Canada concludes PFAS “forever chemicals" are toxic: What you need to know

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On March 5, 2025, Canada published a Final State of PFAS Report finding that the entire class of per- and polyfluoroalkyl substances (PFAS), excluding fluoropolymers (a subset of PFAS with lower exposure risks) meet one or more criteria for designation as toxic substances under the *Canadian Environmental Protection Act, 1999* (CEPA), and signalling that tighter regulations for these “forever chemicals” are on the horizon.

In September 2023, we reported on various steps being taken by the federal government towards regulating PFAS. These steps included the government’s Draft State of PFAS Report published in May 2023, where it first proposed regulating the entire class of PFAS as toxic substances.

In an Updated Draft State of PFAS Report published in July 2024, the federal government proposed to exclude fluoropolymers from this class-based approach. Fluoropolymers are a group of PFAS used in a wide variety of applications, including in coatings for products such as clothing, furniture, non-stick cookware, and food packaging, as well as for various industrial and mechanical applications such as polytetrafluoroethylene (PTFE) coatings, wire insulation, packaging for lithium batteries, microelectronics, and semiconductors. The exclusion follows a significant push from various industries and stakeholders highlighting differences in exposure and hazard profiles for fluoropolymers as opposed to other types of PFAS.

On March 5, 2025, the federal government published the Final State of PFAS Report in which it adopted the proposed conclusion of the July 2024 Report. Following the finding that the entire class of PFAS (excluding fluoropolymers) are toxic, the Ministers of Health and of Environment and Climate Change have recommended that the entire class of PFAS, excluding fluoropolymers, be added to Part 2 of the List of Toxic Substances found in Schedule 1 to CEPA. Adding PFAS to the List of Toxic Substances will enable the government to introduce risk management measures such as regulations to address the perceived risks of PFAS to human health and the environment.

Coinciding with this designation, the federal government announced its proposed risk management approach, which could result in new, and stricter, regulations **as early as 2025**, affecting businesses operating in Canada. Proposed regulatory measures include new reporting requirements to the National Pollutant Release Inventory and phased

prohibitions of the use of PFAS (excluding fluoropolymers) in firefighting foams, consumer applications, fluorinated gas applications (F-gasses), medical devices, and various industrial, transport, and military applications. The government is proposing to introduce new regulations in phases as follows:

- **Phase 1:** Expanding and broadening the scope of existing prohibitions on the use of PFAS (excluding fluoropolymers) in firefighting foams to prohibit the use of additional types of PFAS that are not presently regulated under the existing *Prohibition of Certain Toxic Substances Regulations, 2012*. Proposed to be completed in steps, with final regulations to address long-chain PFAS compounds targeted to be published in **Spring 2025**, with consultation on further measures in **Summer/Fall 2025**, with proposed regulations to fully implement Phase 1 by **Spring 2027**.
- **Phase 2:** Prohibition of the uses of PFAS (excluding fluoropolymers) not needed for the protection of health, safety or the environment, including various consumer applications (cosmetics, natural health products, non-prescription drugs, food packaging and additives, paints, coatings, adhesives, sealants, and other building materials available to consumers, cleaning products, waxes, and polishes, textile uses (including in personal protective equipment), and ski waxes), subject to further consideration of the costs and benefits, availability of suitable alternatives and other socio-economic considerations. Proposed consultation to follow the publication of the proposed Phase 1 regulations in **2027**.
- **Phase 3**: Prohibition of uses of PFAS (excluding fluoropolymers) that require further evaluation of the role of PFAS due to the lack of currently existing feasible alternatives or socio-economic considerations, such as fluorinated gas applications, prescription drugs, medical devices, industrial food contact materials, industrial sectors such as mining and petroleum, and transport and military applications. Proposed consultation to follow Phase 2 risk management: The implementation timeline for Phase 3 remains **to be determined**.

The federal government has further signalled that within each phase, exemptions may be considered when necessary and appropriate. For each phase, the government proposes to do the following:

- Publish a consultation document to inform a proposed instrument with a minimum 60-day comment period;
- Consult on a proposed instrument for a minimum of 60-days; and
- Publish a final instrument, at the latest, 18 months from the publication of the proposed instrument.

The government is inviting feedback from industry and other interested stakeholders on its proposed risk management approach until **May 7, 2025**. As evidenced by the exclusion of fluoropolymers from the Final State of PFAS Report and the indication that exemptions may be available from future regulations where necessary, it appears that the federal government is willing to listen to stakeholders' concerns when assessing the best path forward for regulating PFAS.

BLG has experience assisting clients with PFAS-related issues, including comprehensive assessments of liability risks, responding to, or disputing the application

of mandatory information gathering notices issued under CEPA, general product compliance concerns, and preparing consultation submissions.

If you have any questions about the regulation of PFAS, including how new regulatory developments may impact you or your business, please reach out to any of the authors or key contacts listed below.

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