



# Contaminants *Compass*

## February 2025 Edition

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“Contaminants Compass” is a monthly newsletter that provides updates, legal observations and actionable tips to navigate the evolving legal challenges of per- and polyfluoroalkyl substances (PFAS). This edition discusses updates on federal PFAS regulatory and litigation matters, a review of activities in several states, and a look at recent studies on the use of bacteria to break down PFAS and on PFAS levels detected in the blood of Maui firefighters.

Look for new editions every month and feel free to reach out to the McGuireWoods team with questions regarding PFAS issues.

## I. What’s Happening in Federal PFAS Regulation

### OMB Withdraws Proposed Clean Water Act Standards for PFAS Manufacturers

The Office of Management and Budget (OMB) [withdrew an Environmental Protection Agency \(EPA\) proposed rule](#) on Jan. 21, 2025, titled “Clean Water Act Effluent Limitations Guidelines (ELG) and Standards for PFAS Manufacturers Under the Organic Chemicals, Plastics and Synthetic Fibers (OCSPF) Point Source Category.” The withdrawal was based on OMB’s review of certain non-final rules pursuant to President Donald Trump’s executive order for a [“Regulatory Freeze Pending Review.”](#) The EPA published an Advance Notice of Proposed Rulemaking on this subject on March 17, 2021 ([86 Fed. Reg. 14560](#)), then sent the proposed rule to the White House for review in June 2024. The rule would have established new effluent limitations guidelines for PFAS for the OCSPF point source category, which are used as the basis for technology-based effluent limits in National Pollutant Discharge Elimination System permits for discharges of industrial wastewater from facilities in that category.

## Lee Zeldin Sworn in as EPA Administrator

Lee Zeldin was confirmed by the U.S. Senate and sworn in on Jan. 29, 2025, as the 17th administrator of the EPA. Zeldin served in the U.S. Army and was a member of the House of Representatives. As reported in the [December 2024 edition of Contaminants Compass](#), Zeldin, who represented Long Island in the House from 2015 to 2023 and ran for governor of New York in 2022, was a member of the bipartisan PFAS task force and supported multiple PFAS bills, including the bipartisan Protect People from PFAS Act (H.R. 2467), which directed the EPA to establish drinking water standards for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) and designate them as Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) hazardous substances. McGuireWoods will be watching closely how Zeldin and the EPA approach PFAS.

## EPA Proposes Rule Clarifying Supplier Notification Requirements for TRI-Listed PFAS

On Jan. 17, 2025, the EPA published a proposed rule ([90 Fed. Reg. 5795](#)) intended to clarify when supplier companies are required to notify customers that a mixture or trade name product contains PFAS that has been added to the Toxics Release Inventory (TRI) pursuant to the National Defense Authorization Act for Fiscal Year 2020 (NDAA). Under Section 7321(c) of the NDAA, certain PFAS are automatically added to the TRI on Jan. 1 of each year in response to EPA-triggering actions taken during the preceding year. The proposed rule provides that the notification requirement starts immediately after the PFAS is added to the TRI, so suppliers must notify customers beginning with the first shipment of the product in the calendar year the PFAS is added. The EPA is accepting public comments on the proposed rule until Feb. 18, 2025. See the [EPA's website](#) for additional information regarding the PFAS provisions of Section 7321 of the NDAA.

## EPA Delays Effective Date of Rule Adding PFAS to TRI for 2025

The EPA published notice in the Federal Register ([90 Fed. Reg. 9010](#)) on Feb. 5, 2025, that it is delaying the effective date of its final rule adding nine new PFAS to the TRI for calendar year 2025 pursuant to Section 7321 of the NDAA. The final rule, published on Jan. 6, 2025 ([90 Fed. Reg. 573](#)), is now set to become effective on March 21, 2025. The decision to delay the rule came after Trump's executive order, "[Regulatory Freeze Pending Review](#)." The effect of the delay is unclear given EPA's stated position (discussed above) that no additional rulemaking is required to trigger the notification requirement when PFAS are automatically added to the TRI on Jan. 1 of each year.

## 18 Attorneys General File Amicus Brief Supporting EPA in D.C. Circuit Court Challenge to National Drinking Water Standards for PFAS

On Jan. 17, 2025, 17 states and the District of Columbia filed an [amicus curiae brief](#) with the U.S. Court of Appeals for the D.C. Circuit in *American Water Works Ass'n v. EPA* (No. 24-1188) in support of the EPA's Final Rule establishing nationwide drinking water standards for PFAS under the Safe Drinking Water Act. The rule ([89 Fed. Reg. 32,532](#)), issued April 26, 2024, expands nationwide drinking water protections, sets enforceable standards for PFAS in drinking water, and requires public water systems to test and treat drinking water for certain PFAS.

The attorneys general urge the D.C. Circuit to deny petitions challenging the rule, filed by the American Water Works Association, Association of Metropolitan Water Agencies, National Association of Manufacturers, American Chemistry Council and the Chemours Company FC. They argue that the rule advances the Safe Drinking Water Act's public health mandate and that the EPA complied with the act's procedural requirements in adopting the rule.

## EPA Files Brief Defending Designation of PFOA and PFOS as “Hazardous Substances” Under CERCLA

The EPA [filed its brief](#) in *Chamber of Commerce, et al. v. EPA* (No. 24-1193) in the U.S. Court of Appeals for the D.C. Circuit on Jan. 17, 2025, defending its designations of PFOA and PFOS as “hazardous substances” under CERCLA. The EPA’s designations were challenged in petitions filed by the U.S. Chamber of Commerce, Associated General Contractors of America, and National Waste & Recycling Association. The Final Rule ([89 Fed. Reg. 39,124](#)), published May 8, 2024, is based on the EPA’s determination that PFOA and PFOS may present a substantial danger to public health or welfare or to the environment if released.

## II. What’s Happening in PFAS Litigation

### Proposed Class Action Suit Filed in California Against Apple for PFAS in Smartwatch Bands

On Jan. 21, 2025, [a proposed class action suit](#) (No. 5:25-cv-00713) was filed in the U.S. District Court for the Northern District of California against Apple alleging that the company deceived customers by advertising its smartwatches as designed to further human health and wellness and the company’s environmental sustainability initiatives despite the presence of PFAS in the watches’ wristbands. The plaintiffs are represented by the firm that filed [a similar suit against Samsung](#) (No. 2:24-cv-11234) in the Central District of California on Dec. 31, 2024.

Both suits cite [a study](#) published on Dec. 18, 2024, in *Environmental Science & Technology Letters* that analyzed the wristbands of various brands of smartwatches including Apple and Samsung. The study found detectable levels of PFAS in most of the wristbands. The suits seek injunctive relief requiring Apple and Samsung to change their business practices and monetary damages for the proposed class of plaintiffs.

### Federal Court Grants Preliminary Approval of \$1 Million Settlement in PFAS Class Action Against Georgia Textile Plant and Chemical Manufacturers

The U.S. District Court for the Northern District of Georgia [issued an order](#) on Jan. 23, 2025, in *Earl Parris Jr., et al. v. 3M Co., et al.* (No. 4:21-cv-00040) granting preliminary approval of a proposed settlement agreement resolving claims against one defendant, Pulcra Chemicals, for \$1 million to be used to provide temporary drinking water for residents of Summerville, Georgia. The plaintiffs filed suit in 2021 against denim manufacturer Mount Vernon Mills, the town of Trion where the textile plant is located, and six different chemical companies that manufacture PFAS used by Mount Vernon Mills to make its products stain-resistant and waterproof. The suit alleges that the textile plant discharged wastewater containing PFAS into Trion’s wastewater treatment facility, which was incapable of removing the PFAS from drinking water, for at least 28 years. Pulcra Chemicals is the only defendant that has reached a settlement to date.

## III. What’s Happening in State PFAS Regulation

### Maine DEP Considers Public Comments on Proposed Rule Implementing Ban on PFAS Products

On Jan. 16, 2025, Maine’s Department of Environmental Protection (DEP) held a public hearing on [a proposed rule](#) establishing procedures and criteria for agency determinations of “currently unavoidable uses” of intentionally added PFAS in consumer products under a state law originally enacted in 2021 titled “An Act to Stop Perfluoralkyl and Polyfluoralkyl Substances Pollution.” The proposed rule, announced in December 2024, contains provisions implementing the sales prohibitions and notification requirements of the statute. The agency accepted written comments on the proposed rule through Jan. 28, 2025.

As reported in the [June 2024 edition of Contaminants Compass](#), Maine's statute was amended last year to delay the effective date of the ban on products containing intentionally added PFAS from Jan. 1, 2025, to Jan. 1, 2032, to allow the agency additional time to promulgate rules implementing the statute's requirements. The amended statute establishes deadlines for sales prohibitions on categories of products, as summarized on the [PFAS in Products Program](#) page on the Maine DEP website.

### **Wisconsin Governor Evers Announces \$145 Million Budget Proposal to Address PFAS**

Wisconsin Gov. Tony Evers, on Feb. 4, 2025, [announced a proposed budget](#) for 2025-2027 that includes more than \$145 million "to address PFAS contamination across Wisconsin, from private well owners to municipalities and across surface, drinking, and groundwater." Proposals include creating a PFAS Community Grant Program to assist municipal drinking water systems with testing for and eliminating PFAS from drinking water through the Safe Drinking Water Loan Program and helping private well owners sample and test their wells through a new county PFAS Well Testing Grant Program. Additional proposals include resources for PFAS research and emergency response.

Evers also announced [his approval of a new proposed rulemaking](#) to strengthen PFAS standards statewide by adopting public health-based groundwater standards for six PFAS.

## **IV. What We Are Reading**

### **Scientists Identify Bacterial Strain That Biodegrades PFAS**

A study published by researchers at the University of Buffalo found that a bacterial strain called *Labrys portucalensis* F11 was able to break down three types of PFAS — PFOS, 6:2-fluorotelomer sulfonic acid (6:2 FTS) and 5:3-fluorotelomer carboxylic acid (5:3 FTCA) — and three PFAS metabolites. After a 194-day incubation period, *L. portucalensis* broke down 96% of PFOS, 58% of 5:3 FTCA and 21% of 6:2 FTS. The authors note that the results "[highlight] the potential of this bacterial strain for bioremediation applications in PFAS-contaminated sites." [PFAS biodegradation by \*Labrys portucalensis\* F11: Evidence of chain shortening and identification of metabolites of PFOS, 6:2 FTS, and 5:3 FTCA](#), *Science of the Total Environment*, Vol. 959 (Jan. 10, 2025).

### **CDC Finds Elevated PFAS Levels in Blood of Maui Firefighters**

On Feb. 5, 2025, the Centers for Disease Control and Prevention (CDC) [announced the results of a study](#) conducted by CDC's National Institute for Occupational Safety and Health, which evaluated the potential exposure of first responders to PFAS and other chemicals following the August 2023 wildfires in Maui, Hawaii. The study found that "[f]irefighters in this assessment had higher [blood] serum concentrations of some PFAS than employees from other occupations, but ... serum concentrations were mostly below a recommended threshold indicating the need to perform additional medical screenings." The study concluded that while firefighters may face increased risk of occupational exposure to PFAS from various sources (including protective clothing and firefighting foam), "[s]ources other than the wildfires could have contributed to the [PFAS] levels."

## About McGuireWoods

*McGuireWoods supports clients as they assess and mitigate their PFAS risk, develop and apply business operational responses to changing PFAS laws and regulations at federal and state levels, and defend litigation as it arises, including navigating and coordinating national scientific defenses in novel contexts. [Click here](#) to learn more.*

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