



# Notice of Proposed Rulemaking: Designating PFOA and PFOS as CERCLA Hazardous Substances

# AGENDA

**Welcome & Introductions**

Overview of Notice of Proposed Rulemaking

Cleanup Responsibility

Discussion & Questions

Closing

# CERCLA AUTHORIZES LISTING

- ▶ Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as ‘CERCLA’ or ‘Superfund’.

## **CERCLA Section 102**

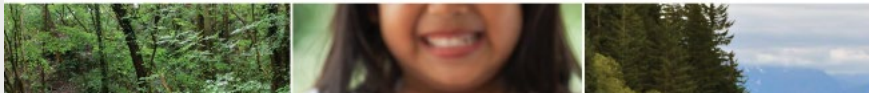
- Authorizes the EPA Administrator to revise the substances specified as hazardous under CERCLA Section 102 and designate additional hazardous substances that may present substantial danger to the public health or the environment.
  - Assigns a reportable quantity (RQ) of one pound to each hazardous substance and authorizes EPA to promulgate regulations to revise the statutory RQ. The RQ identifies the quantities of substances that if released require notification and sets forth the notification requirements for releases of these substances
- ▶ There are currently about 800 CERCLA hazardous substances. In addition, there are approximately 1,500 known radionuclides, approximately 760 of which are listed individually.

# EPA's PFAS STRATEGIC ROADMAP

- ▶ EPA's PFAS Strategic Roadmap, released in October 2021, outlines a bold, strategic, whole-of-EPA strategy to protect public health and the environment from PFAS.
- ▶ The Roadmap complements coordinated federal efforts across the Biden-Harris Administration to secure clean air, safe food, and clean drinking water.
- ▶ The Roadmap outlines specific actions across EPA's programs to research, restrict, and remediate PFAS, and highlights the principles of science-based decision-making and holding polluters accountable.
- ▶ A foundational commitment in the PFAS Roadmap is to issue a proposed rule to designate PFOA and PFOS as CERCLA hazardous substances.



## **PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024**



THE WHITE HOUSE



BRIEFING ROOM

## **FACT SHEET: Biden-Harris Administration Launches Plan to Combat PFAS Pollution**

OCTOBER 18, 2021 • STATEMENTS AND RELEASES

# PROPOSAL TO PROTECT COMMUNITIES

- ▶ Notice of Proposed Rulemaking (NRPM) to designate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) as CERCLA hazardous substances.
- ▶ Once finalized, these designations as CERCLA Hazardous Substances would:
  - Require facilities across the country to report on PFOA and PFOS releases that meet or exceed the reportable quantity assigned to these substances.
  - Enhance the ability of federal, Tribal Nations, state and local authorities to obtain information regarding the location and extent of releases.
  - Allow EPA and other agencies to respond to release or threats of releases of PFOA and PFOS as hazardous substances (CERCLA 104(a)(1)(A)) without making a determination of imminent and substantial danger (CERCLA 104(a)(1)(B)).
  - Help establish national consistency in the evaluation and cleanup of PFOA and PFOS, and encourage better waste management practices.
- ▶ The rule is designated economically significant.

# CLEANUP RESPONSIBILITY

- ▶ When finalized, this rule will strengthen EPA's ability to clean up sites contaminated with PFOA and PFOS and to hold responsible parties – not taxpayers – accountable for cleanup.
- ▶ EPA recognizes that there are several PFAS situations that present equity concerns, including significant concerns by some stakeholders, particularly public service entities like water utilities, municipal airports and entities using biosolids.
- ▶ Although EPA does not have authority to exempt particular entities from liability, the Agency is preparing to address these type of concerns with various enforcement tools:
  - ▶ Tools include issuance of new policy documents (such as an enforcement discretion policy) and entry into settlement agreements.
  - ▶ Many of these issues will be resolved on a site-specific basis.
  - ▶ These tools will seek to address potential liability, based on equitable considerations, to protect certain parties from potential litigation by those principally responsible for PFOA and PFOS contamination, and minimize transaction costs.
- ▶ EPA is committed to listening to stakeholders' concerns, engaging with stakeholders, and devoting Agency resources to address equity concerns related to PFOA and PFOS.

# NEXT STEPS

DATES	ACTIONS
August 26, 2022	Notice of Proposed Rulemaking (NPRM) is posted on EPA's website.
September 2022	NPRM is published in the <i>Federal Register</i> . Upon publication, EPA welcomes comment for a 60-day comment period.
Winter 2022 - 2023	EPA anticipates issuing an Advance Notice of Proposed Rulemaking after the close of the comment period to seek public comment on designating other PFAS chemicals as CERCLA hazardous substances.
Planned for August 2023	Final Rule

# DISCUSSION & QUESTIONS