

ERM CLIENT ALERT

Navigating the evolving landscape of regulations on PFAS in products in the United States

While the USEPA is pulling back on some PFAS regulations, states increasingly take action



Sustainability is our business



Rapidly evolving regulations on per- and polyfluoroalkyl substances (PFAS) in products challenge manufacturers seeking to meet their business goals while minimizing compliance risks.

The recent news that the US Environmental Protection Agency (USEPA) proposes to relax some requirements for reporting on the manufacture or import of PFAS may make many companies think that they can step down their efforts to identify PFAS in their supply chains. The reality is not that simple, as state-level requirements are increasing in number and complexity. This alert explores recent regulatory developments at the federal and state levels and offers insights gained from working with PFAS concerns across industries (Table 1).

Table 1 Requirements and Key Insights

Applicability	Regulatory Construct	Key Insight
General chemicals and products	Toxic Substances Control Act (TSCA)	A proposal to limit reporting requirements is open for public comment and will likely delay the reporting deadline by a month or more.
	State regulations	Initial efforts to ban or restrict PFAS in consumer goods are expanding to additional states and leading to complete bans on PFAS in products in some states.
Pesticides	Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)	Regulators recently published a policy to decouple considerations of new pesticides from the “PFAS label” and focus on review of the scientific data provided to the USEPA for substance registration.
	State regulations	Some states require reporting on pesticides classified as PFAS, or may restrict their use.
Manufacture or use of products containing PFAS	Toxic Release Inventory (TRI)	Requirements for PFAS reporting increase each year as regulators add PFAS substances to the list of chemicals that must be reported. Proposed rules may add PFAS categories and lower thresholds, increasing reporting complexity.

Effective response strategies for managing PFAS compliance risk include four elements.

1.

Assess risk tolerance and align compliance strategy.

2.

Improve PFAS data across supply chains, as current data are often incomplete.

3.

Monitor non-regulatory pressures, including sustainability commitments, customer specifications, and greenwashing concerns.

4.

Anticipate regulatory changes, preparing for stricter state laws and TRI expansions.

The section below provides further information about these requirements and ERM’s insights on how to respond. Please note that this summary is intended for informational purposes and not to support compliance.

PFAS in general chemicals and products: federal TSCA and state regulations

Slow movement at the federal level contrasts sharply with actions taken by many states to regulate PFAS.

Toxic Substances Control Act

As described in [previous client alerts](#), section 8(a)(7) of TSCA requires industry to report on the manufacture, including import, of PFAS as substances, mixtures, or in articles. The data obtained from these reports can inform USEPA’s decisions regarding the need for and extent of additional regulations on PFAS under TSCA.

The proposed rule includes four new exemptions that will significantly streamline reporting. Under the proposed rule, companies no longer need to report:

1. PFAS in mixtures or articles with a concentration below 0.1 percent.

2. PFAS imported as part of an article.

3. Byproducts, impurities, and non-isolated intermediates (assuming they are not used for commercial purposes).

4. PFAS manufactured solely in small quantities for Research & Development (R&D).

On 13 November 2025, [USEPA proposed to revise the rule](#). **These revisions, if promulgated, would limit the need for many companies to report. However, the revisions also introduce new uncertainty into the reporting deadline.**

The proposed revised rule also includes clarifications and technical updates aimed at the practical aspects of reporting.

Most manufacturers, including importers, must now submit reports by 13 October 2026. The proposed rule would push the reporting deadline to an unspecified date 5 months after a revised rule is promulgated. When USEPA developed the proposed rule, they anticipated that the rule would be finalized in June 2026. If that assumption holds true, then the submission period may open in August 2026 and close in November 2026. In discussing the deadline, which will likely occur only a short time after the final revisions to the rule, USEPA said:

“The time EPA took to develop the 2023 final rule and engage with stakeholders on the content of the rule, as well as the time that has passed since promulgation of the 2023 final rule, suggests to the Agency that reporters have had adequate time to consider how they intend to comply with the rule.” [90 FR 217: 50930]

USEPA remains silent on whether the necessary revisions to the Central Data Exchange (CDX) platform, which have been delayed, will be ready during that period.

Interested parties can submit comments on the proposed rule to USEPA until 29 December 2025 under docket [EPA-HQ-OPPT-2020-0549](#). Comments on the information collection provisions of the proposed rule under the Paperwork Reduction Act (PRA) must be submitted to the Office of Management and Budget’s Office of Information and Regulatory Affairs (OMB–OIRA) by 15 December 2025.

The proposed rule would change the reporting deadline to a currently-unspecified date. If the Agency meets the schedule it anticipated when developing the proposed rule, then the submission period may open in August 2026 and close in November 2026.



State requirements

Growing requirements at the state level and the requirement for TRI reporting make it imperative for most companies to understand PFAS in their supply chains, despite the potential relaxation of the TSCA reporting rule.

US states have proposed or promulgated over 100 laws on PFAS in products and approximately 20 on PFAS in packaging as of late October 2025 (not including laws specific to pesticides, which are discussed below, or on PFAS in sewage sludge used for agricultural purposes).

The development of regulatory programs at the state level typically follows a pattern. Lawmakers tend to focus first on restricting PFAS in products that may represent high exposures to PFAS, such as consumer goods or food packaging, or potentially high levels of environmental contamination (e.g., firefighting foams) (Figure 1). Initial requirements have included reporting on PFAS in products sold in the state. Emerging PFAS requirements are expanding in scope to include additional products, such as textiles and packaging for general use products (Table 2).

Figure 1 State laws targeting PFAS by product category

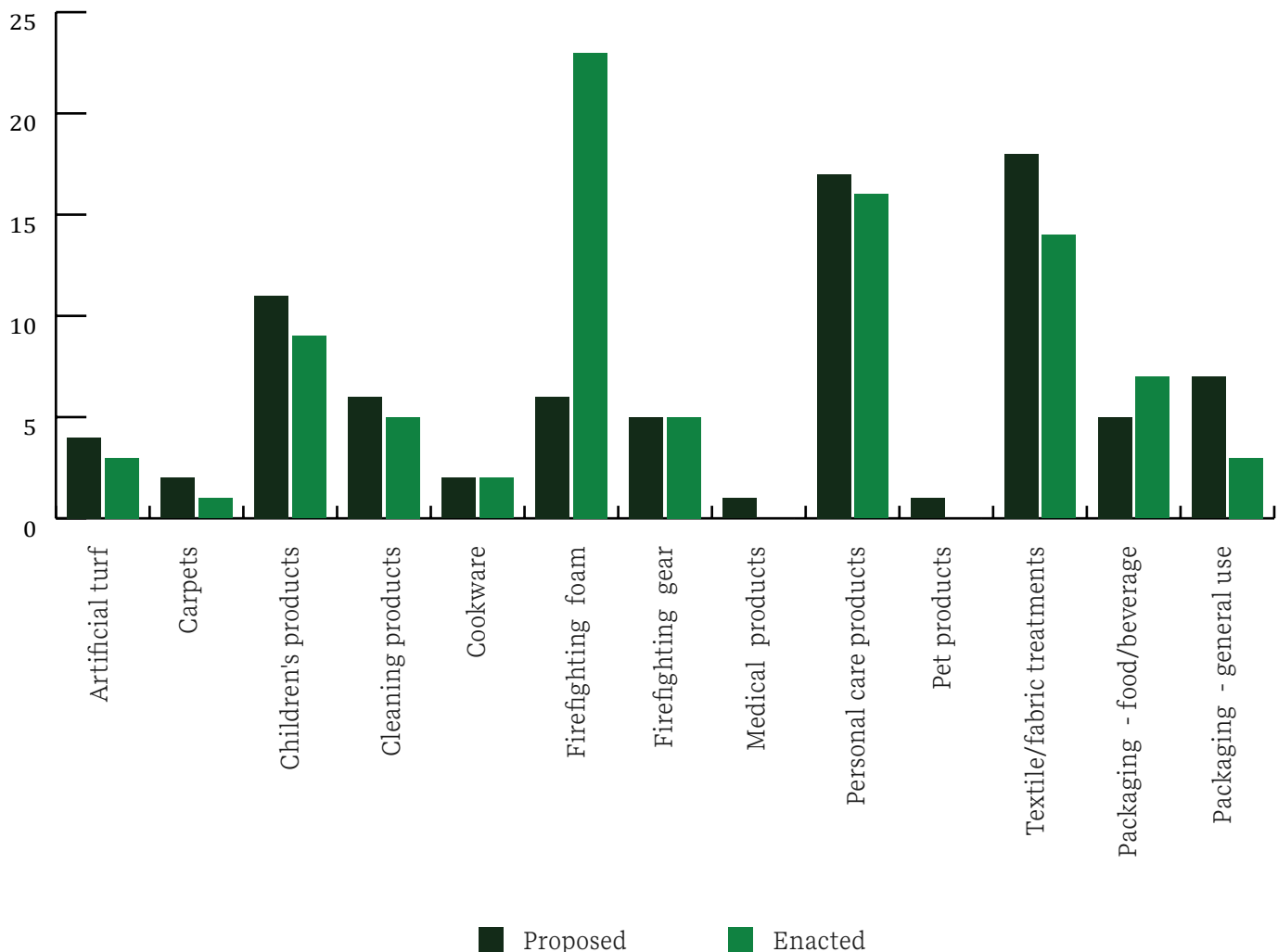


Table 2 Examples of state bans on PFAS in products

State	Status	Year Ban Will Take Effect*
Connecticut	Adopted	2032
Illinois	Proposed	2033
Iowa	Proposed	2032
Maine	Adopted	2032
Minnesota	Adopted	2032
New Mexico	Adopted	2032
Ohio	Proposed	2032

* Some laws exempt unavoidable uses of PFAS.

As these data show, companies that make certain kinds of products already face multiple requirements, and complete bans on PFAS in products and certain kinds of packaging are approaching quickly. Given the time needed to assess supply chain data and then either obtain new supplies or reformulate products, companies must act quickly to comply.



PFAS in pesticides: Federal Insecticide, Fungicide and Rodenticide Act and related state regulations

Views on fluorinated pesticides vary widely, from continuing action to approve such pesticides at the federal level to actions at the state level to restrict their use. Outcry from nongovernmental organizations (NGOs) and public outrage over PFAS may spur further regulatory action.

Federal Insecticide, Fungicide and Rodenticide Act

On 3 November 2025 USEPA published their latest thinking on pesticides containing a fluorinated carbon. Within the context of a new approval for a fluorinated pesticide, USEPA's pesticides office has declared that they have no single PFAS definition; therefore, some pesticides may contain a fluorinated carbon but would not be considered PFAS. USEPA stated a commitment to reviewing pesticides based on scientific data and whether or not they could be labeled as PFAS.

Under the current administration, USEPA continues to approve fluorinated pesticides. Between February and June 2025, USEPA approved or proposed to approve four new pesticide ingredients considered

to be PFAS according to many definitions of the term. In June, for example, USEPA proposed to approve the pesticide trifludimoxazin, a PFAS intended for use as an herbicide applicable for certain crops, including soybeans, oranges, apples, and peanuts. In November, USEPA approved cyclobutrifluram and isocycloseram, which meet some definitions of PFAS, for use on vegetables, and proposed to register two products containing epyrifenacil.

Recent USEPA actions appear to be decoupling the PFAS label and broad application of the PFAS definition and associated risks from regulatory decisions about specific fluorinated pesticides. USEPA has continued to approve the use of pesticides that could be considered to be PFAS.

Against the backdrop of evolving regulatory approaches, the NGO Environmental Working Group (EWG) published a report on 18 November 2025, headlined "2.5 million pounds of PFAS pesticides spread on California farmland annually."

The EWG report:

- Quantifies the usage of PFAS pesticides based on government data.
- Highlights the potential for human exposure and health effect concerns.
- Points to five pesticides as particular concern.
- Raises concerns over the adequacy of regulations.

State regulations on pesticides

State leadership on addressing pesticides vary across the US. Maine was the first state to ban PFAS pesticides. Minnesota is a leader in developing PFAS regulations more broadly and is exploring issues associated with PFAS pesticides. More details on the programs in these two states follow to illustrate the emerging impact of state requirements.

In Maine, An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances prohibits the distribution of:

- A pesticide that has been contaminated by PFAS; or
- Beginning 1 January 2030, a pesticide that contains intentionally added PFAS.

In Minnesota, three laws apply to pesticides sold within the state: Minnesota Statutes 2023, section 116.943 (Amara’s Law); reporting as described in Minnesota Session Law - 2023, Chapter 60, H.F. No. 2310; and S.F. No. 2129 – PFAS gross revenues tax (proposed).

- By 1 July 2026, product manufacturers must report products to the Minnesota Pollution Control Agency (MPCA) with intentionally added PFAS, or else those products cannot be sold or distributed in Minnesota. A pesticide registered under Chapter 18B can be reported

via the annual registration or approval process. In August 2025, a Minnesota judge determined that the MPCA must address deficiencies before the rule can be adopted and implemented in advance of the July 2026 deadline.

- Pesticide registrants must submit information on pesticide products containing intentionally added PFAS to the Minnesota Department of Agriculture (MDA), including name, amount, and purpose of PFAS ingredients, beginning 1 January 2026.
- As of 1 January 2032, registration, renewal, sale, and/or distribution of pesticides, fertilizers, and related products with intentionally added PFAS will be prohibited unless the product is statutorily exempt or meets the definition of “currently unavoidable use.” Pesticides associated with certain consumer goods are banned in 2026.
- In March 2025, Bill S.F. No. 2129 – PFAS gross revenues tax was proposed to the state Senate, which would impose a 50 percent tax on gross revenues derived from products containing PFAS manufactured in Minnesota and sold by a distributor, and a 50 percent tax on the gross revenues derived from retail sales of products containing PFAS in Minnesota. As of November 2025, neither the Senate bill nor the corresponding House bill (HF726) had progressed.



PFAS released from manufacturing operations based on products purchased and manufactured: Toxics Release Inventory

PFAS were added to the TRI program in December 2019 by the US Congress per the PFAS Act of 2019 under the Fiscal Year 2020 National Defense Authorization Act (NDAA). The NDAA initially listed 14 specific PFAS for immediate TRI regulation under Section 7321(b) and established criteria for USEPA to continue evaluating and adding PFAS under Sections 7321(c) and (d). Criteria for listing additional PFAS include:

- Final Toxicity Value for the PFAS or class of PFAS.
- Significant New Use Rule (SNUR) newly promulgated under TSCA, or a PFAS is added to an existing SNUR.
- New PFAS designation as Active Chemical Substance on the TSCA Inventory.
- The following PFAS substances, if they meet any one of the listing criteria described in Section 313(d)(2) of the Emergency Planning and Community Right-To-Know Act (EPCRA) for inclusion under TRI.
 - Fifteen PFAS substances and classes of substances specified in the regulations
 - PFAS for which USEPA has validated a drinking water analysis method
 - PFAS substances and classes of substances used to manufacture fluorinated polymers

USEPA's initial review under Section 7321(c) ultimately identified 172 PFAS for regulation for Reporting Year (RY) 2020, but that number has continued to grow annually, with 196 PFAS regulated for RY2024. The administration has stated it will continue with the automatic annual addition of PFAS meeting the criteria of Section 7321(c).

The list of PFAS that must be reported under TRI will continue to grow, creating the need for additional outreach to suppliers and complicating data management.



Facilities must now report on a total of 205 PFAS for reports due 1 July 2026 and 206 for reports due 1 July 2027, including the newly added PFAS shown in Table 3.

Table 3 Newly added PFAS to TRI reporting under Section 7321(c)

CASRN*	TRI Chemical Name	Effective Reporting Year
377-73-1	Perfluoro-3-methoxypropanoic acid	2025
3108-42-7	Ammonium perfluorodecanoate (PFDA NH ₄)	2025
3830-45-3	Sodium perfluorodecanoate (PFDA-Na)	2025
27619-97-2	6:2 Fluorotelomer sulfonate acid	2025
425670-75-3	6:2 Fluorotelomer sulfonate anion	2025
59587-38-1	6:2 Fluorotelomer sulfonate potassium salt	2025
59587-39-2	6:2 Fluorotelomer sulfonate ammonium salt	2025
27619-94-9	6:2 Fluorotelomer sulfonate sodium salt	2025
3030471-22-5	Acetic acid, [(- -perfluoro-C8-10-alkyl)thio] derivs., Bu esters	2025
82382-12-5	Sodium perfluorohexanesulfonate (PFHxS-Na)	2026

*CASRN: Unique identification number assigned by the Chemical Abstracts Service

Revisions to the reporting requirements will continue. Consider the following pending proposed rules.

1. In October 2024, USEPA published their first proposed rule to add PFAS under NDAA Section 7321(d), which includes adding 16 more individually listed PFAS and 15 PFAS categories, collectively representing over 100 new individual PFAS. This listing of PFAS “categories” would cause some very real challenges, such as:
 - USEPA will not be providing CAS# listings of PFAS regulated under each of the categories, which means that PFAS applicability will have to be determined by the regulated community.
 - The rule includes reclassifying ~30 currently individually regulated PFAS into one of the 15 PFAS categories, which may lead to some confusion on threshold assessment and reporting.

This proposed rule would assign a reporting threshold and add the new substances to the “Chemicals of Special Concern” list. Many commenters on the propose rule responded negatively to these proposals. It remains to be seen how the current administration will address the rule finalization process, however, since review and addition of PFAS under Section 7321(d) is congressionally driven under the FY2020 NDAA, the rule will ultimately need to go forward in some form.

2. In January 2025, USEPA published a proposed rule to clarify timing for Supplier Notification for PFAS automatically added under the NDAA each year. Final action is pending.

Navigating PFAS Challenges

The rapidly evolving regulatory landscape in the US suggests that while USEPA relaxes some requirements, many states are stepping in with laws of their own. The result is an ever-changing mix of requirements that reflect different definitions of PFAS and focus on different types of products.

Creating resilient response strategies that manage risk

In the dynamic environment of PFAS compliance, a holistic yet agile risk management approach is key. To anchor compliance and risk management, consider the following.



Assess and articulate risk tolerance –

This recommendation remains unchanged from our previous client alerts in this PFAS series because it is so crucial. Different companies have varying appetites for compliance and business risk related to PFAS. Companies producing consumer products found in many homes, and sometimes the targets of lawsuits, often take a more conservative approach. Others, including those who manufacture goods for B2B customers, are more willing to accept some business risk and simply aim for a compliance program that is defensible under regulatory standards.



Know your data –

While transmitting PFAS information through the value chain is improving, most companies find gaps in their knowledge about the materials they purchase. Many do not require suppliers to provide PFAS information in their purchase orders or contracts, and PFAS data continue to be fragmentary and incomplete. The demand for PFAS data is expected to continue, which warrants ongoing investment in data compilation and maintenance.



Consider non-regulatory pressures –

Even when a company's products do not fall under current PFAS reporting or restrictions, understanding PFAS remains strategically important to business. In our work with other manufacturers, we are seeing that PFAS can be coupled with commitments around sustainability, such as:

- PFAS in “sustainable products” can lead to accusations of greenwashing; conversely, removing PFAS can support product positioning and appeal to customers.
- Sustainability reporting under the EU Corporate Sustainability Reporting Directive (CSRD) can trigger disclosures around Substances of Very High Concern (SVHC), which include some PFAS.
- Some B2B buyers increasingly include requirements to disclose or even ban PFAS. Some retailers have set goals to eliminate PFAS from the products on their shelves.



Anticipate regulatory developments –

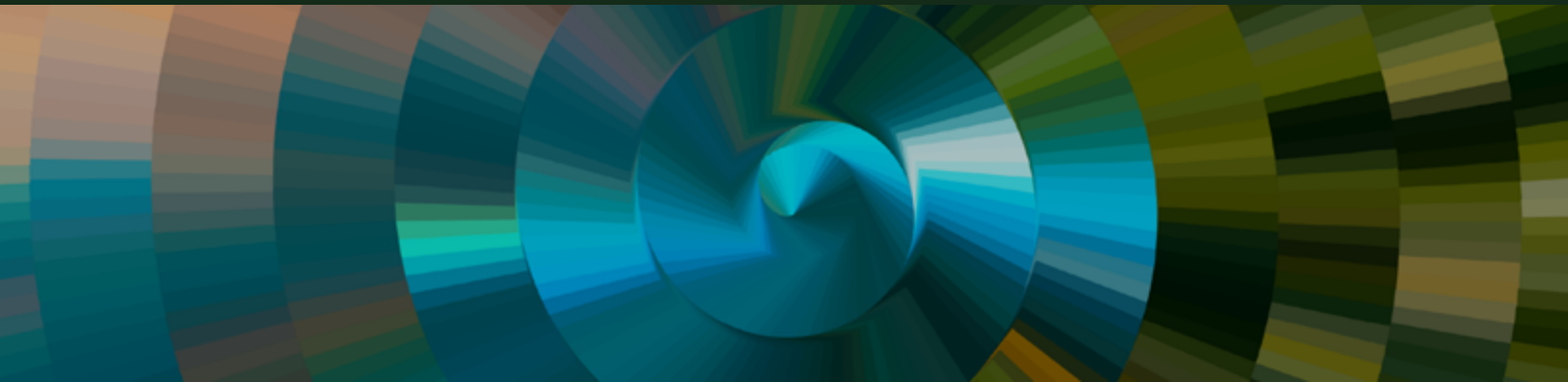
Regulatory activity over the last year suggests that little activity will occur at the federal level in 2026 beyond reporting. The continuing addition of PFAS to TRI reporting will require companies to stay vigilant in compiling and maintaining information on purchased materials and operations, and that data will be quite useful in complying with growing regulations at the state level. Increasing restrictions and pending bans on PFAS in products can mean loss of market access and costs to reformulate products. For some companies, those growing regulations will also offer an opportunity to position alternate products with their customers.

How ERM can help

ERM works with global clients across the full value chain to develop and implement PFAS strategies that build long-term business resilience. We are closely following the latest regulatory developments and strategically advising our clients on compliance strategies. We work with our clients to improve confidence and accuracy in data and reporting. And, when strategic action goes beyond reporting to reformulating, we help our clients avoid regrettable substitution by identifying alternatives to PFAS.

Our team's deep experience with identifying and tracking PFAS in supply chains and product portfolios makes us an excellent partner to support:

- Determining and articulating your company's risk profile.
- Identifying PFAS in your supply chain.
- Assessing regulatory requirements on PFAS in products and operations.
- Reporting under TRI, TSCA, and state requirements for US-based operations.
- Evaluating business risks related to PFAS in raw materials, products, or operations, and the resulting potential for environmental release/exposure.
- Assessing hazards and risks of both PFAS and potential substitutes.
- Assessing "PFAS-free" claims or support messaging.
- Identifying business opportunities for using alternate materials.
- Assessing the potential business risks from PFAS in the context of mergers and acquisitions.



ERM can help you navigate the complexities of PFAS compliance

For more information, contact your current ERM consultant or any of our experts.

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