



EPA Poised to Expand Federal Superfund to Include Key PFAS

April 16, 2024

On April 12, 2024, two days after EPA issued a final rule setting standards for certain per- and polyfluoroalkyl substances (PFAS) in public drinking water, the White House Office of Management and Budget (OMB) concluded its review of EPA's final rule designating certain PFAS, or so-called "forever chemicals," as "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The final rule is expected to list the two most studied types of PFAS - perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) - as hazardous substances.

OMB reviews final rules before they are made public. The completion of OMB's review indicates that EPA's issuance of the final rule to the public may be imminent.

The designation of PFOA and PFOS as hazardous substances will have far-reaching impacts. These impacts include investigations and enforcement by regulators at existing and new Superfund sites, requirements for remediation at ongoing cleanups, liability and litigation for CERCLA response costs and alleged exposure, including potential contribution claims, additional reporting requirements, and consideration of these substances in environmental due diligence.

Additional information regarding the anticipated rule can be found in two legal alerts published by Lathrop GPM in January 2022 and August 2022. Lathrop GPM will provide additional information regarding the final rule and its effects after it is made public.

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