



Department of Defense Procurement of Certain Items Containing Per- and Polyfluoroalkyl Substances

Briefing for the House Committee on Armed Services pursuant to
Section 347(b), of the James M. Inhofe National Defense
Authorization Act for Fiscal Year 2023 (Public Law 117-263)

August 2023

The estimated cost of this report or study for the Department of Defense is
approximately \$1,740 for the 2023 Fiscal Year. This includes \$500 in
expenses and \$1,240 in DoD labor.

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Briefing Requirements

- **Section 347(b), of the James M. Inhofe National Defense Authorization Act for FY 2023 (Public Law 117-263), requires the Secretary of Defense to provide a briefing that includes a description of each of the following:**
 - steps taken to identify covered items* procured by the DoD that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA);
 - steps taken to identify products and vendors of covered items that do not contain PFOS or PFOA;
 - steps taken to limit the procurement by the Department of covered items that contain PFOS or PFOA; and
 - steps the Secretary intends to take to limit the procurement of covered items that contain PFOS or PFOA.

* “Covered item” means non-stick cookware or cooking utensils for use in galleys or dining facilities; and upholstered furniture, carpets, and rugs that have been treated with stain-resistant coating.

Identifying Covered Items Procured by DoD Containing PFOS/PFOA



- **Limited information available regarding PFAS in covered items**
 - No federal law requires items to be labeled as containing PFAS.
 - Detection methods for PFAS in consumer goods limited.
 - U.S. Environmental Protection Agency (EPA) does not have a method for detecting PFAS in consumer goods.
 - Defense Logistics Agency worked with U.S Army Corps of Engineers and Oregon State University researchers to develop methods to detect PFAS in Meals Ready-to-Eat (MREs) packaging but cannot identify the source of PFAS.
 - o Significant adaption required to apply to other consumer products.
 - ASTM International is in the early stages of developing a standard analytical framework for detecting PFAS in a wide variety of consumer goods; 12-18 months to complete framework.



Identifying Products and Vendors of Covered Items that Do Not Contain PFOS/PFOA

- **EPA recommended third-party standards and ecolabels to help Federal procurement officials meet various sustainability goals and requirements.**
 - Limited information available regarding PFAS in many categories of items, but EPA plans to expand the list.
 - o Includes information on the presence of PFAS in upholstered furniture, carpets and rugs, floor waxes, and cleaning products.
 - o Does not include information on non-stick cookware and non-stick cooking utensils.
 - Certify products are free of intentionally added PFAS, but not completely PFAS-free.
 - o Difficult to detect or prevent low levels of unintended PFAS (e.g., water containing PFAS, recycled materials.)



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Limiting DoD Procurement of Covered Items Containing PFOS or PFOA

- **Section 333 of the National Defense Authorization Act for FY 2021 restricted DoD procurement of the same Covered Items identified for this Section 347(b) report.**
 - Covered item “means non-stick cookware or utensils for use in galleys or dining facilities; and upholstered furniture, carpets, and rugs that have been treated with stain-resistant coating.”
- **These procurement restrictions became effective on April 1, 2023**
 - referred to in next slides as the “April 2023 prohibition”

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Limiting DoD Procurement of Covered Items Containing PFOS or PFOA (cont.)



- **DoD Actions**

- Participated on the White House Council on Environmental Quality (CEQ) Interagency PFAS Policy Committee
 - o Coordinates Federal efforts to reduce PFAS in products and procurement and alleviate DoD's PFAS labeling challenges.
- Updated the Defense Federal Acquisition Regulation Supplement (DFARS)
 - o Issued a class deviation to prohibit the procurement of certain items containing PFAS in September 2022 as first step to implement April 2023 prohibition.
 - o Extended class deviation to government purchase cards via March 22, 2023, Memorandum.
 - o Developed an approach to implement the April 2023 prohibition for military exchange resale procurements.



Limiting DoD Procurement of Covered Items Containing PFOS/PFOA

- **Challenges**

- EPA-recommended third-party standards and ecolabels does not support meeting the requirements of the April 2023 Prohibition.
 - o EPA recommend third-party standards or ecolabels are missing for some categories covered by the April 2023 prohibition.
 - o Two out of four item categories included in the April 2023 Prohibition do not have corresponding categories in the EPA list.
 - o Some standards and ecolabels allow for PFOS and PFOA to be present below certain levels (e.g., unintentional additions via environmental or water supply).
- Aligning the procurement prohibitions with EPA’s list of standards and ecolabels, and addressing the presence of PFAS below levels in existing criteria would facilitate DoD implementing the prohibition.
 - o More than half of items categories Congress has placed or intends to place procurement prohibitions on do not align with the EPA list.
 - o DoD cannot effectively implement the April 2023 prohibition because information on items that are completely free of PFOS and PFOA is unavailable, and detection methodologies do not currently exist.



Limiting DoD Procurement of Covered Items Containing PFOS/PFOA (cont.)

- **Other Congressional Actions**

- Section 347 of the NDAA for FY 2022 (GAO provision)

- o Required GAO to conduct a study on DoD procurement of certain items containing certain PFAS.
 - Certain items: furniture waxes, floor waxes, car wax, car window treatments, cleaning products, shoes, and clothing.
 - Certain PFAS: PFOS, PFOA, perfluorononanoic acid (PFNA), perfluorohexanoic acid (PFHxA), perfluorohexane sulfonic acid (PFHxS), perfluorobutane sulfonic acid (PFBS), and hexafluoropropylene oxide dimer acid and its ammonium salt (GenX).
- o The GAO Report concluded:
 - “The DOD faces challenges implementing statutory prohibitions on procurement of items containing PFAS. Specifically, there is limited information on PFAS in items because there is no federal law requiring items to be labeled as containing PFAS and there are no EPA-validated methods to detect PFAS in products.” and
 - “In addition, the April 2023 prohibition does not allow two PFAS to be present at any level. However, EPA officials noted that several of the third-party standards or ecolabels allow for PFAS to be present at low levels, for example, by exposure to environmental sources of PFAS during the manufacturing process. As a result, DOD does not have all the information needed to fully implement prohibitions.”



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Next Steps Limiting Procurement of Covered Items Containing PFOS/PFOA

- **Update DoD Instruction (DoDI) 4105.72, *Procurement of Sustainable Goods and Services*, to include the provisions in Executive Order 14057, prioritizing substitutes for products that contain PFAS, and, to the maximum extent practicable, avoiding the procurement of PFAS-containing covered items.**
- **Communicate the April 2023 prohibition to military exchanges and formally incorporate the prohibition in policy as part of the current update of DoDI 4105.67, *NAF Procurement Policy and Procedures*.**

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Conclusion

- **DoD has taken steps to limit procurement of covered items containing PFOS or PFOA, but there is insufficient information available regarding PFAS in covered items.**
- **DoD is working with the CEQ to address the challenges associated with limiting procurement of covered items containing PFOS/PFOA.**
- **DoD updated DFARS and will update DoDIs 4105.72 and 4105.67 to continue implementing the April 2023 prohibition.**