

Proposed PFAS rule would cost companies estimated \$1B; Lacks limits and cleanup requirement

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A proposed federal rule calls for forcing companies to disclose whether their products contain toxic "forever" chemicals, the government's first attempt at cataloging the pervasiveness of PFAS across the United

States.

The Environmental Protection Agency rule would require manufacturers to report many products that contain perfluoroalkyl and polyfluoroalkyl substances. They're a family of chemicals that don't degrade in nature and have been linked to cancer, birth defects, and hormone irregularities.

Companies would have to disclose any PFAS that have been manufactured or imported between 2011 and when the rule takes effect, with no exemptions for small businesses or for impurities or byproducts cross-contaminating goods with PFAS. Those disclosures would be available to the public, barring any trade secrets linked to the data. The EPA will finalize the rule in the coming months, agency spokesperson Catherine Milbourn said, then require companies to report back within 12 months.

The effort excludes pesticides, foods and food additives, drugs, cosmetics, and medical devices regulated under the Federal Food, Drug, and Cosmetic Act, Milbourn said. It also is essentially a one-time reporting and record-keeping requirement—and companies wouldn't need to provide updates.

Still, the [chemical](#) and semiconductor industries are grumbling about what the EPA estimated is a potential \$1 billion cost to comply with the rule. The U.S. [chemical industry](#) says it generates more than \$500 billion annually.

On the other side, environmental health activists say the data collection exercise would be flawed, as it accounts for only a tenth of the more than 12,000 PFAS chemicals, which are used in everything from nonstick cookware to kids' school uniforms. Moreover, they say, it wouldn't stop PFAS from making their way into the air, waste, or consumer products, nor would it clean up existing contamination.

Congress gave the EPA the power to track PFAS chemicals in 2016, when it revised the Toxic Substances Control Act. Then a bipartisan effort in 2019, which President Donald Trump signed into law, called for the EPA to inventory PFAS. However, health activists warn that unless Congress overhauls U.S. chemical laws to give the EPA and other agencies more power, PFAS will continue to threaten humans and the environment.

These so-called forever chemicals went from marvel to *bête noire* in just 50 years. When PFAS debuted, they were revered for making Teflon pans nonstick and Gore-Tex jackets waterproof. They are effective at repelling water and oil yet so durable they don't break down in the natural environment. That strength has become their downfall, as the chemicals accumulate in landfills, soil, drinking water supplies, and, ultimately, human bodies. As scientists learn more about PFAS' toxic nature, governments around the world have set limits or imposed outright bans.

Because PFAS are found in thousands of products—contact lenses, cosmetics, pharmaceuticals such as Prozac, paper plates, clothing, and dental floss, to name just a few—regulators are scrambling to gather data on the scope of the PFAS threat. The EPA data collection proposal is a move in that direction.

Milbourn told KFF Health News that 1,364 types of PFAS may be covered by the rule, and EPA officials are reviewing public comments they received to determine whether they should modify its scope to capture additional substances.

By contrast, the European Union is discussing banning or limiting 10,000 PFAS chemicals, according to Hanna-Kaisa Torkkeli, a spokesperson for the European Chemicals Agency.

"In the U.S., chemicals are innocent until proven guilty," said Kyla Bennett, director of science policy at Public Employees for Environmental Responsibility, a nonprofit based outside Washington, D.C. "In the EU and Japan, chemicals are guilty until proven safe—and that's why they have fewer PFAS."

That lack of regulation in the U.S. is driving states to take matters into their own hands, pursuing PFAS bans as gridlock and industry lobbying in Washington thwart tougher federal laws. Minnesota's crackdown on PFAS limits the chemicals in menstrual products, cleaning ingredients, cookware, and dental floss. Maine's law will ban all avoidable uses of PFAS by 2030. Vermont and California ban PFAS in food packaging.

"The states are acting because our federal system doesn't currently allow the government to say 'no more use of PFAS,'" said Liz Hitchcock, director of the federal policy program at Toxic-Free Future, a national advocacy group. "And even if it did, that wouldn't clean up the mess already made."

U.S. courts are also weighing in on PFAS contamination. On June 22, 3M agreed to pay up to \$12.5 billion to settle lawsuits by communities around the country that argued their drinking water was contaminated by the company's PFAS-containing products.

Additionally, the U.S. military is moving to limit PFAS, after a report said more than 600,000 troops were exposed to the toxic chemicals in drinking water contaminated largely by PFAS-laden firefighting foam.

Just cleaning up PFAS waste at U.S. [military bases](#) could cost at least \$10 billion. Removing it from U.S. drinking [water supplies](#) could add more than \$3.2 billion annually to the bill, according to a report commissioned by the American Water Works Association.

"The CDC estimates that 99% of Americans have PFAS in their blood," said Melanie Benesh, vice president of government affairs for the Environmental Working Group, a nonprofit that researches the ingredients in household and consumer products. "We estimate that 200 million Americans are exposed to PFAS in their drinking water right now."

Officials with the U.S. Geological Survey released a similar finding July 5 when they announced that the agency's researchers estimate more than 45% of U.S. tap water is contaminated with at least one PFAS chemical after they conducted a nationwide study of water samples.

As ubiquitous as PFAS are, the reason they haven't generated more outrage among the public may be that the damage from PFAS chemicals isn't immediate. They affect health over time, with repeated exposure.

"People aren't getting headaches or coughing from exposure to PFAS," Bennett said. "But they are getting cancer a few years down the line—and they don't understand why."

Some environmental health advocates, such as Arthur Bowman III, policy director at the Center for Environmental Health, say the EPA's data collection project could help. "It will be fairly straightforward for the EPA to gather PFAS information on cleaning products and other wet chemicals that contain PFAS," Bowman said. "And this will lead to phaseouts of PFAS."

Some retailers, such as Dick's Sporting Goods and REI, have recently announced plans to remove the chemicals from many of their products.

But Bowman said it will be more difficult for manufacturers to remove PFAS used in the production of semiconductor chips and printed circuit boards, since alternative products are still in the research phase.

The Semiconductor Industry Association has asked the EPA for an exemption to the proposed reporting requirements because, it maintains, semiconductor manufacturing is so complex that it would be "impossible, even with an unlimited amount of time and resources, to discern the presence (if any) of PFAS in such articles." Other industries have also asked for waivers.

The American Chemistry Council, which represents large PFAS manufacturers such as 3M, disagrees with those calling for the entire class of PFAS chemicals to be banned. "Individual chemistries have their own unique properties and uses, as well as environmental and health profiles," said Tom Flanagan, a spokesperson for the trade group.

While the council's member companies "support strong, science-based regulations of PFAS chemistries that are protective of human health and the environment," Flanagan said, the rules shouldn't harm economic growth "or hamper businesses and consumers from accessing the products they need."

For their part, some environmental advocates welcome the reporting proposal, expecting it to reveal new and surprising uses of PFAS. "However, it's going to be a snapshot," said Sonya Lunder, the senior toxics policy adviser for the Sierra Club.

Lunder said even if PFAS were found in, for example, brands of baby bibs, pesticide containers, or pet food bags, it isn't clear which federal agency would regulate the products. She said Americans should demand that Congress add PFAS and other harmful chemicals to all major environmental statutes for water, air, food, and [consumer products](#).

And another worry: If the data does make it into the mainstream, will consumers simply tune it out—just as many do with California's multitudinous cancer warning signs? Lunder doesn't think so, since "the

audience is scientists, regulators, and—for better or for worse—tort attorneys."

Benesh, of the Environmental Working Group, said the disclosures could reach further and "embolden consumers to demand even more market change."

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