



Community Groups Step Up Push On EPA To Regulate PFAS Under RCRA

January 15, 2020

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Community groups are petitioning EPA to list dozens of per- and polyfluoroalkyl substances (PFAS) as “hazardous wastes” under the Resource Conservation and Recovery Act (RCRA), the second such effort in the past few months aimed at subjecting materials containing the chemicals to the law’s strict cradle-to-grave regulatory system.

The University of California-Berkeley Environmental Law Clinic [filed a petition](#) Jan. 15 to EPA Administrator Andrew Wheeler, pressing the agency to list both long-chain and short-chain PFAS as hazardous waste under RCRA, saying such regulation is “long overdue” as some PFAS has been used for nearly 70 years and EPA has known of serious health and environmental risks for several of the chemicals since the late 1990s.

“Management and disposal of waste PFAS is one area in which the need for federal PFAS regulation is particularly acute,” the petition says. “The need for RCRA regulation of PFAS wastes is urgent,” it adds.

The petition was filed on behalf of Green Science Policy Institute, a scientific watchdog group, and community groups in North Carolina, Michigan and other states concerned about PFAS exposures.

Such a listing would subject the chemicals to cradle-to-grave waste management, including strict storage, transfer and disposal requirements, the groups say in a press release.

It would also automatically designate the chemicals as “hazardous substances” under the Superfund law, triggering cleanup liability for responsible parties to address contamination. While EPA is preparing to advance an administrative process for such a listing, the agency is also under pressure from lawmakers to quickly complete such a process.

EPA has done little to try to address the environmental and health risks or to regulate these chemicals, and currently wastes stemming from industrial processes using these chemicals are released into the environment, the petition says. While the agency has promulgated significant new use rules (SNURs) for several hundred long-chain PFAS under the Toxic Substances Control Act (TSCA), the petitioners note these “are preventative regulations that are confined to restricting future manufacturing and importation.

“Because SNURs do not directly regulate past or present environmental releases, or contamination and public exposure therefrom, they fail to address substantial sources of PFAS risk.” They contend that “Human exposure to improperly managed and disposed PFAS chemicals poses an urgent public health crisis that EPA’s existing regulations and nonregulatory actions are inadequate to meet.”

EPA did not immediately respond by press time but [the agency is grappling](#) with how to address a host of questions about disposal of PFAS-containing material. Barnes Johnson, director of EPA’s Office of Resource Conservation and Recovery, said last year his office is getting many questions about the treatment efficacy and methods for ensuring the long-term destruction or sequestration of PFAS, “and frankly we don’t really have great answers right now.”

But the petitioners say an EPA listing is still crucial. “RCRA listing is a two-fer,” says Claudia Polsky, the law clinic’s director, in a Jan. 15 press release. “It will ensure safer management of PFAS wastes, and will make it

easier to hold polluters accountable for cleaning up PFAS-polluted sites."

She adds, "The science is plentiful, and the health harm is undeniable. It's time for the EPA to take prompt action."

The petition is narrower than an [earlier petition](#), filed last September by Public Employees for Environmental Responsibility (PEER), that had asked the agency to list PFAS generally as RCRA hazardous waste.

At press time, PEER had not received any response from EPA on its petition, according to PEER Executive Director Tim Whitehouse, who says such petitions are not governed by a statutorily-mandated timeline by which EPA must act.

Whitehouse says the group strongly supports the law clinic's petition, noting it is "another step in showing how EPA is failing to regulate this toxic material." He adds that in PEER's view, RCRA is the only way to regulate this and to halt the situation where the chemicals are recirculated in the environment. He believes people are starting to think about PFAS in terms cradle-to-grave management as a hazardous waste.

Short- And Long-Chain PFAS

The petition specifically asks EPA to issue regulations setting RCRA hazardous waste designations for wastes containing the two most studied PFAS -- the long-chain chemicals perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as well as the full subclass of each -- long-chain perfluoroalkyl carboxylates (LCPFACs) and long-chain perfluoroalkane sulfonates (LCPFASs), respectively.

It also asks for wastes containing GenX chemicals -- which are shorter-chain, next generation chemicals used to replace the longer-chain varieties -- to be designated as RCRA hazardous wastes.

The petition argues that EPA should regulate both wastes containing long-chain PFAS and GenX as hazardous waste under RCRA because they meet the criteria for two categories of RCRA wastes regulated under Subtitle C: toxicity characteristic wastes and toxic wastes.

It details "ample scientific evidence" showing that EPA should regulate these wastes as such, including a preliminary analysis of the 11 factors that are used to determine designating such materials as toxic wastes under RCRA.

While EPA has been considering designating PFOA and PFOS as "hazardous substances" under the Superfund law, it is unclear when that may occur or which statutory mechanism it would choose to pursue that listing, the petition says.

The petitioners also rely on EPA's SNUR regulations as a jumping-off point for regulating these under RCRA as a subclass. They note that, "Because RCRA authorizes EPA to regulate classes of substances, and EPA already regulates LCPFAC and LCPFASs as chemical subclasses under TSCA, EPA should likewise use a class approach to regulating these under Subtitle C of RCRA."

Regulating these two subclasses as groups "is critical to avoid repeating the history of health and environmental harms that have been created by substitution of new, unsafe PFAS chemicals when toxic ones are regulated."

The petitioners cite the risk of widespread environmental contamination and human exposure from PFAS, citing examples. For instance, carpet manufacturers in Dalton, GA, that used long-chain PFAS in their products disposed of the chemicals into a river that supplies water to neighboring communities. In addition, Massachusetts' environmental agency collected firefighting foams containing long-chain PFAS from fire departments throughout the state, and then shipped the waste to an incineration facility in Ohio that has a history of air permit violations, the petition says.

Further, the United States allows importing PFAS materials for disposal and incineration, it says, citing the action as "one of the most egregious consequences of the lack of regulation of PFAS wastes."

The petition points out that firefighting foams containing long-chain PFAS have been recalled by states and the federal government, in preparation for disposal. For instance, as of January 2019, the Defense Department (DOD) had reportedly collected more than 3 million gallons of such foam for disposal. As more users turn to PFAS-free foams, airports, chemical facilities and others will likely generate more such waste to be disposed of.

Without RCRA regulation of these wastes, the federal government and states have turned to incineration as the preferred disposal method, the petition says. "These ongoing disposal activities -- from direct releases into waterways to ineffective and potentially dangerous incineration -- point to the urgent need for regulation of wastes containing long-chain [PFAS] and GenX chemicals."

DOD, however, is now under new limits set by Congress in the fiscal year 2020 National Defense Authorization Act in December to require DOD or its contractors to conduct all incineration at a temperature range adequate to break down PFAS chemicals while also ensuring the maximum degree of reduction in emissions of PFAS and eliminating such emissions where achievable.

Additionally, all its incineration must be conducted in accordance with Clean Air Act requirements, including controlling hydrogen fluoride; any PFAS-containing materials designated for disposal must be stored in accordance with certain federal hazardous waste regulations; and all incineration must be conducted at a facility that has been permitted to receive hazardous waste under subtitle C of RCRA, the law says.

Environmental groups **are warning** DOD it must comply with the mandates now.

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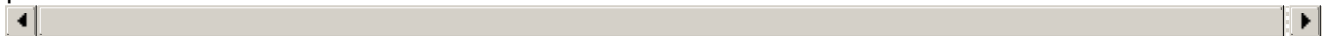
Newscast for Thursday, January 16, 2020, 8:04 a.m.

- [The Fountain Valley Clean Water Coalition has joined the Green Science Policy Institute, UC Berkeley, and other groups in petitioning the Environmental Protection Agency to regulate PFAS chemicals as hazardous waste.](#) The chemicals have been linked to certain cancers and other illnesses, and were detected above safe levels in drinking water in Security, Widefield, and Fountain in 2016, and more recently near the Air Force Academy. The petition calls on the EPA to change regulations to cover the full class of PFAS chemicals and establish standards for their management and disposal. It goes on to say the EPA has taken little action to mitigate the risks of PFAS, even though the chemicals have been detected at hundreds of sites across 43 states. Petitioners say the chemicals have been spread by atmospheric and oceanic currents in Alaska, through improper incineration in Ohio, and disposal into a river basin in North Carolina, among other ways...
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Groups calling to have PFAS listed as hazardous chemicals by the EPA

 ktuu.com/content/news/Groups-calling-to-have-PFAS-listed-as-hazardous-chemicals-by-the-EPA-

By Gilbert Cordova



ANCHORAGE (KTUU) - Alaska Community Action on Toxics, along with communities from the Lower 48, are petitioning the Environmental Protection Agency to regulate PFAS (per- and polyfluorinated chemicals) as hazardous wastes.

The petitions are asking to have PFAS chemicals categorized as hazardous wastes under the Resource Conservation and Recovery Act.

A press release from the Green Science Policy Institute states that despite hundreds of peer-reviewed scientific papers pointing to health harms, PFAS chemicals are not regulated by our nation's waste disposal laws.

"We live in one of the most remote and seemingly pristine places on the planet, yet our community-based research shows that our environment and people are contaminated with PFAS," said Vi Waghiyi with Alaska Community Action on Toxics, in the release. Waghiyi is from the community of Savoonga on St. Lawrence Island in the northern Bering Sea. "Why are our children born with birth defects and why are our people dying of cancer? We need to prevent these health disparities by stopping the contamination problems at their source so they don't continue to contaminate our northern communities."

Some common PFAS chemicals are found in firefighting foams, greaseproof food wrapping, non-stick cookware, and stain- and water- repellent carpets, textiles, and outdoor gear.

The Green Science Policy Institute says "listing under RCRA will subject the chemicals to strict storage, transfer, and disposal requirements. It would also result in the automatic designation of these chemicals as hazardous substances under the federal Superfund law, unlocking clean-up dollars to address contaminated sites."

Pam Miller, with Alaska Community Action on Toxics, says listing the chemicals as a hazardous material will help ensure communities affected by them will get help with cleanup.

"They're known as the Teflon chemicals, or the forever chemicals, because they just don't break down," Miller said.

There currently is no way to safely dispose of the chemicals, Miller says, short of storing them until such a process is developed.

"Right now they are virtually unregulated," Miller said. "Companies that manufacture them, or companies or the military that use them don't have any restrictions on their release into the environment, into our drinking water, and they have profound effects on human health."

According to the press release, until the chemicals are listed as hazardous under federal law communities affected will not receive the clean-up assistance and other help they need.

The Alaska Community Action on Toxics says the chemicals affect Native American traditional food sources such as caribou, fish, and marine mammals communities. As a result, communities that depend on the animals for their livelihood are left particularly vulnerable to harmful exposures.

[\[Related: FDA: Forever chemicals in food samples unlikely health risk\]](#)

This summer, Food and Drug Administration researchers said substantial levels of the worrisome class of nonstick, stain-resistant industrial compounds were found in some grocery store meats and seafood and in off-the-shelf chocolate cake.

Miller said she and her group are also planning to work with Alaska lawmakers to regulate the chemicals in the state of Alaska.

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Clean Cape Fear petitions EPA over PFAS like GenX

wwaytv3.com/2020/01/15/clean-cape-fear-petitions-epa-over-pfas-like-genx

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PM



New Hanover County National Black Leadership Caucus hosts GenX forum (Photo: Kirsten Gutierrez/WWAY)

WILMINGTON, NC (WWAY) — On Wednesday, Clean Cape Fear and several other groups joined the Green Science Policy Institute in petitioning the Environmental Protection Agency to regulate PFAS chemicals as hazardous wastes.

According to a news release, PFAS are currently untouched by federal waste disposal laws.

Listing PFAS as hazardous waste under the Resource Conservation and Recovery Act would ensure stricter storage, transfer and disposal requirements.

Polluters would be liable for cleaning up drinking water and the environment.

Bucks-Montco group joins nationwide petition to designate PFAS as hazardous waste

 [why.org/articles/bucks-montco-group-joins-nationwide-petition-to-designate-pfas-as-hazardous-waste](https://www.whyy.org/articles/bucks-montco-group-joins-nationwide-petition-to-designate-pfas-as-hazardous-waste)

Updated 1:41 p.m.

Thousands of residents from Bucks and Montgomery counties have joined communities across the country in a national petition demanding that the Environmental Protection Agency regulate a toxic class of chemicals known as PFAS.

The petition demands that the EPA list dozens of the chemicals as hazardous waste under the Resource Conservation and Recovery Act to ensure that they are subject to strict storage, transfer and disposal.

Bucks and Montgomery counties have been heavily exposed to the chemicals, which were present in firefighting foam used on former military air bases in Horsham and Warminster. PFAS contamination was detected in 2014 in water supplies serving more than 70,000 residents.

Although their impact on human health is still under investigation, the petition says that “exposure to certain PFAS has been associated with liver damage, high cholesterol, obesity, diabetes, cancer, thyroid disease, asthma, immune system dysfunction, reduced fertility, low birth weight, and effects on children’s cognitive and neurobehavioral development.”

“It’s a national crisis, and it’s a state of emergency, and we’re seeing PFAS everywhere ... in pizza boxes, in makeup, in tampons,” said Hope Grosse, cofounder of the Buxmont Coalition for Safer Water. Grosse grew up in Warminster near one of the air bases. She had cancer at 25, and her father died of cancer.

“We need to hold the polluters accountable, and we need these chemicals to stop being dumped in the environment by either businesses or the Department of Defense,” said Grosse, who has been fighting to regulate the chemicals for years.

PFAS are present in a variety of commercial and industrial products, including flame retardants, nonstick cookware, greaseproof food wrapping, and waterproof textiles. Because they don’t break down, the chemicals, if not contained, eventually leach into soil and groundwater, contaminating drinking water supplies.

“We know that when PFAS is disposed of in a traditional municipal landfill, that it leaks in the waterways. That’s been proven throughout the country. So that’s why it needs to be regulated as hazardous so it’s in landfills where it won’t leak back into the water,” said Tim

Whitehouse, executive director of Public Employees for Environmental Responsibility and a former senior attorney at the EPA, where he worked in enforcement of the Clean Water Act and on hazardous-waste compliance issues for 10 years.

The petition is an initiative of the [Green Science Policy Institute](#), a nonprofit scientific organization based in Berkeley, California, and it includes grassroots organizations representing communities affected by PFAS contamination in the Arctic, North Carolina, Michigan, Colorado and the Philadelphia region.

“The U.S. EPA has been very slow to set any sort of national standards — we don’t have mandatory standards for PFAS in drinking water and, the subject of our petition, we’re not actually managing all of these PFAS waste as if they are actually hazardous, which they are,” said Claudia Polsky, director of the Environmental Law Clinic at the University of California, Berkeley, which is representing the petitioners.

On Thursday, Molly Block, a representative from the EPA, said in an email that the agency has not yet received the petition. Block added that although PFAS are not defined as a hazardous waste federally, “states may be more stringent/broader-in-scope in their authorized hazardous waste programs.”

“Over the next year, as required under the National Defense Authorization Act for Fiscal Year 2020, EPA will be issuing interim guidance on the destruction and disposal of PFAS and materials containing PFAS substances,” Block said.

On Friday, the U.S. House of Representatives passed, with some bipartisan support, a bill calling for regulation of some PFAS chemicals. But President Donald Trump has said he will veto the measure should it pass the Senate.

Polsky said the “forever chemicals” (as PFAS have been called because of their persistence) listed in the petition meet all the criteria set by the EPA for them to be regulated as hazardous. Listing the chemicals under the Resource Conservation and Recovery Act would automatically designate them as hazardous substances under the Superfund law, making polluters liable for cleaning up drinking water and the environment.

“If we dump PFAS in unlined landfills, if we incinerate PFAS and they’re not well combusted and they end up on land and draining to surface water, all of those things are going to come back in the tap,” Polsky said.

Although the citizen petition doesn’t give the EPA a specific time frame in which to grant or deny its demand, Polsky said a separate law, the Administrative Procedure Act, could allow the petitioners to take the agency to court seeking a decision.

“Declaring PFAS a hazardous substance allows us to hold PFAS polluters accountable and releases money for its cleanup,” said Joanne Stanton, co-founder of the Buxmont Coalition for Safer Water. “Locally, we still have contamination in the environment with uncontained PFAS plumes at the site of both bases that threaten clean drinking water sources and private well owners,”

Grosse said joining a national coalition will allow their community to share information, gain knowledge, and raise awareness of the issue.

“I don’t believe that a small community can fight this alone,” she said. “We’re not going to change the past, but we can change the future.”