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# PFAS/Resource Conservation and Recovery Act: U.S. Environmental Protection Agency Proposal to List Nine Chemicals as Hazardous Constituents

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The United States Environmental Protection Agency (“EPA”) issued a proposal to change the Resource Conservation and Recovery Act (“RCRA”) regulations to add nine per- and polyfluoroalkyl compounds (collectively, PFAS), their sales, and their structural isomers, to the list of hazardous constituents in Title 40 of the Code of Federal Regulations, Part 261, Appendix VIII.

The nine PFAS are:

1. Perfluorooctanoic acid.
2. Perfluorooctanesulfonic acid
3. Perfluorobutanesulfonic acid.
4. Hexafluoropropylene oxide-dimer acid.
5. Perfluorononanoic acid.
6. Perfluorohexanesulfonic acid.
7. Perfluorodecanoic acid.
8. Perfluorohexanoic acid.
9. Perfluorobutanoic acid.

PFAS have been used in various industrial applications and consumer products such as:

- Fabrics for furniture
- Paper packaging for food and other materials resistant to water, grease, or stains
- Firefighting at airfields
- Utilization in several industrial processes

PFAS have been described as persistent in the environment and resist degradation.

EPA has the authority to add to the hazardous constituent list if scientific studies demonstrate that the chemical has any of the following effects on humans or other life forms:

- Toxic
- Carcinogenic
- Mutagenic
- Teratogenic

EPA's stated objective in the proposal is to ensure that both itself and RCRA delegated states have the authority to require remediation of PFAS. The federal agency takes the position that the current regulations do not reflect the full authority granted to it by Congress.

EPA states that when corrective action requirements are imposed by certain programs it implements, it wants to ensure that these PFAS would be among the constituents expressly identified for consideration in RCRA field facility assessments and any necessary further investigation and remediation.

Affected facilities could include hazardous waste treatment, storage, and disposal facilities with solid waste management units that have released or could release any of the referenced PFAS. EPA stated that it has identified 1,740 such facilities which could be subject to additional corrective action requirements pursuant to Sections 3004(u) and (v) of RCRA. Therefore, the near future impacts of the proposal would be on the RCRA corrective action program.

A link to the prepublication version of the Appendix VIII proposal can be found [here](#).