ATTORNEYS GENERAL OF MASSACHUSETTS, CONNECTICUT, DELAWARE, IOWA, MAINE, MARYLAND, MINNESOTA, NEW MEXICO, NEW YORK, NORTH CAROLINA, OREGON, PENNSYLVANIA, VIRGINIA, WISCONSIN, AND THE DISTRICT OF COLUMBIA

November 24, 2021

The Honorable Charles E. Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Re: PFAS Provisions in the Fiscal Year 2022 National Defense Authorization Act

Dear Majority Leader Schumer and Minority Leader McConnell:

As you work to finalize the U.S. Senate's Fiscal Year 2022 National Defense Authorization Act, S.2792 (Senate Bill[1]), the undersigned state attorneys general express our support for the Senate Bill's provisions addressing per- and polyfluoroalkyl substances (PFAS) and urge you to incorporate into the bill the significant and needed provisions addressing PFAS contained in the House-passed version of the FY2022 NDAA, H.R.4350 (House Bill).[2] The House Bill and the Senate Bill each build on continuing progress made in the prior fiscal years' authorization acts with respect to PFAS and help to further a whole-of-agency approach to addressing PFAS as set forth in the Biden Administration's recent *PFAS Strategic Roadmap*[3] to help safeguard the public and environment against this highly persistent and toxic class of "forever" compounds.

PFAS have been used to produce countless consumer products since the 1940s, including textiles with Scotchgard™; Teflon™ products, including non-stick cookware; food packaging;

[1] National Defense Authorization Act for Fiscal Year 2022, S.2792, 117th Congress (2021-2022), reported to Senate Sept. 22, 2021. *See* https://www.congress.gov/bill/117th-congress/senate-bill/2792/text.
[2] National Defense Authorization Act for Fiscal Year 2022, H.R.4350, 117th Congress (2021-2022), passed Sept. 23, 2021. *See* https://www.congress.gov/bill/117th-congress/house-bill/4350/text.
[3] U.S. Environmental Protection Agency (EPA), *Strategic Roadmap: EPA's Commitments to Action 2021-2024* (October 2021) ("EPA Roadmap") at 5, https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf. While the states applaud the policies enunciated in the EPA Roadmap, and the strategic measures it maps out, the states believe it does not and cannot be a substitute for necessary Congressional action, including passing a FY2022 NDAA that appropriately addresses current urgencies related to PFAS for which we advocate in this letter.

and waterproof clothing. Firefighting foam containing PFAS has also been used for decades by the U.S. military, airports, industrial facilities, and local fire departments. While PFAS are entirely human-made, they are estimated to be detectable in the blood stream of 99% of the U.S. population. Unfortunately, PFAS generally appear to be highly toxic to humans and animals, they tend to bioaccumulate in organisms and migrate up the food chain, and they are extremely resistant to degradation in the environment—that is why PFAS are known as "forever chemicals." Although scientific knowledge regarding PFAS is still developing, PFAS are linked to serious adverse health effects in humans and animals. The two most studied types of PFAS are perfluorooctanoic acid/perfluorooctanoate, known as PFOA, and perfluorooctane sulfonic acid/perfluorooctane sulfonate, known as PFOS. Human health effects associated with exposure to PFOA include kidney and testicular cancer, thyroid disease, liver damage, and preeclampsia; exposure to PFOS is associated with immune system effects, changes in liver enzymes and thyroid hormones, and other conditions.[4]

Our states face substantial threats to public health and the environment posed by PFAS. We are spending tens of millions of dollars to address contamination in drinking water sources—installing equipment to remediate PFAS contamination, providing alternative drinking water supplies, testing the blood of impacted communities, and investigating numerous areas of potential contamination, among other efforts. Other states are just beginning to investigate the extent of PFAS contamination within their borders. Contaminated sites include areas in or around military bases where firefighting foam was used, firefighting training centers, civilian airports, industrial facilities, landfills, and wastewater residuals disposal facilities. PFAS from many of these sites have migrated to contaminate nearby public and private drinking water supplies, at great costs to impacted communities and our states.

The undersigned are pleased to see that recommendations made in two earlier letters by state attorneys general, submitted in 2019 and 2020 respectively, have been signed into law or addressed in the current versions of the FY2022 NDAA.[5] We also greatly appreciate the progress that the Senate Bill represents, including providing for the codification of the U.S. military's PFAS task force charged with addressing PFAS releases from U.S. Department of Defense (DoD) activities, monitoring health effects from potential exposures, and finding and funding substitutes for PFAS-containing firefighting foam (AFFF); providing for the cleanup of the most contaminated PFAS sites and requiring regular updates to Congress on progress in this regard; and extending the transfer authority for funding and assessments by the Centers for Disease Control and Prevention on the health implications of PFAS-contaminated drinking water. We also applaud the Senate Armed Services Committee's express recognition of the persistence and

[4] *See, e.g.*, C8 Science Panel, http://www.c8sciencepanel.org/ (last updated January 22, 2020); U.S. Environmental Protection Agency, *Basic Information on PFAS, Are there health effects from PFAS?*, https://www.epa.gov/pfas/basic-information-pfas#health.

[5] *See* letters to Congressional leadership, dated July 30, 2019, joined by attorneys general from twenty-two states and sovereigns (attached hereto at Appendix A) and to the House and Senate Armed Services Committees, dated October 5, 2020, joined by attorneys general from twenty states and sovereigns (attached hereto at Appendix B). Some of these recommendations have already been adopted, including adding many PFAS to the list of chemicals covered by the Toxics Release Inventory (TRI) under Section 313 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11023, *see* https://www.epa.gov/sites/default/files/2021-01/documents/tri_non-cbi_pfas_list_1_8_2021_final.pdf, and limiting and ultimately prohibiting the use of PFAS aqueous film forming foam at military installations.

toxicity of PFAS chemicals in the environment and that a "whole-of-government" approach should be pursued to address these forever chemicals.[6]

To further the needed protections to combat PFAS exposures in our communities, we encourage the Senate to include other important provisions appearing in the House Bill, recently passed by a strong bipartisan majority, that seek to protect our communities from PFAS, including providing DoD with tools necessary to conduct remediation and removal of PFAS contamination to protect public health and the environment.[7] To address additional urgent needs of our states, we urge you to approve the Senate Bill after adding the following provisions from the House Bill:

- require DoD to use enforceable state standards for cleaning up PFAS contamination when those state standards are more strict than federal regulations;
- prohibit DoD from procuring certain PFAS-containing items including food packaging, sunscreen, cleaning products, and textiles;
- establish a two-year deadline for completing PFAS testing at DoD and National Guard installations;
- require DoD to publish and make publicly available results of drinking and ground water testing for PFAS conducted on or near current or former military installations, including National Guard sites;[8]
- require DoD to report on the status of clean-up at identified PFAS sites across the country;
- establish a moratorium on PFAS incineration; and
- ensure that identified loopholes in reporting under EPA's Toxics Release Inventory for PFAS are addressed.

We were pleased to see that the FY2020 NDAA,[9] consistent with previous state attorneys general letters, included a provision directing DoD to work expeditiously to finalize or amend a cooperative agreement with affected states "to address testing, monitoring, removal, and remedial actions relating to contamination or suspected contamination of drinking, surface, or groundwater from PFAS originating from activities of [DoD]." PL 116-92, Sec. 332(a)(1). This provision should expedite the cleanup of DoD sites that are not on the National Priorities List

---

[6] *See* U.S. Senate Committee on Armed Services Report No. 117-39, National Defense Authorization Act for Fiscal Year 2022 Report [to accompany S. 2792] To Authorize Appropriations for Fiscal Year 2022 For Military Activities of the Department of Defense, For Military Construction, and For Defense Activities of the Department of Energy, to Prescribe Military Personnel Strengths for such Fiscal Year, and For Other Purposes, p. 124, 117th Congress, First Session, Sept. 22, 2021, *available at* https://www.congress.gov/117/crpt/srpt39/CRPT-117srpt39.pdf.

[7] There are approximately at least 678 active or closed military installations with known or suspected PFAS contamination on- or off-site, requiring prompt attention to protect military personnel and surrounding communities. *See* https://www.ewg.org/interactive-maps/2019-pfas-crash-training-military-sites-March2020/map/.

[8] We suggest that this be supplemented by requiring DoD also to notify farmers and residents adjacent to PFAS-contaminated facilities about potential contamination. *See* Environmental Working Group, Forever Chemicals From Military Bases May be Lurking in Agricultural Water Supplies (Oct. 29, 2021), *available at* https://www.ewg.org/news-insights/news/2021/10/forever-chemicals-military-bases-may-be-lurking-agricultural-water?utm_campaign=EWG+Content&utm_content=&utm_medium=Social&utm_source=twitter&source=email.

[9] National Defense Authorization Act for Fiscal Year 2020, S.1790, 116th Congress (2019-2020), signed by the president December 20, 2019, Public Law No. 116-92. *See* https://www.congress.gov/bill/116th-congress/senate-bill/1790.

and require that a cooperative agreement "meet or exceed the most stringent" of an enforceable state or federal standard for drinking, surface, or groundwater or a health advisory of the Safe Drinking Water Act. We strongly support a Congressional mandate in the FY2022 NDAA that requires DoD to meet the most stringent state standards during site remediation, regardless of whether a state and DoD are able to reach a cooperative agreement.[10]

Thank you for once again making PFAS remediation and the protection of our communities a priority. We urge Congress to maintain focus on PFAS remediation as a crucial priority in crafting the final version of the FY2022 NDAA and to keep the goal of developing strong federal regulation of PFAS compounds at the forefront for Congress.

Sincerely,

MAURA HEALEY
Attorney General
Commonwealth of Massachusetts

LETITIA JAMES
Attorney General
State of New York

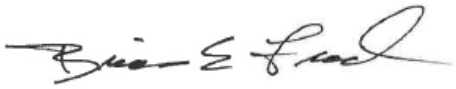
JOSHUA L. KAUL
Attorney General
State of Wisconsin

JOSH SHAPIRO
Attorney General
Commonwealth of Pennsylvania

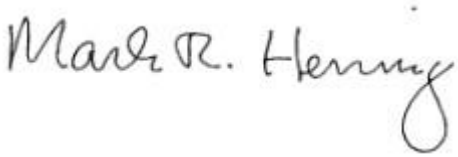
WILLIAM TONG
Attorney General
State of Connecticut

KATHLEEN JENNINGS
Attorney General
State of Delaware

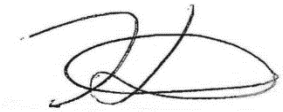
[10] The FY2020 NDAA also, among other things, required the reporting of 172 different PFAS chemicals under EPA's Toxics Release Inventory (TRI) program created by Section 313 of the Emergency and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11023 and imposed restrictions on AFFF being used at military installations and facilities.



BRIAN E. FROSH
Attorney General
State of Maryland



MARK R. HERRING
Attorney General
Commonwealth of Virginia



KARL A. RACINE
Attorney General
District of Columbia

ELLEN F. ROSENBLUM
Attorney General
State of Oregon

AARON M. FREY
Attorney General
State of Maine

JOSHUA H. STEIN
Attorney General
State of North Carolina

TOM MILLER
Attorney General
State of Iowa

KEITH ELLISON
Attorney General
State of Minnesota

HECTOR BALDERAS
Attorney General
State of New Mexico

cc: The Honorable Jack Reed, Chair, Senate Armed Services Committee
The Honorable James M. Inhofe, Ranking Member, Senate Armed Services Committee
The Honorable Nancy Pelosi, Speaker, United States House of Representatives
The Honorable Steny Hoyer, Majority Leader, United States House of Representatives
The Honorable Kevin McCarthy, Minority Leader, United States House of Representatives
The Honorable Adam Smith, Chair, House Armed Services Committee
The Honorable Mike Rogers, Ranking Member, House Armed Services Committee

Appendix A

ATTORNEYS GENERAL OF NEW YORK, CALIFORNIA, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, GUAM, HAWAI'I, ILLINOIS, IOWA, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MISSISSIPPI, NEW JERSEY, NEW MEXICO, OREGON, RHODE ISLAND, VIRGINIA, WASHINGTON, AND WISCONSIN

July 30, 2019

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

Re: PFAS Legislation

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

As the United States Congress moves forward to address the threat to human health and the environment posed by the class of chemical compounds known as poly- and per-fluoroalkyl substances ("PFAS"), we write to urge Congress to ensure that some of the most urgent legislative needs – based on our experiences in our respective jurisdictions – are addressed.

PFAS have been used to produce countless products since the 1940s, including textiles with Scotchgard; Teflon products, including non-stick cookware; and food packaging. PFAS have also been used for decades as ingredients in firefighting foam, which has been used across

the country, including by the U.S. military and local fire departments. While PFAS are entirely human-made, they are estimated to be detectable in the blood stream of approximately 99% of the U.S. population. PFAS are known as "forever chemicals" because they resist degradation in the environment. PFAS also bioaccumulate – and are toxic – to humans and animals. Although scientific knowledge regarding PFAS is still developing, PFAS are linked to serious adverse health effects in humans and animals. The two most studied types of PFAS are known by the acronyms PFOA and PFOS. Human health effects associated with exposure to PFOA include kidney and testicular cancer, thyroid disease, liver damage, and preeclampsia; exposure to PFOS is associated with immune system effects, changes in liver enzymes and thyroid hormones, and other conditions.[1]

Many of the signatories to this letter face substantial PFAS issues in their jurisdictions, while others are just beginning to investigate the extent of PFAS contamination in their States. In jurisdictions that have already identified significant PFAS contamination within their borders, we are spending tens of millions of dollars to address contamination in public drinking water sources and to investigate numerous areas of potential contamination across our communities and to prioritize responses to such contamination. Contaminated sites in our jurisdictions include but are not limited to military bases where firefighting foam was used, firefighting training centers, civilian airports, and industrial facilities.

Although eventually Congress will likely need to address the entire PFAS "lifecycle"– production, use, exposure, cleanup, and disposal – we applaud the Senate and the House of Representatives for advancing legislation that address particular issues associated with PFAS contamination. As Congress moves to reach agreement on final legislation, the experiences of our States in responding to the dangers of PFAS point to several immediate legislative needs. For the reasons set forth below, we urge Congress to support the following necessary first steps in addressing the problems posed by PFAS. Any legislation, of course, should not impair the existing rights of States to pursue appropriate remedies under existing law.

CERCLA Designation

Designate certain PFAS as "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").[2] This designation should include but not be limited to PFOA, PFOS, and "GenX" PFAS. Additionally, the Environmental Protection Agency ("EPA") should be directed to immediately study other PFAS and to designate all or some of the substances in the PFAS class of chemical compounds as hazardous substances under CERCLA. Such designation will help promote cleanup of some of the worst contaminated sites in the country that pose substantial threats to human health and/or the environment, including sites currently or formerly owned or operated by the U.S. Department of Defense ("DOD"). To date, DOD has identified over 400 federal facilities around the country with known or suspected PFAS contamination from firefighting foam.[3] DOD has resisted cleanup of federal facilities around the country, however, on the basis that PFAS are not

[1] *See, e.g.*, C8 Science Panel Website, http://www.c8sciencepanel.org/.
[2] 42 U.S.C. §§ 9601-9675.
[3] *See* U.S. Gov't Accountability Office, GAO-18-700T, *Status of DOD Efforts to Address Drinking Water Contamination Used in Firefighting Foam* (2018), *available at* www.gao.gov/products/GAO-18-700T.

hazardous substances under CERCLA or otherwise federally regulated. Because CERCLA applies to facilities owned or operated by the federal government,[4] a designation of certain PFAS as hazardous substances under CERCLA would promote the appropriate cleanup of these sites. A designation under CERCLA would also promote cleanup of so-called "orphan" sites where responsible parties cannot be identified or located, or they fail to act. Contaminated sites that are subject to CERCLA would be cleaned up in a manner consistent with CERCLA's well-established procedures and protocols.[5] Legislative carve-outs under CERCLA for certain other types of facilities could be provided, as appropriate.

CERCLA also provides reporting requirements for releases of hazardous substances over certain thresholds, and that reporting will facilitate investigations and potential cleanups of federal facilities and other sites across the country.[6] EPA should also be directed to develop appropriate analytical methodologies for testing for PFAS in various environmental media.

Inclusion in the Toxic Release Inventory ("TRI") Maintained by EPA

Add the entire class of PFAS to EPA's TRI.[7] This would provide information about new potential sources and areas of contamination. The thresholds for reporting releases of PFAS to the TRI should be set at a very low level, to account for the fact that PFAS may be toxic in very low concentrations.

Sampling and Survey of PFAS Contamination by the U.S. Geological Survey ("USGS")

Direct the USGS to conduct a nationwide sampling effort and survey of human and environmental exposure to PFAS, with an emphasis on drinking water, to determine the scope of PFAS contamination. This information will assist all stakeholders in prioritizing areas that require further response and will complement the inclusion of PFAS on EPA's TRI. Our respective States' jurisdictional agencies stand ready to assist the federal government in identifying the locations that should be the highest priority for investigation.

Funding for Communities' Response to PFAS Contamination

Provide funding for remediation of public water systems, with a focus on environmental justice and other disadvantaged communities. Many public water providers do not have sufficient funding to address PFAS contamination, and even when they may in the first instance, raising water rates to recoup those costs present serious water affordability issues. Funding should also be made available to address potential contamination of private drinking water sources.

[4] *See* 42 U.S.C. §§ 9601(21), 9620.
[5] *See* 40 C.F.R. Part 300.
[6] *See* 42 U.S.C. § 9603; 40 C.F.R. Part 302.4.
[7] *See* 42 U.S.C. § 11023.

Prohibit the Use and Storage of Firefighting Foam Containing PFAS at U.S. Military Bases and Other Federal Facilities

Prohibit the use and storage of firefighting foam containing PFAS at United States military bases and other federal facilities as quickly as possible, and immediately require protective measures when firefighting foam is used. Aqueous film-forming foam, or AFFF, is directly sprayed on or near the ground when it is used, and it is the source of PFAS at some of the worst contaminated areas in the nation, including at numerous military sites. Some of our jurisdictions have been forced to spend tens of millions of dollars to provide vulnerable communities near military bases with uncontaminated water and filtration systems. While AFFF may be discharged into the environment in responding to emergencies (or may be discharged accidentally), the vast majority of AFFF is used for firefighting training. Congress should require that training foams that do not contain PFAS be used instead of AFFF containing PFAS, and that barriers or other measures be used in areas in which foam is discharged to prevent potential contamination of the environment.

Medical Screening

Provide for medical screening for PFAS exposure for appropriate personnel and members of the public who may have been exposed to PFAS, including but not limited to firefighting personnel. Our citizens deserve to know about potential health threats, particularly those incurred on the job.

* * *

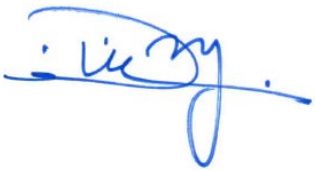
Public understanding about the serious risks that PFAS contamination poses to human health and the environment is growing. Without federal legislative action to assist States and communities that are responding to this burgeoning threat, the public may lose confidence in the safety of its drinking water sources, consumer products, and other routes of exposure to dangerous levels of PFAS. We applaud the Senate and the House of Representatives for recognizing the dangers of PFAS and advancing legislation to address the resulting public health concerns and mounting State and local response costs. We urge Congress to continue these efforts by supporting the initial legislative needs highlighted above as Congress moves to reach agreement on final legislation addressing PFAS contamination.

Thank you for your time and consideration of these urgent matters.

Sincerely,

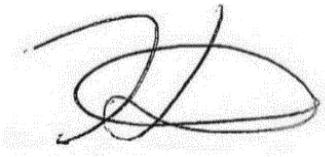
LETITIA JAMES
Attorney General of New York

XAVIER BECERRA
Attorney General of California



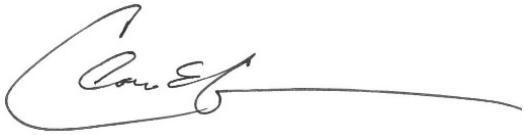
WILLIAM TONG
Attorney General of Connecticut

KATHLEEN JENNINGS
Attorney General of Delaware



KARL A. RACINE
Attorney General of District of Columbia

LEEVIN CAMACHO
Attorney General of Guam

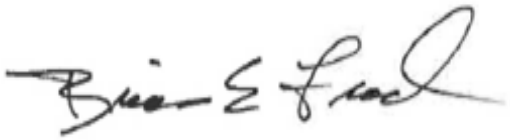


CLARE E. CONNORS
Attorney General of Hawai'i

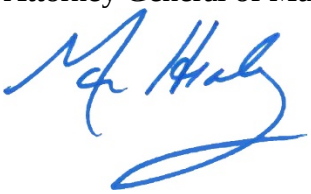
KWAME RAOUL
Attorney General of Illinois

TOM MILLER
Attorney General of Iowa

AARON M. FREY
Attorney General of Maine

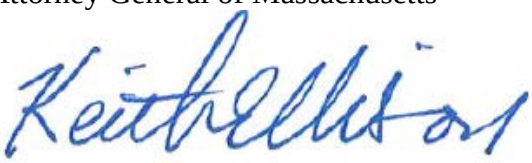


BRIAN E. FROSH
Attorney General of Maryland

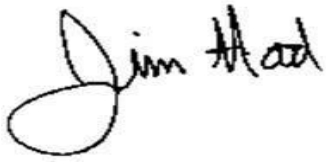


MAURA HEALEY
Attorney General of Massachusetts

DANA NESSEL
Attorney General of Michigan



KEITH ELLISON
Attorney General of Minnesota



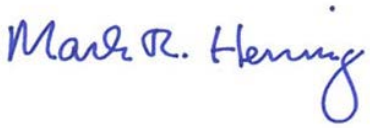
JIM HOOD
Attorney General of Mississippi

GURBIR S. GREWAL
Attorney General of New Jersey

HECTOR BALDERAS
Attorney General of New Mexico

ELLEN ROSENBLUM
Attorney General of Oregon

PETER F. NERONHA
Attorney General of Rhode Island



MARK R. HERRING
Attorney General of Virginia

BOB FERGUSON
Attorney General of Washington

JOSHUA L. KAUL
Attorney General of Wisconsin

Cc: Sen. John Barrasso, Chairman, Senate Committee on Environment and Public Works
Sen. Thomas R. Carper, Ranking Member, Senate Committee on Environment and Public Works
Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce
Rep. Greg Walden, Ranking Member, House Committee on Energy and Commerce
Sen. James Inhofe, Chairman, Senate Committee on Armed Services
Sen. Jack Reed, Ranking Member, Senate Committee on Armed Services
Rep. Adam Smith, Chairman, House Committee on Armed Services
Rep. Mac Thornberry, Ranking Member, House Committee on Armed Services
Rep. Raul M. Grijalva, Chairman, House Committee on Natural Resources
Rep. Rob Bishop, Ranking Member, House Committee on Natural Resources
Rep. Peter A. DeFazio, Chairman, House Committee on Transportation and Infrastructure
Rep. Sam Graves, Ranking Member, House Committee on Transportation and Infrastructure
Rep. Brian Fitzpatrick, Chairman, Congressional PFAS Task Force
Rep. Dan Kildee, Chairman, Congressional PFAS Task Force

Appendix B

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

P.O. BOX 30755
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

October 5, 2020

The Honorable Adam Smith
Chairman
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable James M. Inhofe
Chairman
U.S. Senate Committee on Armed Services
Russell Senate Building, Room 228
Washington, D.C. 20510

The Honorable Mac Thornberry
Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jack Reed
Ranking Member
U.S. Senate Committee on Armed Services
Russell Senate Building, Room 228
Washington, D.C. 20510

Re: PFAS Legislation

Dear Chairman Smith, Chairman Inhofe, Ranking Member Thornberry, and Ranking Member Reed:

As you work to finalize the Fiscal Year 2021 National Defense Authorization Act (FY2021 NDAA) conference report, we urge you to include important provisions adopted in the House bill that build upon progress made in the Fiscal Year 2020 NDAA (FY2020 NDAA) and help safeguard the public and environment against the highly persistent and toxic class of chemical compounds known as per- and poly-fluoroalkyl substances (PFAS). The provisions in this funding bill that we highlight below are important, but we also encourage you to act to further regulate these harmful chemical compounds, including to designate them as "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

We were pleased to see that some of the recommendations made in a July 30, 2019, letter to Congressional leadership, joined by attorneys general from twenty-two states and sovereigns and attached hereto at Appendix A, addressing the FY2020 NDAA were adopted in last year's bill, including provisions limiting and ultimately prohibiting the use of aqueous film forming foam (AFFF) on military installations. (Sec. 322-324.) We hope to see other recommendations included in this year's final bill.

First and foremost, we urge you to include Section 332, Standards for Removal or Remedial Actions With Respect to PFOS or PFOA Contamination, of H.R. 6395, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, in the final version of the FY2021 NDAA. Section 332 requires the Department of Defense (DOD), when conducting removal or remedial actions relating to PFAS, to meet the PFAS standards established in the state in which the installation is located, when those standards are more stringent than Federal standards or health advisory levels for the remediation of sites contaminated with the PFAS chemical compounds perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Currently, there are approximately at least 678 active or closed military installations with known or suspected PFAS contamination on- or off-site, requiring prompt attention to protect military personnel and surrounding communities. See https://www.ewg.org/interactive-maps/2019-pfas-crash-training-military-sites-March2020/map/.

We also encourage your respective committees to include the many other important provisions in the House bill focused on protecting our communities from PFAS, including those that provide DOD with the tools necessary to conduct appropriately protective remediation and removal of PFAS contamination. Those tools include additional funding and authorization for PFAS clean-up, robust resources for ongoing and new studies, innovative research and development of safe PFAS disposal mechanisms, and alternatives to PFAS-laden firefighting AFFF. We also urge you to include the other provisions in the House-passed version of the FY2021 NDAA that support service members, their families, and defense communities, by requiring DOD to offer PFAS blood testing for all interested service members as part of their routine physicals; further limit the PFAS-containing products DOD's Defense Logistics Agency may procure; and engage in meaningful stakeholder notification and prompt publication of the results of drinking, surface, or ground water PFAS testing.

We were also pleased to see that the FY2020 NDAA, consistent with our previous letter, includes a provision directing DOD to work expeditiously to finalize or amend a cooperative agreement with a state "to address testing, monitoring, removal, and remedial actions relating to contamination or suspected contamination of drinking, surface, or groundwater from PFAS originating from activities of the Department of Defense." PL 116-92, Sec. 332(a)(1). This provision will expedite the cleanup of DOD sites that are not on the National Priorities List and require that a cooperative agreement "meet or exceed the most stringent" of an enforceable state or federal standard for drinking, surface, or groundwater or a health advisory of the Safe Drinking Water Act. We strongly support a Congressional mandate that requires DOD to meet the most stringent state standards during site remediation, regardless of whether a state and DOD are able to reach a cooperative agreement.

We also encourage Congress to act beyond the FY2021 NDAA to create more stringent federal standards. That is why we previously recommended and still believe that Congress should designate at least PFOA, PFOS, and so-called GenX PFAS as "hazardous substances" under CERCLA. To start, Congress should direct the EPA to study additional PFAS compounds and, as appropriate, designate additional PFAS compounds as "hazardous substances" under CERCLA. This was the first recommendation in our previous letter and Congress has not yet required the EPA to take these crucial steps.

Thank you for once again making PFAS remediation and the protection of our communities a priority for the work of your committees. We urge Congress to maintain focus on PFAS remediation as a crucial priority in crafting the final version of the FY2021 NDAA and to keep the goal of developing strong federal regulation of PFAS compounds at the forefront for Congress.

Sincerely,

Dana Nessel
Attorney General of Michigan

Kathleen Jennings
Attorney General of Delaware

Philip J. Weiser
Attorney General of Colorado

Karl A. Racine
Attorney General of District of Columbia

William Tong
Attorney General of Connecticut

Leevin Camacho
Attorney General of Guam

Kwame Raoul
Attorney General of Illinois

Gurbir S. Grewal
Attorney General of New Jersey

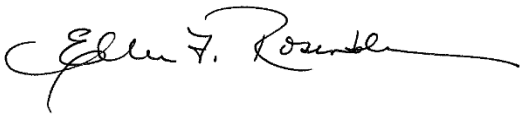
Tom Miller
Attorney General of Iowa

Letitia James
Attorney General of New York

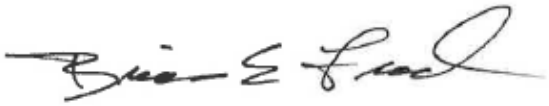
Aaron M. Frey
Attorney General of Maine

Hector Balderas
Attorney General of New Mexico

Maura Healey
Attorney General of Massachusetts



Ellen Rosenbum
Attorney General of Oregon

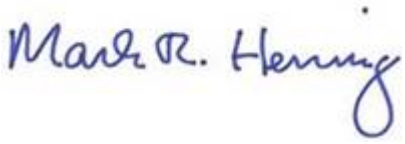


Brian E. Frosh
Attorney General of Maryland

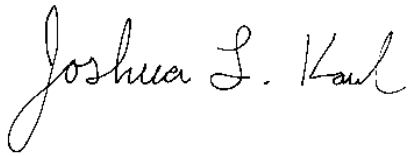
Josh Shapiro
Attorney General of Pennsylvania

Peter Neronha
Attorney General of Rhode Island

Bob Ferguson
Attorney General of Washington



Mark R. Herring
Attorney General of Virginia



Joshua L. Kaul
Attorney General of Wisconsin

EM:jg
Enclosure