

October 29, 2025

## The PFAS Periodical – Q3 2025

The Environmental Protection Agency's (EPA) most recent 2025 Unified Regulatory Agenda indicates that the regulation of a group of chemicals known as PFAS, or perfluoroalkyl and polyfluoroalkyl substances, very much remains a priority for the agency. EPA's Unified Regulatory Agenda items add some certainty for regulated entities as to EPA's intended regulatory direction, indicating a retreat from the more ambitious regulatory pathway pursued by the Biden administration but not a complete abandonment of PFAS regulation at the federal level. The substantive provisions are highlighted below.

### *Safe Drinking Water Act*

EPA intends to extend the compliance deadline for the PFAS National Primary Drinking Water Regulation (NPDWR Final Rule) by proposing a new rule that gives publicly owned water systems more time to comply with Maximum Contaminant Levels (MCLs) for perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) while also seeking to rescind requirements for other PFAS, as further covered below. We previously covered the NPDWR Final Rule in a pair of alerts. [Learn more about the states response to the EPAs 'new drinking water standard and read our previous alert titled "Final Drinking Water Standards and Revised PFAS Disposal Guidance."](#) EPA intends to issue this proposed rule this month and a corresponding final rule in April 2026. As a refresher, the current NPDWR Final Rule, promulgated in 2024, sets MCLs of 4 parts per trillion (ppt) for each of PFOA and PFOS and 10 ppt for perfluorononanoic acid (PFNA), perfluorohexane sulfonic acid (PFHxS) and GenX. The NPDWR Final Rule also uses a hazard index MCL to regulate exposure for a mixture of any two or more PFAS in drinking water, whereby the concentration of each PFAS is divided by a health-based value and then added to the others. If over four annual quarters of testing the average is 1 or greater, the hazard index MCL is exceeded. [This rule can be found on the PFAS National Primary Drinking Water Regulation page on the Federal Register website.](#)

In a motion filed in the U.S. Court of Appeals for the D.C. Circuit on September 11, EPA asked the court to rescind the portion of the NPDWR Final Rule for these PFAS. In its motion to vacate, which is a particular remedy when regulations are found by a court to be invalid, EPA states that it now "agrees with petitioners that parts of the rulemaking process were unlawful, and parts of the rule are thus invalid," reasoning that "EPA departed from the statutory scheme by proposing and finalizing a regulatory determination and regulation simultaneously and in tandem." EPA now interprets the Safe Drinking Water Act to require that it "publish and seek comment on a preliminary regulatory determination for a contaminant *before* it may propose a national primary drinking water regulation that sets Goals and Standards for that contaminant."

EPA does not, however, intend this motion to vacate to apply to MCLs for PFOA and PFOS, as the agency followed the sequential process consistent with its revised interpretation of the Safe Drinking Water Act in promulgating those MCLs. The court uses the "arbitrary and capricious" standard of review for a published rule, which is the most difficult bar to clear in attempting to strike down an agency action. Even when an agency concedes its own error, the D.C. Circuit has emphasized that courts must still make their own determination that the action was arbitrary and capricious. Further, in order to grant the motion to vacate, the court must also analyze the seriousness of the deficiencies and any potentially disruptive consequences of granting the motion. EPA stated its plans to issue a new proposed rule to this effect in September and a final rule in February 2026. As of the date of this PFAS Periodical, however, EPA has not issued a new proposed rule. [Learn more about this agenda item on the Reginfo.gov page for RIN 2040-AG53 in the Spring 2025 Regulatory Agenda.](#)

### *Clean Water Act*

EPA intends to issue a rule adding monitoring and reporting requirements for PFAS to several of its National Pollutant Discharge Elimination System (NPDES) permit applications. NPDES permits are general permits (i.e., without site-specific terms) that govern stormwater discharges from industrial operations and construction. This rule, not yet proposed, would

affect permits for users that discharge to sewage treatment facilities. EPA projects issuing a proposed rule to this effect in November and a corresponding final rule in May 2027. [Read the full rule on Reginfo.gov \(RIN 2040-AG34\).](#)

EPA is also presently developing national recommended water quality criteria for PFAS (specifically PFOA, PFOS and perfluorobutane sulfonate), which currently remains in draft form following a public comment period that ended on April 29. [Access the Federal Register docket notice](#) and [public comments on the draft criteria](#).

#### *Resource Conservation and Recovery Act*

EPA stated that it is presently considering public comments received during the comment period on its proposed rule to add nine specific PFAS and their salts and structural isomers to the Resource Conservation and Recovery Act list of hazardous constituents (the RCRA Proposed Rule). The RCRA Proposed Rule would add the constituents to the Appendix VII list of substances subject to RCRA corrective action and would broaden the waste subject to the corrective action requirements to include any substance satisfying certain qualitative assessments under the statutory definition of "hazardous waste." If the RCRA Proposed Rule is finalized, corrective action would include remediation of qualifying PFAS releases even if the specific PFAS is not identified as a characteristic or listed hazardous waste. The RCRA Proposed Rule had been in regulatory limbo because of a regulatory freeze pending review issued by the Trump administration by executive order on January 20. EPA intends to issue a final rule in April 2026. [Read the RCRA Proposed Rule.](#)

#### *Toxic Substances Control Act*

EPA is considering a proposed rule amending the Toxic Substances Control Act (TSCA) regulation of recordkeeping and reporting requirements for PFAS compounds, which was originally promulgated in October 2023 (the TSCA PFAS Rule). [As covered in our previous alert "U.S. EPA Releases Final Rule for PFAS Reporting Under TSCA,"](#) the TSCA PFAS Rule requires importers and manufacturers of PFAS in any year from 2011 to 2022 to report data to EPA regarding exposure to health and environmental effects from those products. The TSCA PFAS Rule defined PFAS broadly, using a common section that discusses PFAS chemical structures and possible variations as the definition rather than identifying specific PFAS compounds (e.g., PFOA) as regulated. In May, EPA published an Interim Final Rule, changing the start date for submissions of reporting data under the TSCA PFAS Rule to begin on April 13, 2026, and end on October 13, 2026, and extending the end date exclusively for small manufacturers reporting only as article importers to April 13, 2027. [View the Interim Final Rule published by the Federal Register for more information.](#) EPA intends to propose certain exemptions and changes to the scope of the TSCA PFAS Rule, with a proposed rule to be issued in December and a final rule in June 2026. [Read more about the TSCA PFAS Rule.](#)

#### *Emergency Planning and Community Right-to-Know Act*

EPA intends to add individually listed PFAS and categories of PFAS to the Toxics Release Inventory (TRI) of toxic chemicals subject to reporting under the Emergency Planning and Community Right-to-Know Act and Pollution Prevention Act, having added seven PFAS in 2024 and another nine PFAS in 2025. EPA is presently reviewing comments it received on a proposed rule published on October 4, 2024, and considering what events should trigger the automatic addition of a PFAS compound to the TRI and how to address categories of PFAS compounds. EPA will issue a final rule in February 2026. [The proposed rule can be found on the Federal Register](#) and visit [EPA's web page for more details, including the current list of PFAS on the Toxics Release Inventory \(TRI\).](#)

Additionally, EPA, in a rule proposed on January 17, plans to revise the TRI regulation to clarify that under the National Defense Authorization Act, certain PFAS, following specific triggering events, will be added automatically to the TRI. TRI reporting of 196 PFAS for 2024 was required by July 1, and the list increases to 206 PFAS for 2026. The proposed revisions would also affirm that the supplier notification requirement applies annually to shipments of mixtures or trade name products containing any such chemicals. EPA intends to issue a final rule in November. [This rule can be found on the Federal Register website.](#)

#### *Comprehensive Environmental Response, Compensation and Liability Act*

On September 17, the U.S. Department of Justice (DOJ) indicated in a court filing that it would continue defending EPA's rule designating PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). As noted in our Q2 2025 PFAS Periodical, several industry groups had challenged the designations in the D.C. Circuit, arguing that EPA's interpretation of CERCLA's Section 102 is too broad, attacking EPA's

cost-benefit analysis during the rulemaking process, and arguing that EPA's choice to proceed with the rule in the face of uncertainty about the consequences of enforcing it is arbitrary and capricious.

The DOJ had sought several pauses in the ongoing litigation regarding the designations over the first three quarters of 2025. Each of those extension requests (February 24, April 30, June 2, July 11 and August 20) went unopposed and were granted by the D.C. Circuit. The DOJ's stated reason for the repeated delays was to give EPA time to finalize its legal position with regard to these designations. Also on September 17, EPA announced that it will promulgate a new framework rule to guide future PFAS designations under CERCLA, responding to criticism about the designation process for PFOA and PFOS. EPA Administrator Lee Zeldin, in a statement accompanying the announcement, noted the issues encountered by "passive receivers" of PFAS in products, waste, feedstocks and other materials that may inadvertently be exposed to CERCLA liability for cleanup costs, and he announced that "EPA intends to do what [it] can based on [its] existing authority." In the same statement, Zeldin also requested that Congress provide statutory amendments to CERCLA to address passive receiver liability. Numerous pieces of bipartisan legislation have been introduced in the House and Senate in the past few years, but so far these bills have seen no success.

As noted in our Q2 2025 PFAS Periodical, various states continue to move forward with PFAS legislation, albeit slowly.

New York's Senate Bill 3207 (SB 3207) would require the commissioner of environmental conservation to establish MCLs identical to the current EPA MCLs under the NPDWR Final Rule, to establish a hazard index to address the cumulative impacts of exposure to multiple PFAS and to require public water systems to comply by May 1, 2029. SB 3207 passed the New York State Senate on June 11 and is presently working its way through committee in the Assembly. [Learn more about Tracking information for SB 3207.](#)

In Connecticut, which has drinking water action levels but no MCLs for 10 PFAS, proposed Senate Bill 733 (SB 733) would "require that public water suppliers conduct regular monthly testing to [en]sure that PFAS levels are not greater than twenty parts per trillion," and if found to exceed those levels over a three-month period, would require water suppliers to take action to reduce PFAS levels, including finding new supply sources, installing filters and blending sources. SB 733 remains stuck in the Senate Environment Committee. [Read the full text of the Senate Bill 733 \(SB 733\).](#)

In Vermont, House Bill 238, which bans the use of PFAS in firefighting gear, dental floss, cleaning products, diapers, children's products, residential carpeting and rugs, ski wax (of particular issue in Vermont), textiles and fluorine-treated containers, was signed into law on June 11. [Learn more about the bill as passed, Act 54.](#) Vermont's House Bill 286 (HB 286), a particularly stringent example noted in our Q2 2025 PFAS Periodical, would statutorily set the MCL for each of PFOS, PFOA, PFHxS, PFNA, perfluoroheptanoic acid and perfluorodecanoic acid to zero ppt. HB 286, if passed, would also direct Vermont's secretary of natural resources to amend the Department of Environmental Conservation's Water Supply Rule to establish an MCL of no more than 20 ppt for "any testable PFAS other than those specifically required to have an MCL of 0 ppt." [HB 286 remains stuck in the House Committee on Environment, per the link here.](#)

We will continue to monitor developments with respect to the Trump administration's actions relative to PFAS regulation as well as developments at the state level. [Our running table of PFAS regulations can be found here.](#)

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