Federal Government Set to Impose Strict New PFAS Environmental Regulations

Confirming previous signals, on March 5, 2025, the federal government published a pair of official documents concluding that Per- and Polyfluoroalkyl Substances (PFAS), aka "forever chemicals," are toxic chemicals that should be regulated under the *Canadian Environmental Protection Act* (CEPA), federal environmental laws regulating toxic chemicals. Here's a briefing on the State of Per- and Polyfluoroalkyl Substances (PFAS) Report ("Final Report"), a proposed Risk Management Approach for Per- and Polyfluoroalkyl Substances, Excluding Fluoropolymers ("Risk Management Approach"), and their impact on environmental compliance.

What PFAS Are

PFAS are a group of unusually stable human-made substances that take a very long time to break down. These properties make PFAS ideal for food packaging, clothing, cosmetics, non-stick cookware, and many other consumer use products, as well as for industrial and specialized applications such as lubricants, oil/water repellents, and foams for firefighting. The Canadian Government estimates that there are currently over 4,700 kinds of PFAS with more rolling out of the pipeline every day, the most common being perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA).

The problem with PFAS is that the same stability and everlasting properties that make them attractive for consumer and industrial uses also pose a potential menace to the environment. Thus, PFAS have a way of turning up at solid waste landfills, drinking water, fish, wildlife, and people. The latter is an especially bad thing because the buildup of PFAS in humans can cause cancer, liver damage, decreased fertility, and increased risk of asthma and thyroid disease, according to the US Centers for Disease Control and Prevention (CDC).

PFAS & Federal Regulation of Toxic Chemicals

On July 27, 2024, Environment and Climate Change Canada (ECCC) and Health Canada (HC) published a Notice concluding that the class of PFAS, excluding fluoropolymers, are a "toxic substance" that should be regulated as a class of toxic chemicals under the CEPA. According to Section 64 of the CEPA, a substance is toxic if it enters or may enter the environment "in a quantity or concentration or under conditions that: "(a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity. . . or (c) constitute or may constitute a danger in Canada to human life or health."

The Final Report confirms this conclusion, finding that:

- The broad use and transport of PFAS have resulted in continuous environmental and human exposure.
- The amount of PFAS in the environment is expected to increase.
- Exposure to PFAS can affect multiple systems and organs in both humans and wildlife.
- Some PFAS have demonstrated the potential to bioaccumulate and biomagnify in food webs to an extent

that can cause adverse effects in biota, even at low environmental concentrations.

- Potential for cumulative exposure and effects are important considerations as most human and wildlife exposures occur to unknown mixtures of PFAS.

The Risk Management Approach Plan for Regulating PFAS

Published on the same day as the Final Report, the Risk Management Approach outlines a plan for imposing strict regulations on Canadian companies' use of PFAS, potentially including new reporting requirements to the National Pollutant Release Inventory (NPRI) and bans on certain uses of PFAS (other than fluoropolymers) to be phased in according to the following timetable.

- **Phase 1:** Ban on uses of PFAs in firefighting foams, with final regulations to be published in Spring 2025 and further measures to be implemented by Spring 2027.
- **Phase 2:** Ban on uses of PFAS in consumer products, potentially including cosmetics, natural health products, non-prescription drugs, food packaging materials, food additives, paint and coating, adhesive and sealant, and other building materials available to consumers, consumer mixtures like cleaning products, waxes and polishes, textiles and ski waxes, with regulations to be proposed in May 2027.
- **Phase 3:** Ban on other uses of PFAS that will require further information and evaluation, potentially including fluorinated gas applications, prescription drugs (human and veterinary), medical devices, industrial food contact materials, industrial sectors such as mining and petroleum, and transport and military applications, with the implementation timeline to be

determined.

Upcoming PFAS Data Collection Initiatives & Reporting Requirements

The July 2024 Notice required businesses to report the presence of PFAS in their supply chains by January 29, 2025 or risk fines of up to $25,000 for an individual, including corporate officers and directors, and $500,000 for a corporation. Many companies have either already met their reporting obligations or secured an extension of up to 6 months. The Risk Management Approach lists additional data collecting initiatives the government will undertake and reporting requirements it may impose on industry to gather the information it needs to decide what to do with PFAS.

- Addition of 163 individual PFAS to a new Part 1, Group C of the NPRI, which will require companies to report on such substances to the NPRI starting with calendar year 2025.
- Monitoring of existing databases for the presence of PFAS in a range of products such as cosmetics, natural health products and non-prescription drugs.
- Managing federal contaminated sites through the Federal Contaminated Sites Inventory, which now includes, as part of an update in 2023-2024, a contaminant category that allows users to search easily for federal sites contaminated impacted by PFAS.