



Memorandum

Solid Waste Subcommittee

Lucas Joseph, Assistant General Counsel

May 23, 2025

Latest PFAS Updates

The National Mining Association (NMA) continues to monitor and engage on the many regulatory matters involving per- and polyfluoroalkyl substances (PFAS). Below are several updates, including recent NMA advocacy efforts and an important PFAS action item list announced by U.S. Environmental Protection Agency (EPA) Administrator Lee Zeldin.

PFAS Policy Recommendations Coalition Letter

The NMA participated in a U.S. Chamber of Commerce [letter](#) to EPA Administrator Zeldin urging consideration of various principles and policy recommendations relating to PFAS. These principles include: (1) recognizing that PFAS are a broad class of chemistries with very diverse and necessary properties; (2) accelerating the cleanup of PFAS in the environment using non-CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) authorities; (3) maintaining access to essential chemistries in critical sectors across the economy; (4) collaborating across the federal interagency community and the agency to ensure consistent regulatory action; and (5) establishing regular engagement with the business community.

The letter also expressed the need for immediate PFAS regulatory actions. These include: (1) propose and finalize a new rule that withdraws the Biden Administration's decision to designate perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as hazardous substances under CERCLA; (2) propose and finalize a new rule that would implement

traditional Toxic Control Substance Act (TSCA) exemptions (e.g., *de minimis*, articles, impurities, research and development) for the TSCA PFAS Reporting and Recordkeeping Requirements Final Rule; (3) propose and finalize a new rule that re-instates traditional Toxic Release Inventory (TRI) exemptions (e.g., *de minimis*); (4) withdraw action and reopen stakeholder engagement on EPA's RCRA Hazardous Constituent Listing proposed rulemaking; and (5) support EPA policies and legislation proposing a U.S. government-wide PFAS definition based on the Delaware and West Virginia laws. In addition, the letter highlights the endless liability designations slowing PFAS cleanup and substantially costing potentially responsible parties.

The NMA continues to track all EPA responses to these principles and policy recommendations due to their potential impact on the mining industry. See NMA's PFAS [tracking document](#) detailing the PFAS regulations that the NMA has engaged on or tracked for members over the last several years, and NMA's March 25, 2025, [memorandum](#) for additional information on this document.

EPA Announces Actions to Combat PFAS Contamination

On April 28, 2025, EPA Administrator Zeldin [announced](#) a long list of actions to address PFAS contamination from all of EPA's program offices. Guided by several principles such as strengthening the science, fulfilling statutory obligations, enhancing communication, and building partnerships, EPA will provide the foundation and investment necessary for a toolbox for states and communities dealing with PFAS contamination. Zeldin notes that "this is just a start of the work we will do on PFAS" expecting more actions to come during the Trump Administration. Zeldin also stated that he has "long been concerned about PFAS and the efforts to help states and communities dealing with legacy contamination."

Outlined below are a few of the EPA actions from this announcement that the NMA has monitored or developed ongoing advocacy efforts for. The NMA will inform you as EPA pursues this PFAS agenda.

TSCA Section 8(a)(7) Reporting Rulemaking

- EPA Action: Implement TSCA section 8(a)(7) rulemaking to collect necessary information, as Congress envisioned and consistent with

TSCA, without overburdening small businesses and article importers.

- NMA Action: Successful advocacy for a nine-month extension of the reporting timeline, which now starts April 13, 2026. See a recent NMA [memorandum](#) detailing this extension. We also continue to advocate that EPA propose a new rulemaking where traditional TSCA exemptions are implemented (e.g., *de minimis*, articles, impurities, research and development). See a Sept. 9, 2024, NMA [memorandum](#) for more information on this rule and links to prior engagement.
- Related Action: May 2, 2025, a coalition of chemical companies submitted a TSCA Section 21 [petition](#) seeking the typical TSCA 8(a) reporting exemptions (same as mentioned above) that apply in other TSCA Section 8(a) reporting rules.

PFAS CERCLA Hazardous Designation for PFOA and PFOS

- EPA Action: Work with Congress and industry to establish a clear liability framework that operates on a polluter pays framework that protects passive receivers. Zeldin's announcement stopped short of explicitly signaling a reconsideration rulemaking, but he did say EPA would "provid[e] certainty for passive receivers."
- NMA Action: The NMA supports the position that CERCLA is the wrong tool to regulate PFAS and our advocacy remains to withdraw EPA designation of PFOA and PFOS as a CERCLA hazardous substance. See a May 2, 2024, NMA [memorandum](#) discussing the final rule and our support of coalition comments opposing the proposed rulemaking. These designations could impact mining companies that manage Superfund sites with these two forms of PFAS present, reopening sites for further remediation.
- Related Action: Senators Shelley Moore Capito (R-W.Va.) and Sheldon Whitehouse (D-R.I.), the chair and ranking member of the Senate Environment and Public Works Committee, have for the past few months been gathering information on possible improvements to CERCLA, with potential legislation providing Superfund liability relief to passive receivers of PFAS contamination.

- Litigation Update: On April 25, 2025, EPA [requested a 30-day extension](#) from the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to keep the case in abeyance to allow the agency to conclude its review of the final rule and decide its position on how to proceed in this litigation. The Court granted the unopposed motion on April 30, pausing the case until May 30, 2025, when parties must file motions to guide further proceedings. If upheld, and as noted above, their designation may impact previously remediated Superfund and reclamation sites that your company may operate.

PFAS Under the Resource Conservation and Recovery Act (RCRA)

- EPA Action: Determine how to better use RCRA to address PFAS contamination.
- NMA Action: Last year, the NMA joined a broad industry coalition in filing [comments](#) on EPA's "Listing of Specific PFAS as Hazardous Constituents" [proposed rule](#). Our comments, among other things, supported safe PFAS management but opposed EPA's proposed Appendix VIII listings, citing vague criteria, insufficient scientific and economic justification, and the potential for broad, burdensome cradle-to-grave regulations. The NMA still advocates for the proposed rule's withdrawal and reopening for stakeholder engagement. See a Feb. 23, 2024, NMA [memorandum](#) for more information on this issue.

PFAS Destruction and Disposal Guidance

- EPA Action: Provide annual updates on the [PFAS Destruction and Disposal Guidance](#) for PFAS instead of the previous three-year timeline.
- NMA Action: Last year, the NMA joined coalition [comments](#) on this guidance, which represents the most current and effective methods to remediate, dispose of, and destroy PFAS contamination. The coalition welcomed EPA's update to the Interim Guidance and urged the agency to finalize it with regular updates, while recommending clearer PFAS distinctions, broader stakeholder engagement, scientifically grounded evaluation of thermal technologies, flexible disposal options, standardized state approaches, and a comprehensive toolbox to

ensure effective PFAS management and disposal. See an Oct. 16, 2024, NMA [memorandum](#) for more details on this guidance.

PFAS National Primary Drinking Water Regulation

- EPA Action: Address drinking water system challenges related to national primary drinking water regulations for certain PFAS. Additionally, on May 14, 2025, EPA [announced](#) it will keep the current [National Primary Drinking Water Regulations](#) for PFOA and PFOS, and reconsider regulatory determinations for PFHxS, PFNA, HFPO-DA and PFBS. EPA will also extend its compliance deadline for PFOA and PFOS from 2029 to 2031.
- NMA Action: Last year, the NMA joined [coalition comments](#) highlighting the legal and practical issues with this rule, particularly its impact on community water systems or non-transient, noncommunity water systems, which some mining companies operate. Our comments argued that EPA underestimated costs, ignored water volume variations, and relied on an outdated study with insufficient economic analysis on these water systems. See an April 24, 2024, NMA [memorandum](#) for additional information on our comments and this regulation.

PFAS Toxic Release Inventory (TRI)

- EPA Action: Continue to add PFAS to the TRI in line with Congressional direction. Separate but related, EPA has not yet released the 2023 TRI National Analysis, which is usually made public in February or March.
- NMA Action: The NMA will continue to monitor EPA's actions related to the addition of new PFAS to the program's reporting list. We will also inform members when EPA releases the 2023 TRI National Analysis. See a Jan 7, 2025, NMA [memorandum](#) for the last action EPA took to add PFAS to the list of chemicals covered under the TRI program.

This announcement is the first of several decisions and actions EPA plans to take to address PFAS over the course of the Trump administration. EPA plans to appoint an agency lead for PFAS to better align and manage efforts

across its programs, with more initiatives to come that will support communities impacted by PFAS contamination. The NMA will continue to monitor and work with coalition partners on future EPA and congressional actions.

NMA Signs Coalition Letter on Human Health Criteria for PFAS

On April 29, 2025, the NMA joined the Chamber of Commerce and several other trades in submitting [comments](#) on EPA's draft human health criteria for PFOA, PFOS, and PFBS. While national human health ambient water quality criteria are not regulations and do not impose legally binding requirements, many states and Tribes use EPA's recommendations to establish their own enforceable water quality standards. More information, including a [fact sheet](#) and detailed documents explaining the mathematical equations used to develop the draft values, is available [here](#).

The letter outlined three main issues with EPA's draft human health criteria. First, the proposed criteria and impact on human health are based on flawed science. Second, using the hazard index approach is inappropriate for the Clean Water Act (CWA). Third, the draft criteria set unmeasurable and unattainable criteria contrary to the CWA and its goals.

Next Steps

Please contact me at ljoseph@nma.org if you have any questions about any of the PFAS-related matters the NMA continues to track on behalf of the mining industry. In addition, if you have any additional PFAS resources that your company uses to manage regulatory obligations regarding PFAS, feel free to share, and we can distribute them to the Solid Waste Subcommittee.