

EBA JOURNAL

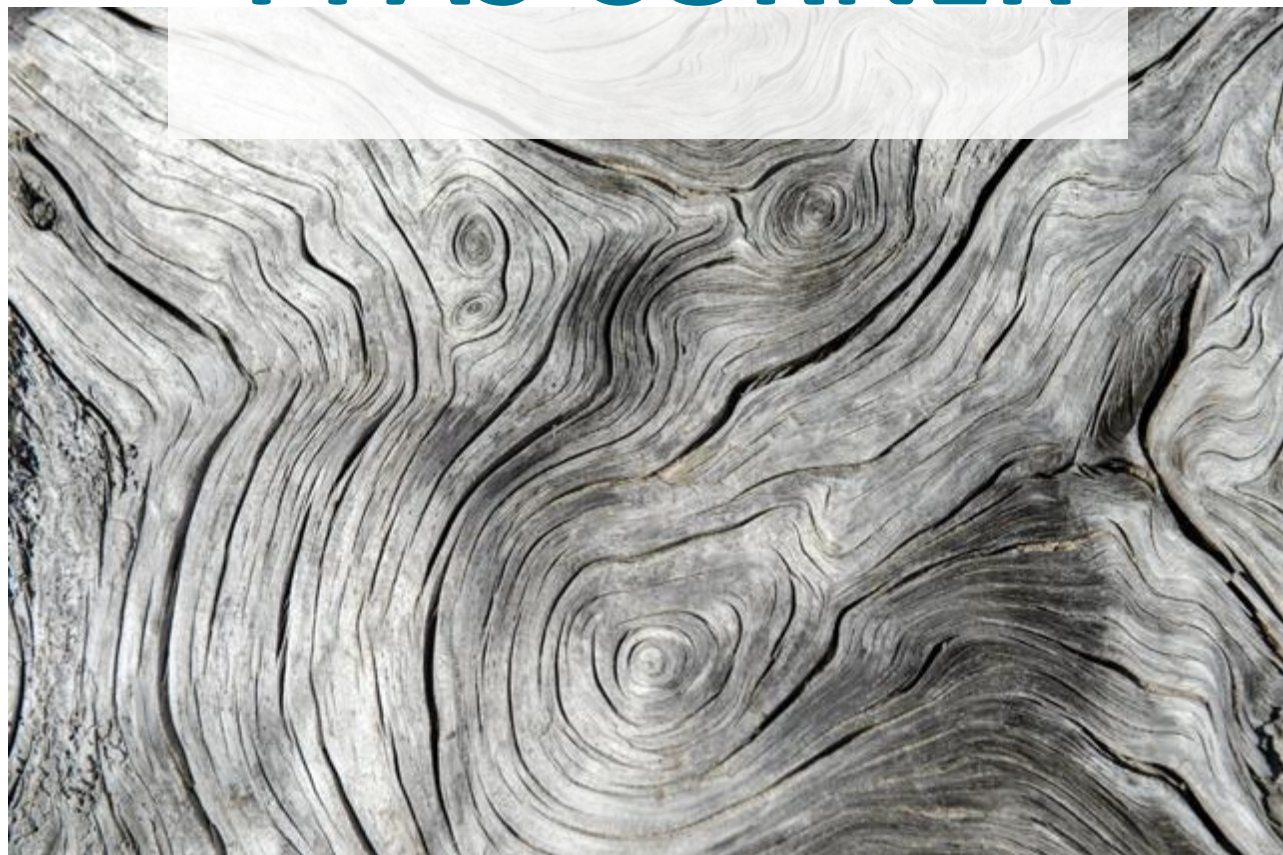
Winter 2025 | Volume 10, Issue 1



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PFAS CORNER



EPA Proposes Increases of PFAS Under Regulation: Are Your Investments at Risk?

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As regulators crack down on toxic 'forever chemicals' like PFAS (per- and polyfluoroalkyl substances), banks and investors holding contaminated properties could face liabilities in the tens of millions—threatening both their portfolios and reputations. Recent findings from the U.S. Geological Survey (USGS) reveal that millions of Americans may be relying on groundwater supplies contaminated with PFAS. PFAS are persistent in the environment and have been linked to various health risks. The pervasive nature of PFAS contamination poses a significant public health concern, especially as many communities depend on groundwater for their drinking water. The liability and cleanup costs associated with PFAS contamination present significant challenges for property owners, investors, and banks holding those properties as collateral. As regulatory scrutiny increases and public awareness grows, property owners and investors must be prepared to proactively address these challenges.

To add to these complications, in October 2024, the US Environmental Protection Agency (EPA) proposed to add 16 additional PFAS and 15 PFAS categories to the Toxics Release Inventory (TRI) list. EPA's proposal has substantial implications for environmental safety and the banking/investment sector, particularly in risk assessment and management strategies.

Understanding PFAS

PFAS are a large group of man-made chemicals used in numerous industrial applications and consumer products due to their resistance to heat, water, and oil. They can be found in non-stick cookware, waterproof clothing, food packaging, and firefighting foams, among other items. The unique properties that make PFAS useful in these products also contribute to their environmental persistence. Because these chemicals do not break down easily, they can accumulate in the soil and water systems, leading to widespread contamination.

The chemical structure of PFAS includes a carbon-fluorine bond, which is one of the strongest bonds in organic chemistry. This bond is largely responsible for the stability of PFAS in the environment, meaning they can remain intact for decades. As a result, PFAS can infiltrate groundwater sources through various pathways, including industrial discharges, agricultural runoff, and even wastewater treatment processes.

The Scope of Contamination

According to the USGS report, an estimated 19 million people in the United States are served by public drinking water systems that may contain PFAS. Furthermore, individual wells, particularly in rural areas, are also at risk. The contamination is often a result of industrial discharges improper



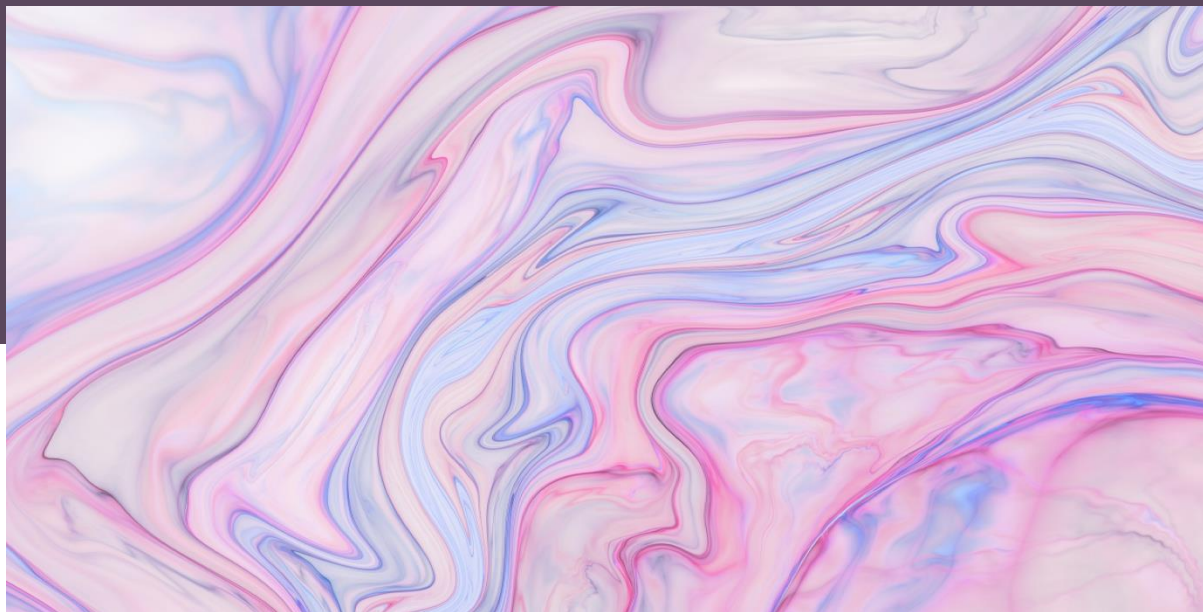
waste disposal, and the use of PFAS-containing products. Communities situated near manufacturing facilities, military bases, or firefighting training sites—where PFAS have historically been used—are especially vulnerable. These areas often face the highest levels of contamination, leading to significant health concerns for residents. The study emphasizes the urgent need for comprehensive testing and regulation to address these dangerous contaminants in drinking water.

EPA's Proposed Actions

The EPA's decision to incorporate specific PFAS into the TRI will require facilities to report on their use and release of these hazardous substances. The TRI serves as a critical tool for communities to access information about the presence of toxic chemicals in their environment, which can inform both regulatory actions and public awareness. By adding these PFAS to the TRI list, the EPA aims to provide clearer insights into the potential risks associated with PFAS exposure, enabling more informed decision-making by local governments and stakeholders.

Under the proposed rule, the newly identified PFAS will also be classified as chemicals of special concern, which means they will be subject to more stringent reporting requirements. This classification eliminates exemptions that previously allowed facilities to avoid reporting low concentrations of these chemicals. This shift towards stricter regulation aligns with growing public and governmental pressure to mitigate the effects of PFAS contamination, particularly in vulnerable communities disproportionately affected by industrial pollution. It reflects a broader trend towards environmental accountability and transparency, which could influence investment decisions and risk management strategies in the banking and investment sector.





Banking Sector Implications

The proposed additions to the TRI and the heightened scrutiny surrounding PFAS have significant ramifications for the banking industry, particularly in the realms of environmental risk assessment, compliance, and financial decision-making. Financial institutions are increasingly required to evaluate the environmental impact of their investments, as there is a growing emphasis on sustainability and responsible lending practices.

- ❖ **Risk Assessment:** As PFAS become more regulated, banks must assess the potential financial risks associated with lending to industries that use or produce these substances. Increased regulatory scrutiny could lead to higher compliance costs, potential liabilities, and reputational risks for companies involved in PFAS production or use. Institutions need to consider the long-term impacts of potential cleanup costs and liability exposure, which may significantly affect the financial stability of companies within affected sectors.
- ❖ **Investment Decisions:** With the proposed rule enhancing transparency around PFAS usage and release, investors may shift their portfolios away from companies associated with these chemicals. This shift aligns with a broader trend towards socially responsible investing (SRI), where environmental concerns play a significant role in investment strategies. Banks and financial institutions may need to develop new criteria for assessing the sustainability of potential investments, taking into account a company's PFAS exposure and management strategies.

- ❖ **Regulatory Compliance:** Banks must stay abreast of evolving regulations related to PFAS to ensure compliance. This may involve enhancing internal policies and procedures for environmental risk management and reporting, as well as training staff on new regulatory requirements. Institutions may need to incorporate environmental due diligence in their lending processes, requiring borrowers to disclose their PFAS usage and management practices.



- ❖ **Community Engagement:** The proposed rule is likely to affect community relations, particularly in areas historically impacted by PFAS contamination. Banks may need to engage with local communities to address concerns and demonstrate commitment to responsible lending practices. By fostering transparency and open communication, financial institutions can help mitigate the social and environmental risks associated with their investments.

- ❖ **Opportunities for Green Financing:** The regulatory landscape surrounding PFAS may also create opportunities for banks to support remediation efforts and the development of safer alternatives through green financing initiatives. Providing loans for projects aimed at cleaning up contaminated sites or developing PFAS-free products can enhance a bank's reputation as a socially responsible lender. This could involve partnerships with environmental firms specializing in PFAS remediation or funding for research into alternative chemicals and technologies.
- ❖ **Insurance and Liability Considerations:** As regulatory requirements evolve, banks will also need to assess the insurance and liability implications of lending to companies that may be affected by PFAS regulations. This includes evaluating the adequacy of existing insurance coverage for environmental liabilities and the potential for increased premiums as the risk associated with PFAS exposure becomes more apparent. Financial institutions may need to work closely with insurers to understand the implications of new regulations on coverage options.
- ❖ **Financial Modeling and Reporting:** The inclusion of PFAS in the TRI may require banks to refine their financial modeling and reporting practices. Institutions will need to incorporate environmental risks associated with PFAS into their overall risk assessment frameworks. This could involve developing new metrics for evaluating environmental performance and integrating sustainability into financial reporting processes.





- ❖ **Strategic Planning and Policy Development:** As the landscape of environmental regulations changes, banks will need to engage in strategic planning and policy development to adapt to new realities. This may involve creating dedicated teams to focus on environmental risks, enhancing governance structures related to sustainability, and developing comprehensive environmental policies that align with emerging regulations.
- ❖ **Partnerships and Collaboration:** Banks can leverage partnerships with environmental organizations, regulatory bodies, and other stakeholders to enhance their understanding of PFAS risks and regulatory developments. Collaborative efforts can foster knowledge-sharing and best practices, helping financial institutions navigate the complex regulatory landscape more effectively.
- ❖ **Consumer Awareness and Demand:** There is an increasing awareness among consumers regarding environmental issues, including the impacts of PFAS. Banks may need to respond to this growing consumer demand for environmentally responsible practices by incorporating sustainability into their product offerings and marketing strategies. This can include promoting green loans or investment products that support environmentally friendly initiatives.

Conclusion

EPA's proposal to add PFAS to the TRI list represents a significant additional issue for the banking sector and the way it evaluates its investment portfolio and lending decisions. These changes necessitate a proactive approach to environmental risk management, as they could influence investment strategies, regulatory compliance practices, and community engagement efforts. As public concern about PFAS contamination grows, financial institutions must adapt to the evolving landscape by integrating environmental considerations into their business models and engaging with stakeholders to foster a more sustainable future. The interplay between environmental regulation and banking underscores the importance of accountability in addressing the challenges posed by hazardous substances like PFAS.



References

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