

## PFAS News for The New Year

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As 2026 gets underway, the PFAS regulatory landscape remains active at both the federal and state levels. Recent developments related to the scope of PFAS liability, PFAS reporting, and water quality regulation are poised to shape compliance strategies and risk allocation for the year ahead. The updates below highlight key areas to watch this year.

### CONGRESS WEIGHS CERCLA RELIEF FOR “PASSIVE RECEIVERS”

Congress continues to explore how to address PFAS liability for entities that receive PFAS inadvertently through normal operations—such as drinking water and wastewater systems, landfills, and certain waste handlers—following [EPA’s 2024 designation of PFOA and PFOS as hazardous substances under CERCLA](#). On December 18, the House Energy & Commerce Environment Subcommittee held a hearing, “[Examining the Impact of EPA’s CERCLA Designation for Two PFAS Chemistries and Potential Policy Responses to Superfund Liability Concerns](#).” During the hearing, the committee reviewed the impact of designating PFOA and PFOS as hazardous substances under CERCLA and “potential policy responses,” amid bipartisan concern that CERCLA’s strict, joint and several liability could unfairly affect passive receivers despite EPA’s [2024 enforcement discretion policy](#). EPA Administrator Lee Zeldin has renewed calls for Congress to provide statutory waivers for water utilities, landfills, and other passive receivers, while lawmakers in both chambers have floated looking to the 2002 Brownfields amendments to CERCLA as a model for a more durable solution. The 2002 amendments created statutory defenses and expanded liability protections for certain classes of landowners, including bona fide prospective purchasers, contiguous property owners, and innocent landowners. Applied to PFAS, some believe the Brownfields model could preserve the “polluter pays” principle of CERCLA while offering predictable, nationally-consistent pathways for passive receivers to obtain liability protection.

Bipartisan legislation to shield water and wastewater utilities from CERCLA liability has been reintroduced in the House ([H.R. 1267](#)), though the fate of the legislation remains uncertain. Environmental advocates caution that the “polluter pays” principle should be preserved, and that broad exemptions to CERCLA liability could shift cleanup costs to communities and undercut accountability for those causing or contributing to PFAS contamination. On the other hand, industry and public utility stakeholders argue that entities that neither manufactured nor intentionally used PFAS should not face CERCLA contribution or cost-recovery exposure. These tensions will drive the debate over whether Congress should enact categorical protections, rely on EPA’s 2024 enforcement discretion policy under CERCLA for matters involving PFAS, or craft a hybrid approach that borrows from the 2002 Brownfields amendments.

## TSCA: EARLY-YEAR DEVELOPMENTS AND PFAS REPORTING REMINDER

EPA's one-time PFAS reporting rule under TSCA Section 8(a)(7) requires any person that manufactured or imported PFAS for commercial purposes at any point from 2011 through 2022 to submit a report to EPA covering uses, production volumes, disposal, exposures, and hazards. The 2023 PFAS reporting rule applied broadly, without exemptions or reporting thresholds, and it is triggered even where a manufacturer or importer was unaware of PFAS presence at the time. As we [reported previously](#), in November 2025, EPA issued a proposed rule that introduced categorical exemptions from the 2023 PFAS reporting requirements and revised the reporting timeline. The comment period on the proposed rule closed on December 29, 2025.

Environmental groups and a coalition of 15 state attorneys general have signaled potential litigation challenging EPA's November 2025 proposed rule, arguing the proposed rollbacks are unlawful under the 2020 National Defense Authorization Act mandate, as codified in TSCA Section 8(a)(7), requiring the rule and are arbitrary and capricious. This looming challenge signals continued uncertainty and possible further schedule or scope changes to the reporting requirements as the rulemaking progresses. For now, stakeholders should continue preparing to comply with the one-time reporting obligation as adopted while monitoring the rulemaking docket.

## PROPOSAL FOR REGULATING PFAS UNDER THE CLEAN WATER ACT

Some lawmakers and environmental groups are also pushing for increased regulation of PFAS under the Clean Water Act. For example, on December 11, 2025, [H.R. 6668](#)—the Clean Water Standards for PFAS Act of 2025—was reintroduced to direct the EPA to establish human health water quality criteria for detectable PFAS and set effluent limitation guidelines (ELGs) for priority industry sectors on specified timelines. ELGs are technology-based standards that set the maximum levels of pollutants that industrial categories may discharge, which are implemented through National Pollutant Discharge Elimination System (NPDES) permits issued to facilities in those sectors. Specifically, the bill calls for establishing ELGs for the organic chemicals, plastics, and synthetic fibers and electroplating and metal finishing industry categories by September 30, 2026, followed by ELGs for textile mills and landfills by September 30, 2027. The bill further requires PFAS discharge monitoring and adoption of Method 1633A for PFAS monitoring, which detects 40 PFAS compounds in wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate, and fish tissue. Meanwhile, at the state level, environmental groups have called on states to more strictly regulate PFAS through site-specific NPDES permits by including expanded PFAS monitoring requirements and PFAS discharge limits within permit conditions.

## PFAS IN PRODUCTS

In recent years, states have been active in introducing and passing legislation restricting the use of PFAS in consumer products ranging from cosmetics to cookware. While certain laws outright ban intentionally added PFAS, others are focused on labeling requirements. This patchwork of state laws continues to evolve. Most recently, in January 2025, New Jersey finalized the [“Protection Against Forever Chemicals Act,”](#) which prohibits intentionally added PFAS in cosmetics, carpet and fabric treatments, and food packaging, and also requires manufacturers of cookware to comply with PFAS labeling requirements. In 2026, companies should continue to track this expanding category of state laws.

## CONCLUSION

Taken together, early-year PFAS developments point to a year of active, but uncertain, regulatory movement. From congressional debates over CERCLA protections for passive receivers to restricting PFAS in consumer products, stakeholders face a year of heightened scrutiny and potential rulemaking acceleration. These developments underscore the need for proactive planning. Organizations should prioritize integrated PFAS strategies that align monitoring, reporting, and contractual risk allocation with emerging regulatory timelines to stay ahead in a rapidly shifting landscape.

For further information or questions about PFAS developments, please contact your Winston & Strawn relationship attorney or the authors of this post.

*We note that governmental actions on the federal, state, and local level involving PFAS are changing every day, and the information contained herein is accurate only as of the date set forth above.*

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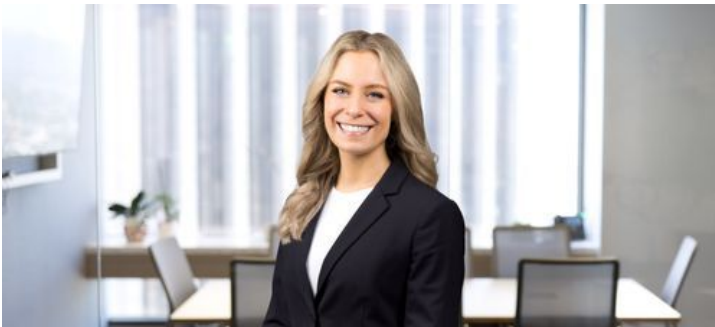
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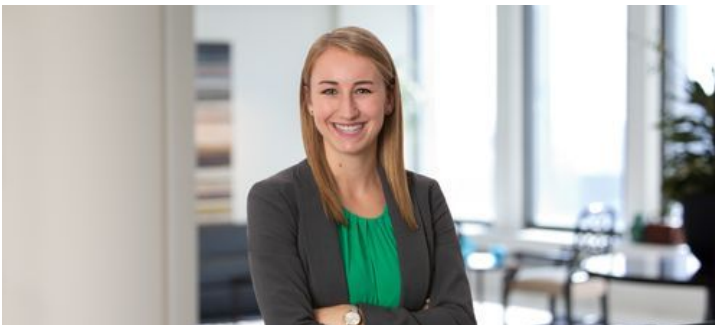
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