

PFAS Action Act of 2021 Could Significantly Accelerate PFAS Regulation in the United States

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On April 13, 2021 Representatives Debbie Dingell and Fred Upton, Democrats from Michigan, introduced the [PFAS Action Act of 2021](#) (the Act) to Congress. The Act is similar to the PFAS Action Act of 2019, which passed the House on January 10, 2020, by a vote of 247 to 159 but never made it out of the Senate Committee on Environment and Public Works. The PFAS Action Act of 2021 would impose significant new regulations regarding the use, disposal, and clean-up of certain PFAS compounds. Notably, the Act would:

- Require EPA to promulgate nationwide drinking water standards within two years for PFOA (perfluorooctanoic acid) and PFOS (perfluorooctane sulfonic acid) – the two most widely studied PFAS – under the Safe Drinking Water Act. It would also require EPA to determine whether to set such standards for any individual PFAS compounds or any groups or classes of PFAS compounds;
- Require EPA to designate PFOA and PFOS as hazardous substances under CERCLA within one year and decide whether to also designate any individual PFAS compounds or groups of PFAS compounds as hazardous substances within five years;
- Require EPA to designate PFOA and PFOS as hazardous air pollutants under the Clean Air Act within 180 days and require the EPA to determine whether to list other PFAS compounds or groups of PFAS compounds as hazardous air pollutants within five years;
- Require EPA to create a voluntary Safer Choice labeling system for various consumer goods manufactured without using PFAS;
- Impose a five-year moratorium on approving new PFAS compounds or significant new uses of PFAS compounds under the Toxic Substances Control Act (TSCA); and
- Require EPA to set effluent standards applicable to certain classes of industrial sources of wastewater discharges containing certain PFAS compounds, including PFOA and PFOS.

EPA is [already in the process](#) of completing some of these items under its [PFAS Action Plan](#), and the new legislation would establish statutory deadlines to complete this work. The Act goes beyond the PFAS Action Plan, including through the regulation of air emissions of PFAS compounds. The proposed changes to TSCA would also remove

EPA's discretion with respect to new PFAS compounds and significant new uses related to PFAS compounds for a five year period.

The Act has 38 sponsors, 5 of whom are Republicans, indicating there is bipartisan support for PFAS legislation. It remains to be seen, however, whether comprehensive PFAS legislation like the Act can be passed in the current legislative environment. The Act currently remains in committee within the House.

A much smaller bill, the PFAS Act, is currently making its way through the Senate with five Republican and four Democrat sponsors. That bill is [S.231](#) and focuses on developing guidance for first responders like fire fighters regarding potential exposure to PFAS. S.231 has already been reported out of committee within the Senate but has not yet received a vote.

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