Message

From: Hanley, Mary [Hanley.Mary@epa.gov]
Sent: 11/16/2017 10:38:26 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]
CC: Keller, Kaitlin [keller.kaitlin@epa.gov]
Subject: Fwd: Update re: PFAS-related provisions in Nat'l Defense Authorization Act conference report

See below for agreed to conference provisions.

Sent from my iPhone

Begin forwarded message:

From: "Klasen, Matthew" <Klasen.Matthew@epa.gov>
Date: November 16, 2017 at 4:22:51 PM EST
To: "Orvin, Chris" <Orvin.Chris@epa.gov>, "Peck, Gregory" <Peck.Gregory@epa.gov>, "Hanley, Mary" <Hanley.Mary@epa.gov>, "Linkins, Samantha" <Linkins.Samantha@epa.gov>, "Folkemer, Nathaniel" <Folkemer.Nathaniel@epa.gov>, "Ingram, Amir" <Ingram.Amir@epa.gov>, "Nguyen, Loan" <Nguyen.Loan@epa.gov>, "Emmerson, Caroline" <Emmerson.Caroline@epa.gov>, "Keller, Kaitlin" <keller.kaitlin@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Dennis, Allison" <Dennis.Allison@epa.gov>
Cc: "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>, "Borum, Denis" <Borum.Denis@epa.gov>, "Skane, Elizabeth" <Skane.Elizabeth@epa.gov>, "Levine, Carolyn" <Levine.Carolyn@epa.gov>, "Janifer, Pamela" <Janifer.Pamela@epa.gov>, "Snyder, Raquel" <Snyder.Raquel@epa.gov>, "Moody, Christina" <Moody.Christina@epa.gov>, "Williams, Thea" <Williams.Thea@epa.gov>, "Farrell, Ericka" <Farrell.Ericka@epa.gov>, "Ringel, Aaron" <ringel.aaron@epa.gov>, "Palich, Christian" <palich.christian@epa.gov>, "Frye, Tony (Robert)" <frye.robert@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Cheatham-Strickland, Latonia" <Cheatham-Strickland.Latonia@epa.gov>, "Treimel, Ellen" <Treimel.Ellen@epa.gov>
Subject: Update re: PFAS-related provisions in Nat'l Defense Authorization Act conference report

Hi everyone,

A little more than a month ago, I sent around a note to most of you that shared the PFAS-related provisions that were included in the dueling House and Senate versions of the National Defense Authorization Act, a piece of legislation that passes each Congress to authorize DOD programs.

Last week, conferees from the House and Senate released their conference report, which resolves the differences between both chambers' versions of the bill. The House passed the conference report yesterday (356-70) and the Senate is expected to approve the conference report very soon. (Now that the report has been agreed to in conference, any outcome other than passage and signature by the President is extremely unlikely.)

The final bill does include two PFAS-related provisions. Of greatest note, Section 316 of the bill requires CDC and ATSDR to complete two scientific products:

- **A study of PFAS and their health impacts (to be complete within five years); and**
- **An exposure assessment that focuses on at least eight DOD installations with known PFAS contamination (to be complete within two years).**

This section also adds a clause (not present in either the House- or Senate-passed bills) stating that this work "shall not interfere with any regulatory processes of the Environmental Protection Agency, including determinations of maximum contaminant levels."

Below, I've pasted the two most relevant sections of the bill (Sec. 316 and Sec. 1059) as well as two statements from the conference report (not in bill language) that direct DOD to submit PFAS-related info to the Hill.

Text of the conference report and related information is available here: https://www.congress.gov/bill/115th-congress/house-bill/2810/actions

Let me know if you have any questions, and please forward to others who might find this info helpful.

Thanks,
Matt

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SEC. 316. CENTERS FOR DISEASE CONTROL STUDY ON HEALTH IMPLICATIONS OF PER- AND POLYFLUOROALKYL SUBSTANCES CONTAMINATION IN DRINKING WATER.

(a) STUDY ON HUMAN HEALTH IMPLICATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry, and, as appropriate, the National Institute of Environmental Health Sciences, and in consultation with the Department of Defense, shall—

(A) commence a study on the human health implications of per- and polyfluoroalkyl substances (PFAS) contamination in drinking water, ground water, and any other sources of water and relevant exposure pathways, including the cumulative human health implications of multiple types of PFAS contamination at levels above and below health advisory levels;

(B) not later than 5 years after the date of enactment of this Act (or 7 years after such date of enactment after providing notice to the appropriate congressional committees of the need for the delay)—

(i) complete such study and make any appropriate recommendations; and

(ii) submit a report to the appropriate congressional committees on the results of such study; and

(C) not later than one year after the date of the enactment of this Act, and annually thereafter until submission of the report under subparagraph (B)(ii), submit to the appropriate congressional committees a report on the progress of the study.

(2) FUNDING.—Of the amounts authorized to be appropriated by this Act for the Department of Defense, $7,000,000 shall be available to carry out the study under this subsection.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Committee on Heath, Education, Labor, and Pensions, the Committee on Environment and Public Works, and the Committee on Veterans' Affairs of the Senate; and

(C) the Committee on Energy and Commerce and the Committee on Veterans' Affairs of the House of Representatives.

(b) EXPOSURE ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry, and, as appropriate, the National Institute of Environmental Health Sciences, and in consultation with the Department of Defense, shall conduct an exposure assessment of no less than 8 current or former domestic military installations known to have PFAS contamination in drinking water, ground water, and any other sources of water and relevant exposure pathways.

(2) CONTENTS.—The exposure assessment required under this subsection shall—

(A) include—

(i) for each military installation covered under the exposure assessment, a statistical sample to be determined by the Secretary of Health and Human Services in consultation with the relevant State health departments; and

(ii) bio-monitoring for assessing the contamination described in paragraph (1); and

(B) produce findings, which shall be—

(i) used to help design the study described in subsection (a)(1)(A); and

(ii) released to the appropriate congressional committees not later than 1 year after the conclusion of such exposure assessment.

(3) TIMING.—The exposure assessment required under this subsection shall—

(A) begin not later than 180 days after the date of enactment of this Act; and

(B) conclude not later than 2 years after such date of enactment.

(c) COORDINATION WITH OTHER AGENCIES.—The Agency for Toxic Substance and Disease Registry may, as necessary, use staff and other resources from other Federal agencies in carrying out the study under subsection (a) and the assessment under subsection (b).

(d) NO EFFECT ON REGULATORY PROCESS.—The study and assessment conducted under this section shall not interfere with any regulatory processes of the Environmental Protection Agency, including determinations of maximum contaminant levels.

SEC. 1059. REPORT ON ALTERNATIVES TO AQUEOUS FILM FORMING FOAM.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the

House of Representatives a report on the Department's status with respect to developing a new military specification for safe and effective alternatives to aqueous film forming foam (hereinafter referred to as "AFFF") that do not contain perfluorooctanoic acid (hereinafter referred to as "PFOA") or perfluorooctanesulfonic acid (hereinafter referred to as "PFOS").
(b) ELEMENTS.—The report required by subparagraph (1) shall include the following:

(1) A detailed explanation of the Department's status with respect to developing a new military specification for safe and effective alternatives to AFFF that do not contain PFOA or PFOS.

(2) An update on the Secretary's plans for replacing AFFF containing PFOA or PFOS at military installations across the country and methods of disposal for AFFF containing PFOA or PFOS.

(3) An overview of current and planned research and development for AFFF alternatives that do not contain PFOA or PFOS.

(4) An assessment of how the establishment of a maximum contaminant level for PFOA or PFOS under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), rather than the current health advisory level, would impact the Department's mitigation actions, prioritization of such actions, and research and development related to PFOA and PFOS.

Text of the Conference Report (not bill text, but advisory language from the Committees)
The conferees direct the Secretary of Defense to deliver recommendations to the conferees no later than 30 days after the enactment of this Act on how the Department could: (1) Reimburse state or municipal agencies that expended funds to investigate or provide alternative water supplies, due to the release of per- and polyfluoroalkyl substances, when release came from a Department of Defense facility; and (2) Authorize access to the Environmental Restoration Account, established in 10 U.S.C. 2703, to address the investigation and any required removal or remedial action for the release of per- and polyfluoroalkyl substances when the release took place from an Air or Army National Guard facility operating under a title 32 authority.

The conferees direct that not later than December 31, 2017 the Secretary of Defense shall submit to the congressional defense committees a report setting forth a description of the manner in which the Secretary will allocate funds which shall be used by the Air Force and the National Guard to take actions to mitigate identified sources of polyfluoroalkyl substances at sites as a result of surveys conducted by the Armed Forces so as to restore public confidence in potable water which may be affected in such sites.

From: Klasen, Matthew
Sent: Thursday, October 5, 2017 11:49 AM
To: Orvin, Chris; Peck, Gregory; Hanley, Mary; Jakob, Avivah; Linkins, Samantha; Folkemer, Nathaniel; Ingram, Amir; Nguyen, Loan; Emmerson, Caroline
Cc: Kaiser, Sven-Erik; Borum, Denis; Skane, Elizabeth; Levine, Carolyn; Janifer, Pamela; Snyder, Raquel;

Moody, Christina; Williams, Thea; Farrell, Ericka; Ringel, Aaron; Palich, Christian; Frye, Tony (Robert); Rodrick, Christian; Lyons, Troy; Shimmin, Kaitlyn; Richardson, RobinH; Cheatham-Strickland, Latonia
Subject: FYI: PFC-related provisions in Nat'l Defense Authorization Act House & Senate bills

Hi everyone,

Hope your Thursday is going well.

For awareness only, and for forwarding as you see fit, I wanted to send along a general update about PFC/PFOA/PFOS-related provisions that have been included in the House and Senate versions of the National Defense Authorization Act (NDAA). The NDAA bill reliably passes in each session of Congress to authorize Department of Defense programs and set priorities for the coming fiscal year. Because this bill is enacted into law far more reliably than bills authorizing other programs, its provision are much more relevant than most bills that we follow.

Both the House and Senate have now passed different versions of the NDAA bill, H.R. 2810, with House passage on July 14 and Senate passage on September 18. Both the House version and the Senate versions include provisions related to PFCs, although the provisions differ. As described further below, both the Senate and the House bills would require a study of health implications of PFCs, although the parameters of those studies would differ. The House-passed bill would also require DOD to study alternatives to PFC-containing firefighting foams and submit a report to Congress.

Next step on this bill is for the House and Senate to work on ironing out their differences. I'll keep tabs on this and will send an update if/when there are PFC-related provisions in the final bill.

In the meantime, let me know if you have any questions.

Thanks,
Matt

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