

## **Questions and Answers**

The following are responses to questions the Agency received in connection with outreach sessions EPA held with stakeholders on the proposed rule. The questions relate to issues already addressed in the proposal. The information below summarizes and distills information contained in the Notice of Proposed Rulemaking (NPRM) to make it more accessible for the public. Citations to the relevant pages in the NPRM are also provided.

As EPA noted during the outreach sessions, anyone with comments they wish the Agency to consider on the proposed designation rulemaking should follow the instructions provided in the Federal Register 87 FR 54415 (Sept. 6, 2022) available [here](#). As EPA has previously stated, public comments on the proposal are due on November 7, 2022, which has provided the public with adequate time to comment on the proposal.

### **1. How does this action help local and state governments, tribal nations, or members of the public concerned about PFAS contamination?**

If finalized, the proposed rule, would:

- Increase transparency around PFOA/PFOS releases, improve EPA, state, Tribal nation, and local community understanding of the extent and locations of PFOA and PFOS contamination throughout the country, and help all communities to avoid or reduce contact with these potentially dangerous chemicals;
- Provide additional tools that EPA and other government agencies could use to conduct faster cleanups at contaminated sites, which would provide public health protection for affected communities and help to hold polluters accountable for cleaning up their contamination;
- Support other actions taken by EPA, other Federal agencies, states, Tribal Nations and international bodies that have set PFOA and PFOS benchmarks and standards and have undertaken PFOA- and PFOS based regulatory activities and enforcement actions; and
- Create incentives for better waste management and treatment by facilities handling PFOA or PFOS.

These issues are generally discussed throughout the NPRM. For example, see 87 FR at 54418.

**2. What are the reporting requirements for certain entities using PFOA and PFOS?**

If finalized, any person in charge of a vessel or facility must report releases of PFOA and PFOS of one pound or more within a 24-hour period to the National Response Center, State or Tribal Emergency Response Commission, and the Local or Tribal Emergency Planning Committee (local emergency responders).

For more information, this issue is generally discussed on 87 FR at 54419.

**3. What is a reportable quantity? What is the reportable quantity for PFOA/PFOS?**

A reportable quantity (RQ) is the amount of a hazardous substance, at or above which, when released into the environment within a 24-hour period, requires notification to the National Response Center, state or Tribal emergency response commissions, and the local or Tribal emergency planning committees. Section 102(b) of CERCLA provides that, until superseded by regulation, the reportable quantity for any hazardous substance is one pound. The RQ for PFOA and PFOS is one pound. For more on reportable quantities:

<https://www.govinfo.gov/content/pkg/CFR-2011-title40-vol28/pdf/CFR-2011-title40-vol28-part302.pdf>

For more information, these issues are generally discussed on 87 FR at 54419 and 54429.

**4. How have PFOA and PFOS releases been addressed through CERCLA to date? Does EPA expect to respond to past releases?**

CERCLA already provides EPA authority to address PFOA and PFOS releases because these two chemicals are *pollutants and contaminants*. With respect to releases or substantial threat of releases of *pollutants and contaminants*, EPA can respond if the Agency finds that the release or threat of release may present an imminent and substantial danger to the public health or welfare. In addition, response actions may already have addressed PFOA/PFOA releases if those chemicals were comingled with hazardous substances.

Responses can involve undertaking a removal action (if the situation presents a more immediate threat) or by assessing whether to use the National Priorities List (NPL) listing process that is the first step towards a longer-term remedial action.

This rule, if finalized, will allow EPA to respond without making a determination of imminent and substantial danger and will allow EPA to seek to recover cleanup costs from potentially responsible parties based on site-specific circumstances.

These issues are generally discussed throughout the NPRM. For example, see 87 FR at 54420.

**5. If the rule is finalized, will EPA re-evaluate current NPL sites for PFOA or PFOS releases? Does EPA expect to require the cleanup of PFOA and PFOS at existing sites with records of decision (RODs)?**

Throughout the Superfund process, from the remedial investigation through site cleanup, CERCLA authorizes EPA to evaluate releases and threats of releases of hazardous substances, and pollutants or contaminants. Since PFOA and PFOS are already pollutants or contaminants, they are within the scope of the investigation, cleanup, and review processes for existing NPL sites.

For more information, these issues are generally discussed on 87 FR at 54420.

**6. Does EPA plan to initiate rulemaking to list PFOA and PFOS as hazardous wastes under RCRA?**

EPA is not currently planning a rule to list PFOA and PFOS as hazardous wastes, but the Agency is currently working on a proposed rule, which is scheduled to be published in Summer of 2023, to list four PFAS as RCRA hazardous constituents under 40 C.F.R. Part 261 Appendix VIII.

For more information, these issues are generally discussed on 87 FR at 54431.

**7. What are the most likely sources for public exposure?**

The proposed rule provides some discussion of potential public exposure on pages 54425 to 54429. Additional information is available here: <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas>.