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In this edition of GableGotwals' *PFAS Pulse*, we track the latest developments in per- and polyfluoroalkyl substances ("PFAS") regulation and litigation. Key developments include:

- **EPA announces rollback of portions of PFAS drinking water standards and extends compliance deadlines to 2031.**
- **Toxic Substances Control Act ("TSCA") reporting for manufacturers/importers delayed to 2026-27.**
- **Litigation challenging PFAS regulations heats up under Trump Administration following Supreme Court limits on agency authority.**
- **New Jersey secures record $2B PFAS settlement, setting precedent for state enforcement and damages.**
- **EPA's latest PFAS occurrence data shows significant detection rates and co-occurrence in public water systems.**

By way of background, PFAS are a broad class of synthetic compounds defined by the exceptionally strong carbon-fluorine bond, which imparts heat resistance and surfactant properties that repel water, oil, and grease. These same qualities make PFAS persistent, highly mobile in soil and groundwater, and in some cases bioaccumulative and toxic, earning them the nickname "forever chemicals." After more than a decade of groundwork, in 2024, EPA's PFAS program marked a milestone by designating PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA" or "Superfund") and adopting national drinking water standards for six PFAS under the Safe Drinking Water Act ("SDWA").

In 2025, PFAS regulation remains a focus under the current Trump Administration and Administrator Zeldin's EPA, however, regulatory momentum has slowed: SDWA compliance deadlines have been extended, several SDWA standards are slated for rescission, Toxic Substances Control Act ("TSCA") reporting deadlines have been pushed back, and a new technical-assistance program has been announced to assist public water systems with addressing PFAS issues. Meanwhile, litigation over EPA's SDWA and CERCLA PFAS rules unfolds in a post-*Loper Bright* landscape requiring clear congressional authority for major regulatory actions. While federal enforcement slows, states are ramping up pressure. New Jersey recently secured a record $2 billion settlement from PFAS manufacturers for state contamination. For clients, these developments highlight the importance of proactive PFAS risk identification and management across real estate portfolios, supply chains, manufacturing operations, product formulation, and waste management practices.

GableGotwals' Environmental and Natural Resources team continues to partner with clients to anticipate regulatory shifts, evaluate compliance exposure, and develop legally sound, business-aligned strategies to ensure operational continuity while managing PFAS-related risks.

EPA Announces Partial Rollback of PFAS Drinking Water Standards

On May 14, 2025, EPA announced upcoming revisions to the National Primary Drinking Water Standards for PFAS under the SDWA. EPA stated it will retain the current maximum contaminant levels ("MCLs") of four parts per trillion ("ppt") for PFOA and PFOS but will extend the compliance deadline from 2029 to 2031. EPA also stated it will rescind the existing MCLs for PFHxS, PFNA, and HFPO-DA ("GenX"), as well as the Hazard Index ("HI") for mixtures of those compounds with PFBS, and will reevaluate the regulatory determinations underpinning those standards. EPA plans to issue a proposal

for these changes in Fall of 2025 and finalize them by Spring of 2026. This shift in position is consistent with EPA's revised strategy in ongoing litigation challenging the rule*, see below* for litigation discussion. Note, these changes are pending formal rulemaking, and until EPA adopts a final rule, the original 2029 deadline under the 2024 rule remains effective.

TSCA PFAS Reporting Delayed Again

On May 13, 2025, EPA published an interim final rule (effective May 13, 2025) again revising the reporting timeline for manufacturers and importers of PFAS under Section 8(a)(7) of the Toxic Substances Control Act ("TSCA"). The new timeline delays the start of the data submission period to April 13, 2026, and the end date to October 13, 2026, with an extended deadline of April 13, 2027, for small manufacturers reporting exclusively as article importers. The underlying rule, finalized in October 2023, requires manufacturers (including importers) of PFAS in any year between 2011 and 2022 to submit specified data on volumes, exposure, environmental impacts, and health effects. EPA determined the delay is necessary to allow time for development of the reporting system and to complete review of public comments on possible substantive amendments to the rule. This adjustment provides EPA an opportunity to finalize any such modifications before the reporting window opens.

Litigation Challenging SDWA and CERCLA PFAS Regs: New EPA Strategy Post-*Loper Bright*

On July 22, 2025, the D.C. Circuit granted EPA's motion to lift the stay in *American Water Works Ass'n v. EPA*, the consolidated challenge to EPA's April 2024 SDWA National Primary Drinking Water Regulation for PFAS. That rule established MCLs for PFOA and PFOS individually and for PFHxS, PFNA, HFPO-DA (GenX), and certain mixtures collectively. The District of Columbia and 17 states filed an amicus brief supporting EPA, asserting that the standards comport with the SDWA's health mandate and were lawfully promulgated. Petitioners, including major industry, manufacturing, and chemical trade groups, argue that EPA lacked statutory authority to adopt the PFAS MCLs and that its cost-benefit analysis was deficient, positions consistent with the Trump Administration's narrower view of agency power. After obtaining multiple stays earlier in 2025 to review the rule, EPA announced in May it would retain the PFOA and PFOS MCLs but rescind standards for PFHxS, PFNA, GenX, and the hazard index for mixtures, positioning the Agency to defend a narrowed rule in the litigation. The parties have agreed to a September 10 deadline for EPA to declare its litigation posture and a September 17 deadline for proposing a revised briefing schedule.

By contrast, litigation over EPA's May 2024 designation of PFOA and PFOS as "hazardous substances" under CERCLA in *Chamber of Commerce, et al. v. EPA* remains stayed through August 18, 2025, while EPA continues its rule review "within the broader context of EPA's comprehensive strategy to address PFOA and PFOS." The petitioners, led by the U.S. Chamber of Commerce, contend that EPA exceeded its statutory authority in adopting the designation. Both the SDWA and CERCLA PFAS rules now face heightened judicial scrutiny in light of recent Supreme Court precedents, including *Loper Bright v. Raimondo* (2024) and *West Virginia v. EPA* (2022), which curtail judicial deference to agency interpretations and limit agency action on matters of "major economic and political significance" absent express congressional authorization. These cases sit at the intersection of evolving PFAS policy and a shifting administrative law landscape.

Historic $2 Billion PFAS Settlement in New Jersey

In a record-setting environmental enforcement action, the State of New Jersey announced on August 4, 2025, a proposed settlement of up to $2 billion with DuPont, Chemours, and Corteva. This represents the largest environmental recovery ever secured by a U.S. state. The agreement resolves decades of alleged PFAS contamination tied to manufacturing operations across the state and establishes a long-term framework for both compensation and remediation. Under the deal, the companies will pay $875 million in damages over 25 years, apportioned among Chemours (50%), DuPont (35.5%), and Corteva (14.5%). In parallel, the settlement creates a $1.2 billion cleanup fund

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to address four heavily contaminated DuPont industrial sites: Chamber Works, Parlin, Pompton Lakes Works, and Repauno. It also earmarks $125 million in damages for natural resource injuries. Notably, DuPont will also acquire $150 million in insurance rights from Chemours to cover PFAS liabilities.

The settlement structure reflects a deliberate blend of financial security and enforcement leverage. A $475 million reserve fund is included to safeguard cleanup obligations if any party defaults or faces insolvency, ensuring that remediation does not stall. While the companies do not admit liability, the agreement's scale and explicit site-specific commitments underscore the state's aggressive posture on legacy PFAS pollution. The proposal now moves to a public comment period beginning in September, followed by court review, a procedural step that will formalize one of the most consequential state-level environmental settlements in U.S. history.

The New Jersey PFAS settlement marks a watershed moment in environmental enforcement, setting a high financial and legal precedent that will likely reverberate across other states grappling with similar legacy contamination. The sheer scale of nearly $2 billion in combined damages and cleanup funding underscores increasing state willingness to hold chemical manufacturers accountable for long-term PFAS harms, signaling aggressive, multi-decade remediation frameworks and substantial monetary recoveries are attainable. The detailed apportionment among Chemours, DuPont, and Corteva also illustrates nuanced liability allocation that other jurisdictions may adopt or challenge. Moreover, the inclusion of insurance rights transfers reflects sophisticated risk management strategies that states and defendants might negotiate moving forward. Collectively, this settlement sets a benchmark not only in financial terms but also in the scope and structure of remediation efforts, likely encouraging more states to pursue comprehensive PFAS litigation and settlements while shaping corporate approaches to legacy chemical liabilities nationwide.

Fifth Unregulated Contaminant Monitoring Rule PFAS Data Released:

In July 2025, EPA released the ninth dataset under the Fifth Unregulated Contaminant Monitoring Rule ("UCMR 5") covering 29 PFAS and lithium in public water systems ("PWSs") nationwide. Required by the SDWA every five years, UCMR monitoring collects occurrence data for unregulated contaminants to inform potential future regulations. UCMR 5, published in December 2021, has gathered sampling data since January 2023 from a nationally representative dataset from large, medium, and small PWSs. The current data release represents 83% of expected results and provides a detailed snapshot of contaminant prevalence in drinking water while comparing results to the enforceable Maximum Contaminant Levels ("MCLs") established in EPA's April 2024 PFAS drinking water rule.

Based on the partial results, an estimated 8.5% of PWSs have average concentrations above at least one PFAS MCL, with exceedance rates highest for large systems. PFOS and PFOA are the most frequent MCL exceedances, while other regulated PFAS, including HFPO-DA ("GenX"), PFHxS, and PFNA, exceed standards less often. The data also reveals PFAS co-occurrence, with 66% of locations that report at least one PFAS at or above the UCMR 5 minimum reporting level also showing multiple PFAS at or above those levels. Lithium results are also notable, with 27.1% of small PWSs (serving 10,000 or fewer people) and 23.9% of large PWSs (greater than 10,000) above EPA's non-regulatory health reference level.

As discussed above, these findings arrive as EPA moves to extend the PFOA and PFOS compliance deadlines and rescind certain PFAS standards as part of the partial rollback of the April 2024 rule. While UCMR 5 data cannot alone determine compliance, utilities may use it to meet initial monitoring requirements, and the results are already shaping public health discussion and state enforcement strategies, *see* New Jersey's $2B PFAS settlement, *discussed above*. With significant detection rates and regulatory requirements in flux, the UCMR 5 data offers an early but critical tool for shaping regulatory determinations, funding priorities, and risk management strategies.

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Conclusion

As PFAS regulation and litigation continue to evolve amidst shifting federal policies and heightened judicial scrutiny, stakeholders must remain vigilant in monitoring these developments. The New Jersey settlement's unprecedented scale and strategic design signal a new era of aggressive state-level enforcement and innovative risk management, underscoring how proactive, comprehensive PFAS risk assessment and mitigation are essential for navigating the complex legal and regulatory landscape ahead. The UCMR 5 data demonstrates the prevalence of certain PFAS in public water systems nationwide and signals that PFAS will continue to be a priority for drinking water regulation. For clients, aligning business operations with emerging PFAS standards and enforcement trends is critical for managing liability, ensuring compliance, and safeguarding long-term operational sustainability.

Thank you for reading this edition of PFAS Pulse. Feel free to reach out to GableGotwals' Environmental and Natural Resources team with any questions.

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