Know your environment.
Protect your health.

Testimony for the Record

by the Environmental Working Group

Submitted to the Subcommittee on Water Resources and Environment

of the

House Committee on Transportation and Infrastructure

on

"The Administration's Priorities and Policy Initiatives Under the Clean Water Act"

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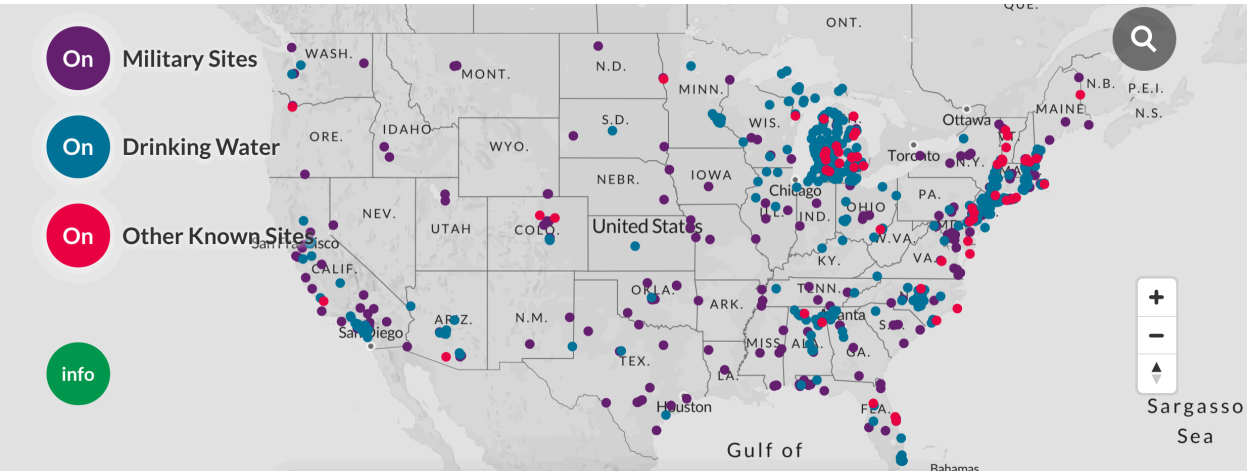
Per- and polyfluoroalkyl substances, or PFAS, are a class of widely used chemicals that contaminate countless rivers, lakes, streams and other waterways regulated under the Clean Water Act. PFAS chemicals are linked to cancer, harm to the reproductive and immune systems, hormone disruption, liver and kidney damage, changes in serum lipid levels, and hormone disruption.[1] EWG has identified more than 700 communities contaminated with PFAS chemicals,[2] including 297 military installations,[3] and estimates that over 100 million Americans may have PFAS in their drinking water.[4]

Figure 1: Map of 712 PFAS Sites



[1] https://www.nrdc.org/sites/default/files/media-uploads/nrdc_pfas_report.pdf
[2] https://www.ewg.org/release/pfas-map-update-new-data-show-712-contamination-sites-49-states
[3] https://www.ewg.org/release/new-pfas-detections-reported-90-additional-army-installations
[4] https://www.ewg.org/research/report-110-million-americans-could-have-pfas-contaminated-drinking-water

A defining characteristic of PFAS is the carbon-fluorine bond, one of the strongest bonds in chemistry. This characteristic means that once PFAS chemicals are released into the environment, they never break down in the environment, leading some to dub them "forever chemicals."[5] PFAS are also highly mobile, which means that after they are released into the environment, they can quickly spread to and contaminate a large geographic area. Because PFAS are so persistent, they will continue for decades to expose people in communities where they have been released, unless the PFAS is removed.

PFAS contaminate ground and surface water used for drinking water. They contaminate the water used to irrigate, and sewage sludge used to fertilize farmland. Crops and plants have been shown to uptake PFAS, so they can contaminate fruits and vegetables.[6] PFAS build up in animals like fish, deer and cows exposed to PFAS-contaminated water or feed. In some cases, residents have been warned not to eat fish[7] or deer,[8] and some farmers have had to euthanize their cattle as a result of PFAS contamination.[9]

PFAS also build up in the blood serum and organs of people who consume contaminated food and water, and they can stay in the human body for decades. One report by the Centers for Disease Control and Prevention's National Health and Nutrition Examination Survey, or NHANES, found some level of PFAS in the blood of 97 percent of Americans[10] and about one-quarter of Americans have unsafe levels of PFAS in their blood.

PFAS are also almost entirely unregulated under every major environmental statute, including the Clean Water Act. No one knows exactly how much PFAS is released into the environment or the extent of the current pollution. Military and civilian firefighters continue to use PFAS-laden firefighting foams that seep into drinking water supplies. Because these fluorinated foams have been used for decades, hundreds of military installations have been contaminated. Because PFAS have not been designated as hazardous substances under the federal Superfund law, there are no requirements to clean up them up at these military installations or other contaminated sites.

Moreover, manufacturers continue to discharge PFAS into the air and water. EWG suspects that there are nearly 500 facilities that discharge PFAS chemicals into the environment,[11] but these manufacturers are not subject to any discharge limits or reporting requirements specific to PFAS. Water utilities are not federally required to remove PFAS from our tap water or even test for its presence.

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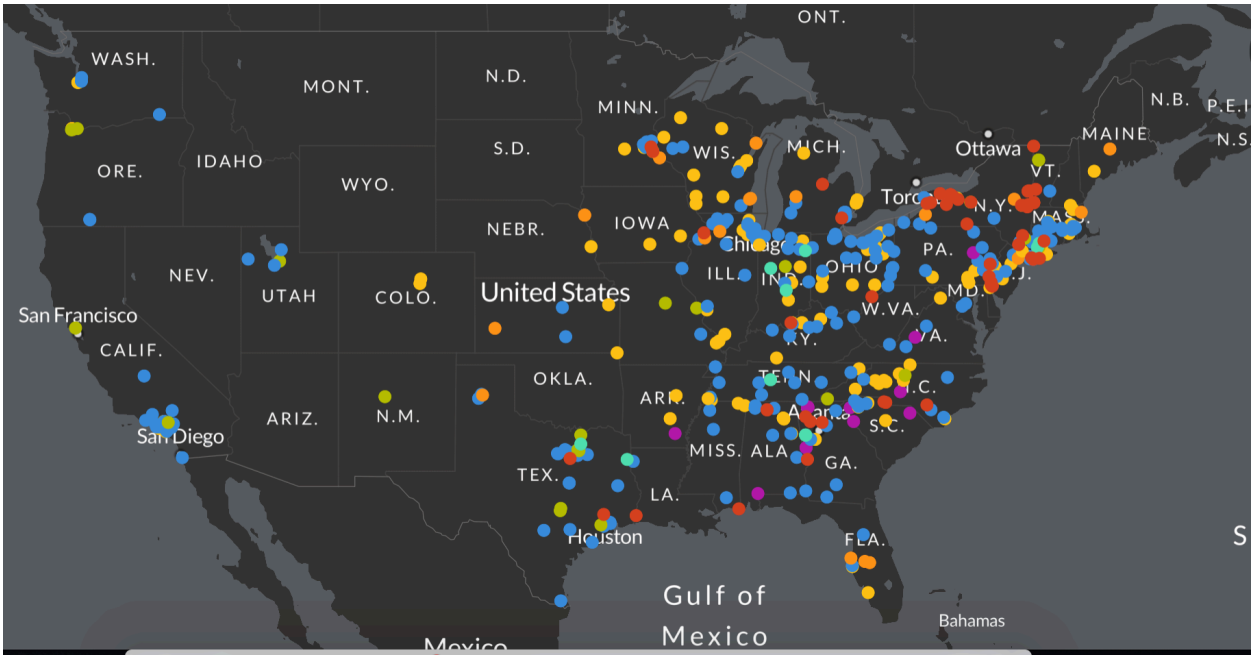
[5] https://www.washingtonpost.com/opinions/these-toxic-chemicals-are-everywhere-and-they-wont-ever-go-away/2018/01/02/82e7e48a-e4ee-11e7-a65d-1ac0fd7f097e_story.html?arc404=true
[6] https://www.ncbi.nlm.nih.gov/pubmed/30502744
[7] https://www.michigan.gov/pfasresponse/0,9038,7-365-86512_88987_88989---,00.html
[8] https://www.michigan.gov/pfasresponse/0,9038,7-365-86512_88981_88982---,00.html
[9] https://www.theguardian.com/us-news/2019/feb/20/new-mexico-contamination-dairy-industry-pollution
[10] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4483690/
[11] https://www.ewg.org/news-and-analysis/2019/06/pfas-nation-toxic-discharges-suspected-almost-500-industrial-facilities

Figure 2: Map of Suspected PFAS Discharges



H.R. 3616, the Clean Water Standards for PFAS Act of 2019, introduced by Reps. Chris Pappas, Elissa Slotkin, Brendan Boyle, and Madeleine Dean, is an important first step in turning off the tap for toxic PFAS and limiting PFAS releases into the environment. The bill would designate PFAS as toxic pollutants under section 307(a) of the Clean Water Act and require EPA to establish effluent limitations and pretreatment standards for PFAS.

Toxic pollutants are subject to the National Pollutant Discharge Elimination System, or NPDES, permitting program under the Clean Water Act. NPDES permits include limits on the amount of toxic pollutant allowed in discharges from point sources. H.R. 3616 would also require the development of effluent limitation guidelines for key industry sectors that are responsible for discharges of PFAS and other toxic pollutants. Effluent limitations are technology-based regulations that are intended to represent the greatest pollutant reductions that are economically achievable for an industry. Effluent limitations are incorporated into NPDES permits for direct dischargers. H.R. 3616 would also require treatment standards for PFAS before they can be discharged into publicly owned treatment works. Pretreatment standards are designed to reduce toxic pollutant discharges into municipal sewer systems and the environment.

Putting these limits in place would reduce human exposure to PFAS by significantly reducing the amount of PFAS released into the environment and the subsequent burden on wastewater and water utilities. H.R. 3616 will also give industrial PFAS users more regulatory certainty with regard to potential liability under the Comprehensive Environmental Response Liability and Compensation Act, or CERCLA. Also known as the Superfund Law, CERCLA jumpstarts the cleanup process at many contaminated sites. Another House bill, H.R. 535, the PFAS Action Act, would require the EPA to designate PFAS as hazardous substances under CERCLA. Because releases of toxic pollutants in compliance with section 402 NPDES permits are

considered "federally permitted releases,"[12] facilities that release PFAS in compliance with the limits set forth in a section 402 NPDES permit will be shielded from liability.[13]

Congressional action is needed to address PFAS because President Trump's EPA has refused to act. Last year the Trump Administration proposed a PFAS Action Plan[14] that did nothing to address the growing PFAS contamination crisis.

H.R. 3616 would provide a critical first step toward addressing the ongoing PFAS contamination crisis. The House of Representatives recognized this when it added H.R. 3616 as an amendment to H.R. 2500, the National Defense Authorization Act for FY 2020. However, both the House and Senate versions of the NDAA for FY 2020 include additional critical bipartisan PFAS reforms. In particular, provisions in both versions of the NDAA would require polluters to clean up legacy PFAS contamination; set a deadline for the EPA to develop a set of drinking water standards; end the military's use of PFAS in firefighting foam and food packaging; ensure proper disposal of PFAS wastes; require the disclosure of PFAS discharges into the water and air; and expand monitoring for PFAS. In particular, the Dingell-Kildee amendment to H.R. 2500 would designate PFAS as hazardous substances under CERCLA. By conferring this designation, the Dingell-Kildee amendment will kick-start the remediation process at the sites most contaminated by PFAS and ensure that polluters pay their fair share of cleanup costs.

EWG appreciates the Subcommittee's attention to this issue and looks forward to working with the Transportation and Infrastructure Committee this Congress.

[12] *See* 42 U.S.C. § 9601(10).
[13] 42 U.S.C. § 9607(j).
[14] https://www.epa.gov/pfas/epas-pfas-action-plan