

Summary of Changes in the Amendment in the Nature of a Substitute to H.R. 535, the PFAS Action Act of 2019

The AINS to H.R. 535 makes significant changes to the legislation by incorporating provisions from several other PFAS bills pending before the Energy and Commerce Committee. Below is a section by section summary of those changes.

Section 2. Listing Under Superfund. Section 2 of the AINS includes provisions from the original text of H.R. 535 and would require the listing of certain perfluoroalkyl and polyfluoroalkyl substances as hazardous substances under CERCLA within one year. It would also set a deadline for EPA to decide within five years whether or not to list the remaining PFAS under CERCLA, individually or in groups.

Section 3. Testing PFAS Under TSCA. This section of the AINS incorporates H.R. 2608, sponsored by Rep. Sean Patrick Maloney, with amendment. The amendment requires EPA to promulgate a test rule requiring health effects testing for all PFAS, and allows the Administrator to divide PFAS into subclasses through the rulemaking process.

Section 4. Limits on New PFAS. This section incorporates H.R. 2596, sponsored by Rep. Kuster, with amendment. Under the amended text, there will be a moratorium on the approval of new PFAS for five years, as well as a permanent bar on the introduction of new PFAS into commerce under low volume exemptions.

Sections 5 - 8. PFAS in Drinking Water. These sections incorporate H.R. 2377, sponsored by Representatives Boyle and Fitzpatrick, with amendment. They also incorporate H.R. 2800, sponsored by Representative Slotkin, with amendment. The new text closely follows language adopted by the Senate as part of the National Defense Authorization Act, with some technical changes and one substantive change. The substantive change is a requirement that any drinking water standard adopted for PFAS protect vulnerable populations, including infants, children, and pregnant women.

Section 9. Toxics Release Inventory. This section incorporates H.R. 2577, sponsored by Rep. Delgado, with amendment. The amendment closely follows language adopted by the Senate as part of the National Defense Authorization Act, although several prominent PFAS are added to the list of chemicals which will be subject to reporting under TRI right away. The additions include Gen X.

Section 10. PFAS Data Call. This section incorporates language adopted by the Senate as part of the National Defense Authorization Act with technical changes reflecting technical assistance provided by the EPA. It requires manufacturers of PFAS chemicals to provide data to EPA on manufacturing volumes, byproducts, uses, and exposure.

Section 11. PFAS Significant New Use Rule. This section incorporates language adopted by the Senate as part of the National Defense Authorization Act with technical changes reflecting technical assistance provided by the EPA. It sets a deadline for EPA to take final action on a proposed Significant New Use Rule that covers a group of PFAS. The proposal was issued in 2015, but has not been finalized.

Section 12. Destruction and Disposal Guidance. This section incorporates language adopted by the Senate as part of the National Defense Authorization Act with technical

changes reflecting technical assistance provided by the EPA. It requires EPA to issue interim guidance on safe disposal of various types of PFAS containing materials.

Section 13. Infrastructure Grant Program. This section of the AINS incorporates H.R. 2533, sponsored by Rep. Pallone, with amendment. The amendment reduces funding levels and shortens the authorization from the introduced bill.

Section 14. Cooperative Agreements. This section of the AINS incorporates H.R. 2626, sponsored by Rep. Upton, without change.

Section 15. PFAS Air Pollution. This section of the AINS incorporates H.R. 2605, sponsored by Rep. Stevens, without change.

Section 16. Requirements for PFAS Waste Disposal. This section of the AINS incorporates H.R. 2591, sponsored by Rep. Khanna, with amendment. The amendment allows for incineration of PFAS containing wastes so long as that incineration is done at an approved hazardous waste incinerator, meets emissions standards including those for Hydrogen Fluoride, while minimizing PFAS air emissions to the extent feasible.

Section 17. PFAS-Free Label. This section incorporates H.R. 2566, sponsored by Rep. Soto, with amendment. The amendment allows EPA to establish the PFAS-Free label outside of the Safer Choice program if the Administrator chooses to do so.

Section 18. Firefighter Guidance. This section incorporates H.R. 2638, sponsored by Rep. Fletcher, with technical changes including a requirement that EPA consult with the head of the U.S. Fire Administration and other relevant Federal Agencies in developing the guidance.