and 2023 for grants under
22 subsection (a) to pay for capital costs associated
23 with the implementation of eligible treatment tech-
24 nologies during the period beginning on October 1,

1 2014, and ending on the date of enactment of this
2 section.

3 “(g) DEFINITIONS.—In this section:

4 “(1) AFFECTED COMMUNITY WATER SYSTEM.—
5 The term ‘affected community water system’ means
6 a community water system that is affected by the
7 presence of PFAS in the water in the community
8 water system.

9 “(2) DISADVANTAGED COMMUNITY.—The term
10 ‘disadvantaged community’ has the meaning given
11 that term in section 1452.

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

23 “(4) ELIGIBLE TREATMENT TECHNOLOGY.—
24 The term ‘eligible treatment technology’ means a

1 treatment technology included on the list published
2 under subsection (c).

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

7 **SEC. 8. LISTING OF PERFLUOROALKYL AND**
8 **POLYFLUOROALKYL SUBSTANCES AS HAZ-**
9 **ARDOUS AIR POLLUTANTS.**

10 (a) LISTING.—

11 (1) INITIAL LISTING.—Not later than 180 days
12 after the date of enactment of this Act, the Adminis-
13 trator of the Environmental Protection Agency shall
14 issue a final rule adding perfluorooctanoic acid and
15 its salts, and perfluoroactanesulfonic acid and its
16 salts, to the list of hazardous air pollutants under
17 section 112(b) of the Clean Air Act (42 U.S.C.
18 7412(b)).

19 (2) ADDITIONAL LISTINGS.—Not later than 5
20 years after the date of enactment of this Act, the
21 Administrator of the Environmental Protection
22 Agency shall determine whether to issue, in accord-
23 ance with section 112 of the Clean Air Act (42
24 U.S.C. 7412), any final rules adding perfluoroalkyl
25 and polyfluoroalkyl substances, other than those

1 perfluoroalkyl and polyfluoroalkyl substances listed
2 pursuant to paragraph (1), to the list of hazardous
3 air pollutants under section 112(b) of such Act.

4 (b) SOURCES CATEGORIES.—Not later than 365 days
5 after any final rule is issued pursuant to subsection (a),
6 the Administrator of the Environmental Protection Agen-
7 cy shall revise the list under section 112(c)(1) of the Clean
8 Air Act (42 U.S.C. 7412(c)(1)) to include categories and
9 subcategories of major sources and area sources of
10 perfluoroalkyl and polyfluoroalkyl substances listed pursu-
11 ant to such final rule.

12 **SEC. 9. PROHIBITION ON UNSAFE WASTE INCINERATION OF**
13 **PFAS.**

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

17 “(z) PFAS WASTES.—

18 “(1) FIREFIGHTING FOAM.—Not later than 6
19 months after the date of enactment of this sub-
20 section, the Administrator shall promulgate regula-
21 tions requiring that when materials containing
22 perfluoroalkyl and polyfluoroalkyl substances or
23 aqueous film forming foam are disposed—

24 “(A) all incineration is conducted in a
25 manner that eliminates perfluoroalkyl and

1 polyfluoroalkyl substances while also minimizing
2 perfluoroalkyl and polyfluoroalkyl substances
3 emitted into the air to the extent feasible;

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

7 “(C) any materials containing
8 perfluoroalkyl and polyfluoroalkyl substances
9 that are designated for disposal are stored in
10 accordance with the requirement under part
11 264 of title 40, Code of Federal Regulations;
12 and

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

16 “(2) PENALTIES.—For purposes of section
17 3008(d), a waste subject to a prohibition under this
18 subsection shall be considered a hazardous waste
19 identified or listed under this subtitle.”.

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

21 (a) LABEL FOR PFAS-FREE PRODUCTS.—Not later
22 than 1 year after the date of enactment of this Act, the
23 Administrator of the Environmental Protection Agency
24 shall—

1 (1) revise the Safer Choice Standard of the
2 Safer Choice Program to identify the requirements
3 for a covered product to meet in order to be labeled
4 with a Safer Choice label, including a requirement
5 that any such covered product does not contain any
6 PFAS; or

7 (2) establish a voluntary label that is available
8 to be used by any manufacturer of any covered prod-
9 uct that the Administrator has reviewed and found
10 does not contain any PFAS.

11 (b) DEFINITIONS.—In this section:

12 (1) COVERED PRODUCT.—The term “covered
13 product” means—

14 (A) a pot,

15 (B) a pan;

16 (C) a cooking utensil;

17 (D) carpet;

18 (E) a rug;

19 (F) clothing;

20 (G) upholstered furniture;

21 (H) a stain resistant, water resistant, or
22 grease resistant coating not subject to require-
23 ments under section 409 of the Federal Food,
24 Drug, and Cosmetic Act;

25 (I) food packaging material;

- 1 (J) an umbrella;
2 (K) luggage; or
3 (L) a cleaning product.

4 (2) PFAS.—The term “PFAS” means a
5 perfluoroalkyl or polyfluoroalkyl substance with at
6 least one fully fluorinated carbon atom.

7 **SEC. 11. GUIDANCE ON MINIMIZING THE USE OF FIRE-**
8 **FIGHTING FOAM AND OTHER RELATED**
9 **EQUIPMENT CONTAINING ANY PFAS.**

10 (a) GUIDANCE.—Not later than 1 year after the date
11 of enactment of this Act, the Administrator of the Envi-
12 ronmental Protection Agency, in consultation with the
13 head of the U.S. Fire Administration, Federal Aviation
14 Administration, and other relevant Federal departments
15 or agencies and representatives of State and local building
16 and fire code enforcement jurisdictions, shall issue guid-
17 ance on minimizing the use of, or contact with, firefighting
18 foam and other related equipment containing any PFAS
19 by firefighters, police officers, paramedics, emergency
20 medical technicians, and other first responders, in order
21 to minimize the risk to such firefighters, police officers,
22 paramedics, emergency medical technicians, and other
23 first responders, and the environment, without jeopard-
24 izing firefighting efforts.

1 (b) ANNUAL REPORT.—Not later than 2 years after
2 the date of the enactment of this Act, and annually there-
3 after, the Administrator, in consultation with the head of
4 the U.S. Fire Administration, shall submit to Congress a
5 report on the effectiveness of the guidance issued under
6 subsection (a). Such report shall include recommendations
7 for congressional actions that the Administrator deter-
8 mines appropriate to assist efforts to reduce exposure to
9 PFAS by firefighters and the other persons described in
10 subsection (a).

11 (c) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, the Administrator of the Envi-
13 ronmental Protection Agency, in consultation with the
14 head of the U.S. Fire Administration and other relevant
15 Federal departments or agencies, shall report to Congress
16 on the efforts of the Environmental Protection Agency and
17 other relevant Federal departments and agencies to iden-
18 tify viable alternatives to firefighting foam and other re-
19 lated equipment containing any PFAS.

20 (d) DEFINITION.—In this section, the term “PFAS”
21 means perfluorooctanoic acid, perfluorooctanesulfonic
22 acid, and any other perfluoroalkyl or polyfluoroalkyl sub-
23 stance with at least one fully fluorinated carbon atom that
24 the Administrator of the Environmental Protection Agen-

1 cy determines is used in firefighting foam and other re-
2 lated equipment.

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

5 The Administrator of the Environmental Protection
6 Agency shall investigate methods and means to prevent
7 contamination by GenX of surface waters, including
8 source waters used for drinking water purposes.

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

10 (a) IN GENERAL.—The introduction of any
11 perfluoroalkyl or polyfluoroalkyl substance by the owner
12 or operator of an industrial source shall be unlawful unless
13 such owner or operator first notifies the owner or operator
14 of the applicable treatment works of—

15 (1) the identity and quantity of such substance;

16 (2) whether such substance is susceptible to
17 treatment by such treatment works; and

18 (3) whether such substance would interfere with
19 the operation of the treatment works.

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

24 (c) DEFINITIONS.—In this section:

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

5 (2) TREATMENT WORKS.—The term “treatment
6 works” has the meaning given that term in section
7 212 of the Federal Water Pollution Control Act (33
8 U.S.C. 1292).

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

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Administrator of the
12 Environmental Protection Agency shall establish a website
13 containing information relating to the testing of household
14 well water.

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

17 (1) Information on how to get groundwater that
18 is the source for a household water well tested by a
19 well inspector who is certified by a qualified third
20 party.

21 (2) A list of laboratories that analyze water
22 samples and are certified by a State or the Adminis-
23 trator.

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

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

8 (5) Information on treatment options, including
9 information relating to water treatment systems cer-
10 tified to the relevant NSF/ANSI American National
11 Standard for drinking water treatment units by a
12 third-party certification body accredited by the
13 ANSI National Accreditation Board.

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

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

22 (8) Information about the health risks associ-
23 ated with consuming water contaminated with PFAS
24 as well as recommendations for individuals who be-

1 believe they may have consumed such PFAS-contami-
2 nated water.

3 (9) Any other information the Administrator
4 considers appropriate.

5 (c) ACCESS.—The Administrator shall ensure infor-
6 mation on the website established under subsection (a) is
7 presented in a manner that provides meaningful access to
8 such information for individuals with limited English pro-
9 ficiency.

10 (d) COORDINATION.—The Administrator shall coordi-
11 nate with the Secretary of Health and Human Services,
12 the Secretary of Agriculture, and appropriate State agen-
13 cies in carrying out this section.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this section
16 \$1,000,000 for fiscal year 2022.

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

18 The Administrator of the Environmental Protection
19 Agency shall develop a risk-communication strategy to in-
20 form the public about the hazards or potential hazards
21 of perfluoroalkyl and polyfluoroalkyl substances, or cat-
22 egories of perfluoroalkyl and polyfluoroalkyl substances,
23 by—

24 (1) disseminating information about the risks
25 or potential risks posed by such substances or cat-

1 egories in land, air, water (including drinking water
2 and water used for agricultural purposes), and prod-
3 ucts;

4 (2) notifying the public about exposure path-
5 ways and mitigation measures through outreach and
6 educational resources; and

7 (3) consulting with States that have dem-
8 onstrated effective risk-communication strategies for
9 best practices in developing a national risk-commu-
10 nication strategy.

11 **SEC. 16. ASSISTANCE TO TERRITORIES FOR ADDRESSING**
12 **EMERGING CONTAMINANTS, WITH A FOCUS**
13 **ON PERFLUOROALKYL AND**
14 **POLYFLUOROALKYL SUBSTANCES.**

15 Section 1452(t) of the Safe Drinking Water Act (42
16 U.S.C. 300j-12) is amended—

17 (1) by redesignating paragraph (2) as para-
18 graph (3); and

19 (2) by inserting after paragraph (1) the fol-
20 lowing new paragraph:

21 “(2) ASSISTANCE TO TERRITORIES.—To the ex-
22 tent that sufficient applications are received, the Ad-
23 ministrator shall use not less than 2 percent of the
24 amounts made available under this subsection to
25 provide grants to the Virgin Islands, the Common-

1 wealth of the Northern Mariana Islands, American
2 Samoa, and Guam for the purpose of addressing
3 emerging contaminants, with a focus on
4 perfluoroalkyl and polyfluoroalkyl substances.”.

5 **SEC. 17. CLEAN WATER ACT EFFLUENT LIMITATIONS**
6 **GUIDELINES AND STANDARDS AND WATER**
7 **QUALITY CRITERIA FOR PFAS.**

8 (a) DEADLINES.—

9 (1) WATER QUALITY CRITERIA.—Not later than
10 3 years after the date of enactment of this section,
11 the Administrator shall publish in the Federal Reg-
12 ister human health water quality criteria under sec-
13 tion 304(a)(1) of the Federal Water Pollution Con-
14 trol Act (33 U.S.C. 1314) for each measurable
15 perfluoroalkyl substance, polyfluoroalkyl substance,
16 and class of such substances.

17 (2) EFFLUENT LIMITATIONS GUIDELINES AND
18 STANDARDS FOR PRIORITY INDUSTRY CAT-
19 EGORIES.—As soon as practicable, but not later
20 than 4 years after the date of enactment of this sec-
21 tion, the Administrator shall publish in the Federal
22 Register a final rule establishing, for each priority
23 industry category, effluent limitations guidelines and
24 standards, in accordance with the Federal Water
25 Pollution Control Act, for the discharge (including a

1 discharge into a publicly owned treatment works) of
2 each measurable perfluoroalkyl substance,
3 polyfluoroalkyl substance, and class of such sub-
4 stances.

5 (b) NOTIFICATION.—The Administrator shall notify
6 the Committee on Transportation and Infrastructure of
7 the House of Representatives and the Committee on Envi-
8 ronment and Public Works of the Senate of each publica-
9 tion made under this section.

10 (c) IMPLEMENTATION ASSISTANCE FOR PUBLICLY
11 OWNED TREATMENT WORKS.—

12 (1) IN GENERAL.—The Administrator shall
13 award grants to owners and operators of publicly
14 owned treatment works, to be used to implement ef-
15 fluent limitations guidelines and standards developed
16 by the Administrator for a perfluoroalkyl substance,
17 polyfluoroalkyl substance, or class of such sub-
18 stances.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to the Ad-
21 ministrator to carry out this subsection
22 \$200,000,000 for each of fiscal years 2022 through
23 2026, to remain available until expended.

24 (d) NO INCREASED BONDING AUTHORITY.—
25 Amounts awarded to an owner or operator of a publicly

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

6 (e) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

10 (2) EFFLUENT LIMITATION.—The term “efflu-
11 ent limitation” has the meaning given that term in
12 section 502 of the Federal Water Pollution Control
13 Act (33 U.S.C. 1362).

14 (3) MEASURABLE.—The term “measurable”
15 means, with respect to a chemical substance or class
16 of chemical substances, capable of being measured
17 using test procedures established under section
18 304(h) of the Federal Water Pollution Control Act
19 (33 U.S.C. 1314).

20 (4) PERFLUOROALKYL SUBSTANCE.—The term
21 “perfluoroalkyl substance” means a chemical of
22 which all of the carbon atoms are fully fluorinated
23 carbon atoms.

24 (5) POLYFLUOROALKYL SUBSTANCE.—The
25 term “polyfluoroalkyl substance” means a chemical

1 containing at least one fully fluorinated carbon atom
2 and at least one carbon atom that is not a fully
3 fluorinated carbon atom.

4 (6) PRIORITY INDUSTRY CATEGORY.—The term
5 “priority industry category” means the following
6 point source categories:

7 (A) Organic chemicals, plastics, and syn-
8 thetic fibers, as identified in part 414 of title
9 40, Code of Federal Regulations (or successor
10 regulations).

11 (B) Pulp, paper, and paperboard, as iden-
12 tified in part 430 of title 40, Code of Federal
13 Regulations (or successor regulations).

14 (C) Textile mills, as identified in part 410
15 of title 40, Code of Federal Regulations (or suc-
16 cessor regulations).

17 (D) Electroplating, as identified in part
18 413 of title 40, Code of Federal Regulations (or
19 successor regulations).

20 (E) Metal finishing, as identified in part
21 433 of title 40, Code of Federal Regulations (or
22 successor regulations).

23 (F) Leather tanning and finishing, as iden-
24 tified in part 425 of title 40, Code of Federal
25 Regulations (or successor regulations).

1 (G) Paint formulating, as identified in part
2 446 of title 40, Code of Federal Regulations (or
3 successor regulations).

4 (H) Electrical and electronic components,
5 as identified in part 469 of title 40, Code of
6 Federal Regulations (or successor regulations).

7 (I) Plastics molding and forming, as iden-
8 tified in part 463 of title 40, Code of Federal
9 Regulations (or successor regulations).

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

14 **SEC. 18. SCHOOL DRINKING WATER TESTING AND FILTRA-**
15 **TION GRANT PROGRAM.**

16 Part F of the Safe Drinking Water Act (42 U.S.C.
17 300j–21 et seq.) is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 1466. SCHOOL PFAS TESTING AND FILTRATION**
20 **GRANT PROGRAM.**

21 “(a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this section, the Administrator shall
23 establish a program to make grants to eligible entities
24 for—

1 “(1) testing for perfluoroalkyl and
2 polyfluoroalkyl substances in drinking water at
3 schools that is conducted by an entity approved by
4 the Administrator or the applicable State to conduct
5 the testing;

6 “(2) installation, maintenance, and repair of
7 water filtration systems effective for reducing
8 perfluoroalkyl and polyfluoroalkyl substances in
9 drinking water at schools that contains a level of any
10 perfluoroalkyl or polyfluoroalkyl substance that ex-
11 ceeds—

12 “(A) an applicable maximum contaminant
13 level established by the Administrator under
14 section 1412; or

15 “(B) an applicable standard established by
16 the applicable State that is more stringent than
17 the level described in subparagraph (A); or

18 “(3) safe disposal of spent water filtration
19 equipment used to reduce perfluoroalkyl and
20 polyfluoroalkyl substances in drinking water at
21 schools.

22 “(b) GUIDANCE; PUBLIC AVAILABILITY.—As a condi-
23 tion of receiving a grant under this section, an eligible en-
24 tity shall—

1 “(1) expend grant funds in accordance with any
2 applicable State regulation or guidance regarding
3 the reduction of perfluoroalkyl and polyfluoroalkyl
4 substances in drinking water at schools that is not
5 less stringent than any applicable guidance issued by
6 the Administrator;

7 “(2) make publicly available, including, to the
8 maximum extent practicable, on the website of the
9 eligible entity, a copy of the results of any testing
10 carried out with grant funds received under this sec-
11 tion; and

12 “(3) notify parent, teacher, and employee orga-
13 nizations of the availability of the results described
14 in paragraph (2).

15 “(c) LIMITATION.—An eligible entity receiving a
16 grant under this section may use not more than 5 percent
17 of grant funds to pay the administrative costs of carrying
18 out the activities for which the grant was made.

19 “(d) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
20 tion, the term ‘eligible entity’ means—

21 “(1) a local educational agency; or

22 “(2) a State agency that administers a state-
23 wide program to test for, remediate, or filter
24 perfluoroalkyl and polyfluoroalkyl substances in
25 drinking water.

1 “(e) AUTHORIZATION OF APPROPRIATION.—There is
2 authorized to be appropriated to carry out this section
3 \$100,000,000 for each of fiscal years 2022 through 2026,
4 to remain available until expended.”.

5 **SEC. 19. ANALYTICAL REFERENCE STANDARDS FOR PFAS.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of enactment of this Act, the Administrator of the
8 Environmental Protection Agency shall require each cov-
9 ered entity to submit to the Administrator an analytical
10 reference standard for each perfluoroalkyl or
11 polyfluoroalkyl substance with at least one fully
12 fluorinated carbon atom manufactured by the covered en-
13 tity after the date that is 10 years prior to the date of
14 enactment of this Act.

15 (b) USES.—The Administrator may—

16 (1) use an analytical reference standard sub-
17 mitted under this section only for—

18 (A) the development of information, proto-
19 cols, and methodologies, which may be carried
20 out by an entity determined appropriate by the
21 Administrator; and

22 (B) activities relating to the implementa-
23 tion or enforcement of Federal requirements;
24 and

1 (2) provide an analytical reference standard
2 submitted under this section to a State, to be used
3 only for—

4 (A) the development of information, proto-
5 cols, and methodologies, which may be carried
6 out by an entity determined appropriate by the
7 State; and

8 (B) activities relating to the implementa-
9 tion or enforcement of State requirements.

10 (c) PROHIBITION.—No person receiving an analytical
11 reference standard submitted under this section may use
12 or transfer the analytical reference standard for a com-
13 mercial purpose.

14 (d) DEFINITIONS.—In this section:

15 (1) COVERED ENTITY.—The term “covered en-
16 tity” means a manufacturer of a perfluoroalkyl or
17 polyfluoroalkyl substance with at least one fully
18 fluorinated carbon atom.

19 (2) MANUFACTURE; STATE.—The terms “man-
20 ufacture” and “State” have the meanings given

1 those terms in section 3 of the Toxic Substances
2 Control Act (15 U.S.C. 2602).

Passed the House of Representatives July 21, 2021.

Attest: CHERYL L. JOHNSON,
Clerk.