U.S. Legislative Activities on Per- and Polyfluoroalkyl Substances (PFAS) as of July 30, 2020
As the House of Representatives returned to session in July, the chamber turned to the FY2021 National Defense Authorization Act (NDAA). During NDAA debate, Rep. Debbie Dingell (D-MI) led a bipartisan coalition of members in introducing an NDAA amendment based on the Representative’s standalone bill, H.R. 535, the PFAS Action Act.

- On January 10, 2020, the House of Representatives passed the PFAS Action Act by a 247 – 159 vote, including the support of two dozen Republicans.

- On Friday, July 17, the House Rules Committee left the Dingell amendment, which mirrored the PFAS Action Act, on the cutting room floor. The Rules Committee raised a budgetary point of order and prevented the amendment from being considered on the House floor during consideration of the NDAA.

- Though Rep. Dingell’s PFAS bill was ultimately not included in the House’s FY2021 NDAA. However, the House bill did include six PFAS-related amendments:
  - Included in the House NDAA were provisions to require manufacturers to disclose significant discharges of PFAS chemicals to the EPA, an amendment to increase spending for a Centers for Disease Control and Prevention (CDC) PFAS health study, a moratorium of PFAS incineration by the DOD until the department released their much anticipated safe disposal guidance, and a provision to require the publication of PFAS testing results across DOD installations.
The Senate also resumed consideration of their FY2021 NDAA the week of July 20. Chairman Inhofe (R-OK) and Ranking Member Reed (D-RI) worked on a bipartisan basis over the July recess period to come to a bipartisan consensus regarding which 800+ proposed NDAA amendments would be included in S. 4049, including some PFAS-related measures.

- To mirror PFAS provisions within the House NDAA, Senator Shaheen (D-NH) successfully included an amendment to authorize $15 million in funding to support the CDC’s review of the health impacts of PFAS chemicals

- On July 23, the Senate passed the chamber’s FY21 NDAA, S 4049, by a 86-14 vote

- Passage of both the Senate and House NDAA bills the week of July 20 will allow both HASC and SASC to begin conference negotiations in August with the goal of the two chambers passing a compromise NDAA into law later this Fall.

  - While both the House and Senate NDAA contain several notable provisions to fund PFAS research and require the DOD to report on the chemicals, no comprehensive PFAS language was included in either chamber’s NDAA.

National Defense Authorization Act (NDAA)
U.S. Senate, S. 4049
The House Appropriations Committee advanced the FY2021 Interior and Environment Appropriations bill to the House floor for consideration on July 10. Included within the Committee’s FY21 Interior and Environment bill were several PFAS funding priorities including:

- $13.9 million in funding to support work associated with PFAS reporting for the Toxic Release Inventory (TRI), stating “the Committee strongly believes the public must have access to high-quality data on release of PFAS and urges the Agency to adopt a comprehensive approach with respect to reporting of PFAS release.”
- $12.8 million to further research into the ecological and human health impacts of PFAS exposure.
- $16.5 million to support PFAS research in support of designating PFAS chemicals as hazardous substances under Section 2 of CERCLA.

The FY21 Interior-Environment appropriations measure was folded in four-title minibus, H.R. 7608, and brought to the House floor for consideration immediately following the House’s passage of the NDAA.
With the failure of Rep. Dingell’s amendment to receive a vote during the House’s floor consideration of the NDAA, it removed one of more viable pathways for Congress to enact comprehensive PFAS legislation this Congress.


- Following the PFAS setback in the NDAA debate, Rep. Dingell again proposed an amendment modeled on the PFAS Action Act, this time to H.R. 7608, the FY21 minibus appropriations. The Dingell amendment was included in Chairwoman Nita Lowey’s (D-NY) en bloc amendment package, which was unanimously adopted by the House.

- In the midst of an election year, the House Appropriations measures have not received the same bipartisan support the NDAA receives each year, reducing the odds any comprehensive PFAS legislation can be signed into law in 2020.

- As August approaches, the U.S. Senate is focused on their Phase IV COVID-19 relief package and is unlikely to advance FY21 appropriations in the very near future. Once Congress passes a Phase IV relief package in August – or later if negotiations break down – the Senate’s timing and process for FY21 appropriations will become clearer.
This month, the House Transportation and Infrastructure (T&I) Committee unanimously advanced H.R. 7575, the Water Resources Development Act (WRDA) of 2020, a bill to authorize Army Corps of Engineers (ACOE) projects and studies.

- Included in the bipartisan H.R. 7575 was a measure to direct the ACOE to review and report on Corps’ facilities that may be or could become contaminated by PFAS.

- On July 29, the House passed WRDA by voice vote sending the measure to the Senate for consideration. The Senate Environment and Public Works (EPW) Committee passed their WRDA measure earlier this summer but the measure has not been brought to the Senate floor for consideration.

- Congress has passed a WRDA bill to authorize key ACOE projects for three consecutive Congresses. Congressional leaders in both chambers remain optimistic that the trend will continue in 2020 and Congress will pass a fourth WRDA bill into law by December of this year.
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