

Even the EPA's allies question the plan for regulating PFAS

BY MARIO H. LOPEZ, OPINION CONTRIBUTOR - 09/18/22 7:00 AM ET

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In a push for what they say is a move to help protect people and the environment from hazardous chemicals, the Environmental Protection Agency (EPA) under President [Biden](#) is moving to regulate certain categories of chemicals. The EPA claims it is protecting people and the environment from hazardous substances — principles that, in a vacuum, most Americans would support. But the benefit of the doubt very rapidly runs into the reality of the details of what exactly the EPA is proposing, the supposed reasoning for why, and how regulators want to impose this rule.

The EPA wants [to regulate](#) certain chemicals called polyfluoroalkyl substances (PFAS) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, the law that established federal authority to regulate hazardous substances.

It is easy to toss out buzzwords and lofty rhetoric about health and the environment, but a close look reveals just how questionable EPA's actions are — and just how massive the consequences of their actions will be for ordinary Americans. So much so that even some environmental groups, key voices, and local community authorities the EPA is saying it wants to help are speaking against the proposed regulation.

PFAS chemicals and their compounds have complex, perhaps scary sounding names — perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) — but they have many practical uses that provide real benefits to our lives.

PFAS is present to some extent in a wide variety of products: Nonstick cookware, water-resistant clothing like rain jackets, shampoo, makeup, firefighting foam, construction materials, aerospace tools and parts, and even dental floss all are examples or normal

Because of widespread use of PFAS, a huge part of the unintended consequences involves the massive costs that will be passed on to ordinary Americans.

The reality is that there is a lack of disposal methods for products with PFAS. So, if the EPA succeeds in finalizing their designation as a hazardous substance, it will not be helpful for actually cleaning up the chemicals. The result of that overreach would be confusion, frustration, and a waste of billions of dollars.

The Solid Waste Association of North America (SWANA) recently wrote to Congress that increased costs associated with PFAS management could cost approximately \$966 million to \$6.279 billion per year for municipal solid waste landfills. About two-thirds of landfills in the country are owned by local municipalities, so those massive cost increases will create huge pressure on local governments (and thus, taxpayers). In addition, SWANA also stressed that such “cost increases likely will have a significant disproportionate impact on low-income households that rely on the affordability of services that the solid waste sector provides.”

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The prevalence of PFAS also has critical implications for small businesses such as restaurants — especially those that are family run and/or in underserved communities — because they would be forced to find either alternative products or be hit with a much more costly way to dispose of certain waste.

The proposed rule is so troublesome that even likely EPA allies have raised concerns. The PFAS Regulatory Coalition, a group dedicated to fighting PFAS contamination, has stated that the rule “will greatly complicate and expand the amount of contaminated sludge and soil material for which we still do not have destruction or disposal guidance from EPA.”

Similarly, the Sierra Club pointed out that EPA’s 2020 mandated interim PFAS disposal guidelines are troublesome because they “highlight the fact that EPA does not have the monitoring methods or data to conclude that any of these methods are safe ways to contain PFAS wastes.”

Local water agencies, who are charged with providing clean water to residents in the local areas they serve, are rightfully worried about how this proposed regulation will impact water and wastewater treatment facilities, given that the EPA itself acknowledges that they do not even know how to efficiently detect PFAS in water, or how to remove it from drinking water. Even if one were to ignore the very real cost issue that the regulation will also have on the cost of public water and the threat to water access for many communities, there is a basic, commonsense question here: If the EPA doesn’t know how to detect PFAS in water, how can they expect this from water agencies?

Again, it is well worth stressing that the EPA itself acknowledges not fully understanding PFAS at all. The agency lists specific questions regarding PFAS that they do not fully understand yet — including how to detect PFAS, how harmful PFAS is to humans, and how to manage and dispose of PFAS.

Some regulatory processes in the name of generic, even if important, causes like health and the environment may be necessary at times, but EPA’s recent move on PFAS substances proves just how detrimental it can be when consideration of the inevitable consequences is discarded in favor of a zeal to pull the regulatory trigger.

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