

Perfluorinated Chemicals: Federal Legislation Introduced to Designate PFAS as CERCLA Hazardous Substances



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01/16/2019

Federal legislation has been introduced into the United States House of Representatives to designate all PFAS chemicals as Comprehensive Environmental Response Compensation Liability Act ("CERCLA" or "Superfund") hazardous substances.

Per- and polyfluoroalkyl substances do not currently carry this designation under the Superfund Program.

The legislation is denominated the "PFAS Action Act of 2019 ("Act").

PFAS have been used in various industrial applications in consumer products such as:

- Fabrics for furniture
- Paper packaging for food and other materials resistant to water, grease or stains
- Firefighting airfields
- Utilization in several industrial processes

PFAS properties include resistance to heat, water, and oil. Further, they have been described as persistent in the environment and resist degradation.

The substantive portion of the Act would read as follows:

SEC. 2. DESIGNATION AS HAZARDOUS SUBSTANCES.

Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate all per- and polyfluoroalkyl substances as hazardous substances under section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9602(a)). ...

The Hazardous Substance designation would enable the United States Environmental Protection Agency to use CERCLA authorities to address a release or threatened environmental release in some circumstances.

Several states have been active in setting cleanup standards for PFAS. For example, see the previous post regarding New Hampshire [here](#).

A copy of the Act can be found [here](#).