

PFAS Regulation and Litigation Continues to Evolve: Companies Should Plan Ahead Now

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The PFAS regulatory and litigation environment continues to evolve. At the federal level, the United States Environmental Protection Agency (EPA) is defending its Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) designations for PFOA and PFOS, while attempting to walk back other regulatory actions taken during the Biden Administration, such as revisiting its drinking water and TSCA reporting rules.¹ Meanwhile, states are attempting to fill the void created by a lack of federal regulation by moving forward with drinking water limits and varied product restrictions, while PFAS litigation continues to proliferate.

As a result, businesses should plan for multiple regulatory scenarios. In addition, companies must prepare for potential regulatory and litigation impacts on their businesses by assessing risk across products, operations, and supply chains.

CERCLA Keeps PFAS Liability in Play

EPA designated PFOA and PFOS, two long chain PFAS, as hazardous substances under CERCLA in 2024. Litigation challenging the designations is pending in the D.C. Circuit, with industry groups arguing EPA's interpretation of CERCLA Section 102 is unlawfully broad. The industry groups claim EPA's rulemaking process was arbitrary, lacking a proper cost-benefit analysis and ignoring the severe liability burdens placed on "passive receivers" like landfills and water utilities. In response, EPA has instituted a policy pursuant to which it will not bring enforcement actions against passive receivers and Congress continues to consider legislation to exempt "passive receivers" from CERCLA joint and several liability.

Drinking Water Requirements Are Changing

EPA finalized the first national enforceable PFAS drinking water standards in 2024, setting limits for six PFAS and requiring monitoring, public notification, and treatment planning. Initial monitoring is due in 2027, and compliance begins in 2029.² In May 2026, however, EPA announced its intent to retain the PFOA and PFOS standards, rescind limits for certain other PFAS, and extend PFOA/PFOS compliance deadlines until 2031.³

Given the fact that federal rules are in flux, state-level regulations are currently dictating the pace of enforcement. Many states—such as California, Pennsylvania, Washington, and Wisconsin—are in the process of proposing or formalizing MCLs that adopt certain concentration values from the EPA's regulations and are pushing ahead with compliance and monitoring requirements regardless of the federal rollback.

TSCA Reporting Reaches Broadly

The TSCA PFAS reporting rule remains one of the broadest federal reporting requirements, mandating that entities who manufactured or imported PFAS for commercial purposes between 2011 and 2022 report information on uses, volumes, exposures, and hazards.⁴ The EPA has extended the deadlines repeatedly, most recently to January 31, 2027.⁵ EPA has also introduced potential exemptions and narrowed the scope of reporting. The deadline extensions should not be mistaken for reduced risk. Companies should be using the extra time to identify products, map suppliers, and preserve records.

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State Consumer Product Laws

State action on PFAS in consumer products continues to accelerate. Sixteen states have enacted laws addressing intentionally added PFAS in categories such as textiles, cookware, cosmetics, and cleaning products.⁶ States such as Maine, Minnesota, and New Mexico have enacted the most sweeping legislation. They require reporting and are implementing total bans on intentionally added PFAS across almost all consumer products. While many states have similar laws concerning PFAS bans, it is critical for companies to understand each state's regulations, as many use different definitions and have different exemptions and effective dates.⁷

Companies must start planning now. That planning should include a review of its products, as well as vendor outreach, contract updates, inventory planning, and labeling review. Companies should also begin building systems that can track product composition and state-by-state restrictions in real time.

PFAS Litigation Is Broadening

PFAS litigation continues to grow on several fronts. The AFFF multidistrict litigation remains prominent, with more than 10,000 pending claims as of May 2026.⁸ While the claims of public water suppliers were previously settled, thousands of personal injury claims are still pending in the AFFF MDL and the results of those cases will likely drive the viability of future PFAS personal injury cases. In addition, property owners and state attorneys general have claims pending in the AFFF MDL. Outside the MDL, litigation is quickly growing. Claims include government-initiated actions to recover costs associated with environmental remediation, individual claims for personal injury, class actions for false advertising and for medical monitoring, as well as individual and class actions for property damage. Many of these new filings test how far PFAS theories can extend. Water providers, property owners, product manufacturers, importers, retailers, and others in the distribution chain may all face different forms of exposure.

These cases can be expensive and disruptive. Businesses should expect more claims testing what companies knew, what they said, and what they did to evaluate PFAS in their products.

What Companies Should Do Now

Map where PFAS may exist in your business, including products, packaging, imported articles, waste streams, and historical operations.

Begin looking for documents and potential witnesses, including "Persons Most Knowledgeable."

Track federal rule changes closely, and do not assume that delayed deadlines create no risk.

Track state law changes closely, especially for national or multi-state companies.

Monitor litigation.

Key Takeaway

PFAS regulations and litigation are still evolving, but the direction is clear: more scrutiny, more reporting, more product restrictions, and more claims. Now is the time to act. Companies that move early will be better positioned to manage compliance, reduce litigation exposure, and respond credibly when questions arise.

MG+M Law Clerk Brett Thomas is a contributing author of this article.

¹ See EPA, Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances at <https://www.federalregister.gov/documents/2024/05/08/2024-08547/designation-of->

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perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos-as-cercla-hazardous; see also EPA, Proposed PFOA and PFOS Compliance Extension Rule at <https://www.epa.gov/sdwa/proposed-pfoa-and-pfos-compliance-extension-rule>; EPA, TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for PFAS at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a7-reporting-and-recordkeeping>

² See EPA, PFAS National Primary Drinking Water Regulation at <https://www.federalregister.gov/documents/2024/04/26/2024-07773/pfas-national-primary-drinking-water-regulation>

³ See EPA, Per- and Polyfluoroalkyl Substances (PFAS), update posted May 18, 2026 at <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>

⁴ EPA, TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for PFAS at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a7-reporting-and-recordkeeping>

⁵ Modification to the Start of the Submission Period for PFAS Reporting and Recordkeeping Under TSCA § 8(a)(7) at <https://www.federalregister.gov/documents/2026/04/13/2026-07062/modification-to-the-start-of-the-submission-period-for-perfluoroalkyl-and-polyfluoroalkyl-substances>

⁶ Safer States, State Action on PFAS in Consumer Products at <https://www.saferstates.org/resource/state-action-on-pfas/>

⁷ MG+M, States Implement Bans on “Intentionally Added” PFAS in Consumer Products at <https://www.mgmlaw.com/news-insights/states-implement-bans-on-intentionally-added-pfas-in-consumer-products>

⁸ See United States District Court, District of South Carolina, Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 at <https://www.scd.uscourts.gov/mdl-2873/index.asp>