

ARTICLE

PFAS and NDAA 2024

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We took a look at the 2024 NDAA with respect to PFAS, since Congress has a track record of passing substantive provisions to require EPA to regulate PFAS in prior NDAA legislation. Although not as consequential as the 2020 NDAA, thanks to which we now have the TSCA Section 8(a)(7) PFAS reporting rule, the 2024 NDAA does contain some PFAS-related amendments:

1. Sec. 331. Modification of timing of report on activities of PFAS Task Force. As amended by the 2024 NDAA, reporting requirements related to PFAS substances will be reduced in frequency, from quarterly to annually through 2029.
2. Sec. 332. Budget justification document for funding relating to PFAS. As amended by the 2024 NDAA, the DOD will have to include, with the submission of the annual budget request, a separate budget justification document on DOD's PFAS-related activities.
3. Sec. 333. Increase of transfer authority for funding of study and assessment on health implications of PFAS contamination in drinking water by Agency for Toxic Substances and Disease Registry. As amended, the authorization and funding transfer to the Centers for Disease Control and Prevention is extended, but the transfer amounts are limited to not more than \$5 million during FY 2024.
4. Sec. 334. Prizes for development of technology for thermal destruction of perfluoroalkyl substances or polyfluoroalkyl substances. As amended, the U.S. Secretary of Defense is authorized to carry out a pilot program that uses thermal destruction to dispose of PFAS substances.

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5. Sec. 335. Treatment of certain materials contaminated with perfluoroalkyl substances or polyfluoroalkyl substances. As amended, the Secretary of Defense may treat covered materials, including soils that have been contaminated with PFAS, through the use of any remediation or disposal technology that is approved by the Administrator of the EPA.
6. Sec. 336. Government Accountability Office reports on testing and remediation of perfluoroalkyl substances and polyfluoroalkyl substances. As amended, the Comptroller General will submit a report assessing the state of ongoing testing and remediation by the DOD of current or former military installations contaminated with PFAS substances. This report will include assessment of the state of the ongoing testing and remediation by the DOD of current or former military installations contaminated by PFAS substances.

As proposed, in the original House version, the 2024 NDAA would have prohibited the U.S. Department of Defense (DOD) from purchasing select products made with certain PFAS compounds, including some broadly defined as containing only a single fully fluorinated carbon atom coupled with a nonfluorinated carbon atom. A DOD report and Coalition Letter on PFAS in the FY24 NDAA Conference Agreement, dated October 12, 2023, was sent to Congress, advocating a more reasoned approach. It looks like Congress listened.