



MEMORANDUM

September 24, 2019

To: Subcommittee on Environment and Climate Change Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Subcommittee Markup of H.R. 1603, H.R. 535, H.R. 2377, H.R. 2533, H.R. 2566, H.R. 2570, H.R. 2577, H.R. 2591, H.R. 2596, H.R. 2600, H.R. 2605, H.R. 2608, H.R. 2626, H.R. 2638, and H.R. 2699

On **Thursday, September 26, 2019, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building**, the Subcommittee on Environment and Climate Change will hold a markup on legislation to ban asbestos, regulate per- and polyfluoroalkyl substances, and provide for storage of nuclear waste.

I. H.R. 1603, the ALAN REINSTEIN BAN ASBESTOS NOW ACT OF 2019

On March 7, 2019, Chairman Pallone joined Reps. Bonamici (D-OR) and Slotkin (D-MI) in introducing H.R. 1603, the “Alan Reinstein Ban Asbestos Now Act of 2019”. The bill would amend section 6 of TSCA (15 U.S.C. 2605) to prohibit the manufacture, processing, and distribution in commerce of asbestos and asbestos-containing mixtures and articles.

Section 2 of the bill has three subsections, each of which takes effect one year after enactment of the bill. Subsection 1 prohibits the manufacture, processing, and distribution in commerce of asbestos. Subsection 2 provides a limited exemption for national security reasons if no feasible alternative exists for the intended use. The exemption can last up to three years, with no more than one three-year-extension. Subsection 3 requires reporting by asbestos manufacturers, processors, or distributors currently operating or operating under an exemption.

Section 3 of the bill requires the Administrator of the Environmental Protection Agency (EPA), within 18 months of enactment and in consultation with the Secretary of Health and Human Services and the Secretary of Labor, to prepare and submit to Congress a report assessing the presence of asbestos in residential, commercial, industrial, public, and school buildings, as well as the risk posed to human health from that asbestos.

On March 13, 2019, the Subcommittee held an oversight hearing entitled, “Mismanaging Chemical Risks: EPA’s Failure to Protect Workers.” Testimony provided by representatives from the American Federation of Teachers, International Association of Firefighters, and the United Autoworkers detailed risks and harms associated with ongoing asbestos exposure.

On May 8, 2019, the Subcommittee held a legislative hearing on the bill. Witnesses included Linda Reinstein, Co-Founder of the Asbestos Disease Awareness Organization, Rebecca Reindel of the AFL-CIO, Celeste Monforton, who testified on behalf of the American Public Health Association, and Mike Walls of the American Chemistry Council.

II. LEGISLATION ON PER - AND POLYFLUOROALKYL SUBSTANCES

On September 6, 2018, the Committee on Energy and Commerce held a hearing entitled “Perfluorinated Chemicals in the Environment: An Update on the Response to Contamination and Challenges Presented.” For more information on that hearing, please see [here](#). On May 15, 2019, the Subcommittee on Environment and Climate Change held a legislative hearing on 13 bills to address the risks from per- and polyfluoroalkyl substances (PFAS). Each of these bills will be considered at the markup.

A. H.R. 535, PFAS Action Act of 2019

On January 14, 2019, Reps. Dingell (D-MI) and Upton (R-MI) introduced H.R. 535, the “PFAS Action Act of 2019”. The bill requires that within one year of enactment that the EPA Administrator shall designate all per- and polyfluoroalkyl substances as hazardous substances under section 102(a) of CERCLA (42 U.S.C. 9620).

B. H.R. 2377, Protect Drinking Water from PFAS Act of 2019

On April 29, 2019, Reps. Boyle (D-PA) and Fitzpatrick (R-PA) introduced H.R. 2377, the “Protect Drinking Water from PFAS Act of 2019”. The bill requires that no later than two years after enactment the EPA Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for total per- and polyfluoroalkyl substances.

C. H.R. 2533, Providing Financial Assistance for Safe Drinking Water Act

On May 7, 2019, Chairman Pallone (D-NJ) introduced H.R. 2533, the “Providing Financial Assistance for Safe (PFAS) Drinking Water Act”. The bill amends the Safe Drinking Water Act (42 U.S.C. 300) to require the EPA Administrator to establish, within 180 days of enactment, a program to award grants to PFAS-affected water systems to pay the capital costs associated with eligible treatment technologies. The legislation further directs the EPA Administrator to create a list of eligible treatment technologies, defined as those which can remove all detectable amounts of PFAS from drinking water.

D. H.R. 2566, A bill to require the Administrator of the Environmental Protection Agency to revise the Safer Choice Standard to provide for a Safer Choice label for pots, pans, and cooking utensils that do not contain PFAS, and for other purposes

On May 7, 2019, Rep. Soto (D-FL) introduced H.R. 2566, a bill to require the Administrator of the Environmental Protection Agency to revise the Safer Choice Standard to

provide for a Safer Choice label for pots, pans, and cooking utensils that do not contain PFAS, and for other purposes. The bill requires that no later than one year of enactment the EPA Administrator shall revise the Safer Choice Standard to provide a Safer Choice label for pots, pans, and cooking utensils that do not contain PFAS.

E. H.R. 2570, PFAS User Fee Act of 2019

On May 7, 2019, Rep. Rouda (D-CA) introduced H.R. 2570, the “PFAS User Fee Act of 2019”. The bill requires that polluters pay ongoing water treatment costs associated with contamination from per- and polyfluoroalkyl substances.

F. H.R. 2577, PFAS Right-To-Know Act

On May 8, 2019, Rep. Delgado (D-NY) introduced H.R. 2577, the “PFAS Right-To-Know Act”. The bill amends section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) to include per- and polyfluoroalkyl substances on the Toxics Release Inventory.

G. H.R. 2591, PFAS Waste Incineration Ban Act of 2019

On May 8, 2019, Rep. Khanna (D-CA) introduced H.R. 2591, the “PFAS Waste Incineration Ban Act of 2019”. The bill amends section 5 of the Solid Waste Disposal Act (42 U.S.C. 6924) to prohibit the disposal by waste incineration of fire-fighting foam containing per- and polyfluoroalkyl substances. The bill also requires the EPA Administrator, no later than 12 months after enactment, to promulgate regulations identifying additional wastes containing PFAS for which a prohibition on incineration may be necessary to protect human health.

H. H.R. 2596, Protecting Communities from New PFAS Act

On May 8, 2019, Rep. Kuster (D-NH) introduced H.R. 2596, the “Protecting Communities from New PFAS Act”. The bill amends section 5 of the Toxic Substances Control Act (15 U.S.C. 2604) such that any PFAS chemical substance for which a manufacturing and processing notice is submitted shall be deemed by the EPA Administrator to present an unreasonable risk of injury to health or the environment.

I. H.R. 2600, Toxic PFAS Control Act

On May 8, 2019, Rep. Dean (D-PA) introduced H.R. 2600, the “Toxic PFAS Control Act”. The bill amends section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) to prohibit the manufacture of any new PFAS chemical substance and prohibit the manufacture or process of any PFAS chemical substance as a significant new use.

J. H.R. 2605, Prevent Release Of Toxics Emissions, Contamination, and Transfer (PROTECT) Act of 2019

On May 8, 2019, Rep. Stevens (D-MI) introduced H.R. 2605, the “Prevent Release Of Toxics Emissions, Contamination, and Transfer (PROTECT) Act of 2019”. The bill directs the EPA Administrator to issue a final rule adding as a class all perfluoroalkyl and polyfluoroalkyl substances with at least one fully fluorinated carbon atom to the list of hazardous air pollutants under section 112(b) of the Clean Air Act (42 U.S.C. 7412(b)).

K. H.R. 2608, PFAS Testing Act of 2019

On May 9, 2019, Rep. Sean Patrick Maloney (D-NY) introduced H.R. 2608, the “PFAS Testing Act of 2019”. The bill requires comprehensive health testing of all PFAS under the Toxic Substances Control Act and reporting from all manufacturers and processors of PFAS on health, safety, and environmental impacts.

L. H.R. 2626, PFAS Accountability Act of 2019

On May 9, 2019, Rep. Upton (R-MI) introduced H.R. 2626, the “PFAS Accountability Act of 2019”. The bill amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 to require cleanups at Federal facilities to meet state limits for PFAS.

M. H.R. 2638, A bill to direct the Administrator of the Environmental Protection Agency to issue guidance on minimizing the use of firefighting foam containing PFAS, and for other purposes

On May 9, 2019, Rep. Fletcher (D-TX) introduced H.R. 2638, A bill to direct the Administrator of the Environmental Protection Agency to issue guidance on minimizing the use of firefighting foam containing PFAS, and for other purposes. The bill requires EPA to issue guidance for firefighters and other first responders to minimize the use of foam and other firefighting materials containing PFAS and to minimize their health risk from PFAS exposure.

III. LEGISLATION ON NUCLEAR WASTE DISPOSAL

On June 13, 2019, the Subcommittee on Environment and Climate Change held a legislative hearing entitled, “Cleaning Up Communities: Options for the Storage and Disposal of Spent Nuclear Fuel.” The hearing examined legislation to address the disposal of spent nuclear fuel (SNF) in the United States.

A. H.R. 2699, the Nuclear Waste Policy Amendments Act of 2019

On May 14, 2019, Reps. McNerney (D-CA) and Shimkus (R-IL) introduced H.R. 2699, the “Nuclear Waste Policy Amendments Act of 2019”. A previous version of the bill, H.R. 3053, passed the House in the 115th Congress by a vote of 340 - 72. Like its predecessor, H.R.

2699 amends the Nuclear Waste Policy Act to update the ability of the Department of Energy (DOE) to manage nuclear waste.

The bill addresses the need for both interim storage and long-term disposal of nuclear waste and spent nuclear fuel (SNF). In the near term, the bill gives DOE authority to site, construct, and operate one or more interim storage sites that would consolidate SNF from decommissioned reactors. One interim storage site would proceed notwithstanding the Nuclear Regulatory Commission's (NRC) ultimate decision on a permanent repository, and subsequent interim storage sites could be licensed once NRC issues a final repository decision. The program would also prioritize the transfer of SNF from seismically active areas.

The bill would permit DOE to undertake "infrastructure activities" intended to enable construction and operation of a repository at Yucca Mountain in the State of Nevada, including safety upgrades, site preparation, construction of a rail line, and grid connection. That process would also allow the Federal Government to enter into agreements to provide financial benefits to State, local, and tribal governments that may be affected by storage and disposal of SNF. Additionally, H.R. 2699 establishes ratepayer protections by reforming the finance mechanism of the Nuclear Waste Fund and assures that DOE has adequate funding to construct and operate a repository.

The bill makes several updates to H.R. 3053, as passed in the 115th Congress. First, H.R. 2699 revises section 103 to prioritize interim storage of waste from closed nuclear plants located in earthquake-prone areas and areas close to water. Second, the bill updates section 604 to establish the Office of Spent Nuclear Fuel (previously named the Office of Civilian Radioactive Waste Management in H.R. 3053). The Director of the Office of Spent Nuclear Fuel still reports to the Secretary but would no longer have a tenure limitation. Lastly, H.R. 2699 does not include two provisions added as amendments to the previous bill, one requiring a report on the West Lake Landfill in Missouri and another banning SNF disposal in or near the Great Lakes.