

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 2050-NEW**

**Designation of Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as
CERCLA Hazardous Substances**

September 2022

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

This information Collection Request (ICR) is entitled “Designation of Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances,” EPA ICR Number 2708.01, OMB Control Number 2050-NEW.

1(b) Short Characterization

Under Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), the EPA is proposing to designate PFOA and PFOS, including their salts and precursors that degrade to form them in the environment, as hazardous substances.

The designation of PFOA and PFOS as hazardous substances would require any facility that identifies a release of one pound or more within a 24-hour period of these substances, including their associated salts and precursor substances, to report the release to the National Response Center (NRC) under section 103 of CERCLA and to the state and local officials under section 304 of Emergency Planning and Community Right-to Know Act (EPCRA). The implementing regulations of CERCLA section 103 and EPCRA section 304 are codified at 40 CFR parts 302 and 355, respectively.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

Section 102(a) of CERCLA authorizes EPA to promulgate regulations designating as a hazardous substance any element, compound, mixture, solution, or substance which, when released into the environment, may present substantial danger to public health or welfare or the environment.

Section 102(b) of CERCLA establishes RQs for releases of hazardous substances at one pound, except those substances for which RQs were established pursuant to section 311(b)(4) of the Clean Water Act (CWA).

Section 103(a) of CERCLA requires the person in charge of a facility or vessel to immediately notify the NRC of a hazardous substance release if the release quantity equals or exceeds the substance’s RQ.

In addition to the release reporting requirements of CERCLA section 103, section 304 of EPCRA requires owners and operators of facilities to immediately notify the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) when there is a release of an extremely hazardous substance (EHS), as defined under EPCRA section 302, or of a CERCLA hazardous substance in an amount equal to or greater than the RQ for that substance within a 24-hour period. Section 304 also requires facilities to submit a follow-up

written report providing additional information on the release, its impacts, and any actions taken in response.

This rulemaking is proposing to designate PFOA and PFOS as hazardous substances under CERCLA section 102 with a reportable quantity (RQ) of one pound. Upon designation of these substances under CERCLA section 102, any facility that identifies a release of PFOA or PFOS including their associated salts and precursor substances at one pound or more within a 24-hour period, must report the release to the National Response Center (NRC) as required under section 103 of CERCLA and report to the SERC and LEPC as required under section 304 of EPCRA.

2(b) Practical Utility and Users of the Data

Designating PFOA and PFOS as CERCLA hazardous substances furthers CERCLA's primary goal of protecting public health and welfare and the environment by improving the information available about releases of PFOA and PFOS.

The Federal government needs to be notified of releases of hazardous substances in order to determine if a response action is necessary to mitigate or prevent damage to public health or welfare or the environment. State and local officials use the information to activate local emergency response plans and to protect the communities where releases occur.

The release notification information stored at the NRC Emergency Response Notification System (ERNS) and the follow-up written report submitted to the SERC and the LEPC are available to the public. The public use release information to become aware of the releases that have occurred in their communities and throughout the nation and to learn of actions, if any, that are being taken to protect public health and welfare and the environment.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

None of the information required by the proposed rule to designate PFOA and PFOS as hazardous substances will duplicate information required under existing CERCLA regulations.

3(b) Public Notice

In compliance with the Paperwork Reduction Act of 1995, EPA will open a 60-day public comment period at the time that the proposed rule to designate PFOA and PFOS as hazardous substances is published in the *Federal Register*. At the end of the comment period, EPA will review public comments received in response to the notice and will address comments received, as appropriate.

3(c) Consultations

EPA will accept comments from the public during the 60-day comment period referenced above.

3(d) Effects of Less Frequent Collection

The information required under the regulations implementing CERCLA section 103(a) and EPCRA section 304 is not collected at any specified frequency; rather, it is collected when reportable releases occur. The information collected under the regulations, such as the source, quantity, and type of material released and the environmental medium affected, is critical to evaluating the threat posed by the release and the need for a response action. The regulatory requirements evaluated in this ICR represent EPA's efforts to ensure that the NRC, SERC and LEPC are notified immediately of those hazardous substance releases for which a Federal, State and local response action may be necessary to protect public health and welfare and the environment.

3(e) General Guidelines

This ICR adheres to the guidelines stated in the Paperwork Reduction Act of 1995, OMB's implementing regulations, EPA's ICR Handbook, and other applicable OMB guidance.

3(f) Confidentiality

None of the information collection requirements of the proposed rulemaking to designate PFOA and PFOS as hazardous substances require the disclosure of confidential business information.

3(g) Sensitive Questions

No questions of a sensitive nature are included in the information collection requirements associated with the proposed rule.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and NAICS Codes

The following is a list of North American Industrial Classification System (NAICS) codes associated with the facilities most likely to be affected by the information collection requirements covered in this ICR. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this action.

| NAICS | NAICS CATEGORY |
|--------|--|
| 221320 | Sewage Treatment Facilities |
| 313210 | Broadwoven Fabric Mills |
| 313220 | Narrow Fabric Mills and Schiffli Machine Embroidery |
| 313230 | Nonwoven Fabric Mills |
| 313240 | Knit Fabric Mills |
| 313320 | Fabric Coating Mills |
| 314110 | Carpet and Rug Mills |
| 322121 | Paper (except Newsprint) Mills |
| 322130 | Paperboard Mills |
| 323111 | Commercial Printing (except Screen and Books) |
| 324110 | Petroleum Refineries |
| 325211 | Plastics Material and Resin Manufacturing |
| 325510 | Paint and Coating Manufacturing |
| 325612 | Polish and Other Sanitation Good Manufacturing |
| 325910 | Printing Ink Manufacturing |
| 325992 | Photographic Film, Paper, Plate, and Chemical Manufacturing |
| 325998 | All Other Miscellaneous Chemical Product and Preparation Manufacturing |
| 332813 | Electroplating, Plating, Polishing, Anodizing, and Coloring |
| 424710 | Petroleum Bulk Stations and Terminals |
| 488119 | Other Airport Operations |
| 562212 | Solid Waste Landfill |
| 811192 | Car Washes |
| 922160 | Fire Protection |

4(b) Information Requested

This section describes information collection requirements applicable to entities that will be affected by the proposed rule. The designation of PFOA and PFOS as hazardous substances under Section 102(a) of CERCLA would require any facility that identifies a release of one pound or more of PFOA or PFOS within a 24-hour period to immediately report the release to the NRC, SERC, and LEPC.

Notification under CERCLA section 103(a) is intended to ensure that Federal authorities receive prompt notification of hazardous substance releases for which a timely response may be necessary to protect public health or welfare or the environment. The information provided in the telephone call to the NRC serves to notify government authorities of the release and provides them with a description of the circumstances surrounding the release. The following information may be requested from all callers:

- The name and location of the individual reporting the release, the name and type of organization (e.g., general public, industrial facility, or Federal, state, or local

government) with which the individual reporting the release is affiliated, and the telephone number of the person reporting the release;

- The name and location of the facility or vessel reporting the release, the type of organization, and the telephone number of the facility or vessel;
- The location of the release;
- The date and time of the release;
- The name and type of material involved in the release, and the quantity of the substance released;
- The source of the release, the vehicle identification or carrier number, if applicable, and a brief description of the source;
- The environmental medium affected by the release (e.g., air, land, surface water, or ground water);
- The cause of the incident (e.g., transportation accident, operational error, natural phenomenon), and a brief description of the release scenario denoting any unusual circumstances associated with the release;
- Information on damages that occurred as a result of the release, including the number of injuries, number of deaths, and any property damage;
- A description of the response actions taken at the release site, if any;
- The name(s) and type of organization(s) that the caller has already notified; and
- Any additional comments or information regarding the release.

There are no recordkeeping requirements specified under CERCLA section 103(a) or its implementing regulations. The person in charge of the facility or vessel, however, may elect to maintain a log detailing the time, date, and circumstances associated with the reported release. The purpose of maintaining a log of reported releases is to document correspondence with response authorities and to document compliance with release notification requirements under CERCLA. Because the respondent will in all likelihood maintain a reported release log, burden and cost estimates associated with recordkeeping are included in this ICR.

Under EPCRA section 304, respondents are required to notify the LEPC and SERC of releases of PFOA and PFOS if these substances are designated as hazardous substances CERCLA section 102 above the reportable quantity of one pound. The notice must include the following information as required under EPCRA section 304(b), to the extent that it is known:

- The chemical name or identity of any substance involved in the release;

- An estimate of the quantity of any such substance that was released into the environment;
- The time and duration of the release;
- The medium or media into which the release occurred;
- Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals;
- Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan); and
- The name and telephone number of the person or persons to be contacted for further information.

In addition, EPCRA section 304 (c) requires facilities to submit a follow-up written report to the SERC and LEPC soon as practicable after the release¹. The report must include all the information noted above and must include the following:

- Actions taken to respond to and contain the release;
- Any known or anticipated acute or chronic health risks associated with the release; and
- Where appropriate, advice regarding medical attention necessary for exposed individuals.

5. THE INFORMATION COLLECTED—AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

Every hazardous substance release reported by the regulated community to the NRC must be evaluated by Federal authorities. The appropriate Federal On-Scene Coordinator (OSC) is notified of a release by a telephone call from the NRC. The NRC conveys all the relevant information regarding the release to the OSC, including whether the release is to air, soil, water, etc., the source of the release, and the type of substance released. The OSC is responsible for evaluating the circumstances surrounding the release to determine whether government monitoring and/or a Federal response action may be necessary.

¹ EPA provided guidance for the phrase “as soon as practicable” to be “within 30 days” (July 13, 2010 Federal Register Notice, 75 FR 39852). Some states require facilities to submit follow-up written report less than 30 days.

NRC personnel are also responsible for entering release information into the Emergency Response Notification System (ERNS), a national data base that stores release information. The data can be accessed through the NRC web site: <http://www.nrc.uscg.mil/>.

The primary activity of the Federal government under the regulations implementing CERCLA section 103(a) is processing and recording the reported release information and responding to releases that may pose a significant hazard to public health or welfare or the environment.

5(b) Collection Methodology and Management

For purposes of reporting releases under CERCLA section 103(a), the facility that experiences a reportable release must telephone the NRC. The NRC notifies the appropriate EPA Region or the affected state, and any other Federal agency that may be able to lend support to a potential response action.

When a hazardous substance release is reported, the NRC personnel enter the information into the NRC ERNS database. EPA uses the ERNS database to document, analyze, and maintain data gathered under CERCLA notification process.

For Federal response authorities, the ERNS data base reduces the cost and time associated with processing and documenting release reports. For other EPA program offices, state and local response officials, and the public, ERNS provides for easy access to release data.

5(c) Small Entity Flexibility

It is not clear what number of small entities would be required to report as a result of the action under consideration by EPA. However, the total cost of notification does not exceed one percent of average small-entity revenues in any key sector affected by the proposed rule. Thus, this proposed action is not expected to result in a significant economic impact on a substantial number of small entities under the RFA.

5(d) Collection Schedule

Information is not collected at any specified frequency; rather, it is collected when reportable releases occur. Under CERCLA section 103(a), a release of a hazardous substance is reportable when it equals or exceeds its RQ to the NRC. Under EPCRA section 304, a release of a hazardous substance (defined under CERCLA section 102) is reportable when it equals or exceeds its RQ to the SERC and LEPC.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

The Draft Economic Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate PFOA and PFOS as Hazardous Substances estimates compliance cost impacts as a range to address uncertainties regarding the average annual number of PFOA and PFOS releases. At the low end of the range, the assessment assumes zero annual notifications of PFOA and PFOS releases. At the high end, the assessment assumes 660 annual notifications of PFOA and PFOS releases. This high-end estimate assumes that PFOA and PFOS release rates will be comparable to ammonia and ammonium release rates in FY 2020. This ICR uses the high-end estimate of the number of releases.

6(a) Estimating Respondent Burden

This section provides estimates of the respondent hourly burden associated with the information collection requirements covered in this ICR. As described above, the information collection requirements in the event of a PFOA or PFOS release include telephone notification to the NRC, SERC, and LEPC and the preparation of a written report to the SERC and the LEPC. This ICR assumes that the labor burden associated with these notification activities is consistent with the labor burden in EPA ICR Numbers 1049.14 and 1395.10 (OMB Control Numbers 2050-0046 and 2050-0092, respectively). Exhibit 1 summarizes burden hours by labor type per respondent for these activities, as well as the overall burden hours for all respondents.

Exhibit 1: Estimated Respondent Burden (in Hours) - Facilities

| Activity | Number of Respondent Activities ¹ | Mgr. | Tech. | Clerical | Hours Per Activity | Total Labor Burden |
|---|--|------|-------|----------|--------------------|--------------------|
| Providing an Initial Telephone Notification to the NRC, the SERC, and the LEPC. | 660 | 0.94 | 0.6 | 0.18 | 1.72 | 1,135 |
| Preparing an Initial Written Report to the SERC and the LEPC | 660 | 1.5 | 5 | 1.5 | 8 | 5,280 |
| Total Burden Hours | | | | | | 6,415 |

¹ This table reflects the high-end estimate of the number of respondent activities. The low-end estimate of zero respondent activities would correspond to zero respondent burden hours.

6(b) Estimating Respondent Costs

Labor Costs

EPA used the Bureau of Labor Statistics March 2019 series on employment cost for total compensation for civilian workers to identify wage rates for different occupation categories.² Costs were adjusted to 2020\$ using implicit price deflators for gross domestic product from the Bureau of Economic Analysis.³ Specifically, this ICR estimates an average hourly respondent labor cost (including fringe benefits and overhead costs) of \$72.43 for managerial staff, \$57.71 for technical staff, and \$28.98 for clerical staff.

Operation & Maintenance Costs

O&M costs are those costs associated with materials and services procured for the information collection requirements included in the ICR. For this ICR, O&M costs include the following: costs of postage (approximately \$0.60 per facility per release) and long-distance phone calls (approximately \$4.86 per facility per release).

6(c) Estimating Agency Burden and Costs

EPA used the 2019 Federal Pay Schedule salary figures to estimate hourly compensation of Federal government employees. Specifically, EPA estimated an average hourly labor cost of \$50.90 for the average Federal government employee. This rate reflects the hourly wage rate for a GS-12 step 1 government employee and the hourly monetary value of the employee's fringe benefits (assumed to be 60 percent of the wage rate). Additionally, this ICR estimates an hourly compensation rate of \$52.39 for state and local government employees based on the Bureau of Labor Statistics' 2019 series on employment cost for total compensation for state and local government workers. Costs were adjusted to 2020\$ using implicit price deflators for gross domestic product from the Bureau of Economic Analysis.⁴

As described above, Federal, State, and local government employees must process telephone notifications; and State and local government employees must process follow-up written reports following releases of PFOA and PFOS. This ICR assumes that the labor burden associated with these activities matches the burden included EPA ICR Numbers 1049.14 and 1395.10 (OMB Control Numbers 2050-0046 and 2050-0092, respectively). The Agency, state, and local burden hours and labor costs are reported in Exhibit 2.

² Bureau of Labor Statistics. "Table 2. Employer Costs for Employee Compensation for civilian workers by occupational and industry group." March 2019. <https://www.bls.gov/news.release/ecec.t02.htm>

³ Bureau of Economic Analysis. "Table 1.1.9. Implicit Price Deflators for Gross Domestic Product." May 2021. <https://www.bea.gov/tools>

⁴ Bureau of Economic Analysis. "Table 1.1.9. Implicit Price Deflators for Gross Domestic Product." May 2021. <https://www.bea.gov/tools>

Exhibit 2: Estimated Federal, State, and Local Government Burden and Costs

| Collection Activity | Total Respondents¹ | Federal Burden Hours (\$/hr) | State and Local Burden Hours (\$/hr) | Total Labor Burden Hours | Unit Labor Cost | Total Labor Costs |
|---|--------------------------------------|-------------------------------------|---|---------------------------------|------------------------|--------------------------|
| Process Initial Telephone Notification to the NRC, the SERC, and the LEPC | 660 | \$50.90 | \$52.39 | 660 | \$50.90 | \$33,594 |
| Process Initial Written Report to the SERC and the LEPC | 660 | 0 | | | | |

¹ This table reflects the high-end estimate of the number of respondent activities. The low-end estimate of zero respondent activities would correspond to zero respondent burden hours and costs.

6(d) Estimating the Respondent Universe and Total Burden and Costs

In this section, EPA describes the respondent universe affected by the information collection requirements under the rule.

Respondent Universe

Consistent with the Draft Assessment of the Potential Costs and Other Impacts of the Proposed Rulemaking to Designate PFOA and PFOS as Hazardous Substances, EPA estimates that, on the high end, the National Response Center will receive 660 notifications of PFOA and PFOS releases per year. Under EPCRA section 304, SERC and LEPC each would receive 660 notifications.

6(e) Bottom Line Burden Hours and Cost Tables

Exhibit 3 presents the bottom-line burden hours and costs. Based on the high-end estimate of 660 annual respondents, EPA estimates that the proposed rule will result in 6,415 hours of annual respondent labor burden corresponding to approximately \$366,000 in labor costs. EPA also estimates that the information collection requirements will result in about \$3,600 in operations and maintenance costs (postage and long-distance phone call costs).

Exhibit 3: Annual Total for Labor Burden, Labor Costs, and Other Costs

| Collection Activity | Total Respondents¹ | Total Labor Burden (Hours) | Labor Costs | Other Costs |
|---|--------------------------------------|-----------------------------------|--------------------|--------------------|
| Providing an Initial Telephone Notification to the NRC, the SERC, and the LEPC. | 660 | 1,135 | \$72,087 | \$3,206 |
| Preparing an Initial Written Report for the SERC and the LEPC | 660 | 5,280 | \$294,332 | \$393 |
| Annual Total | 660 | 6,415 | \$366,420 | \$3,599 |
| Total over Three Years | 1,980 | 19,245 | \$1,099,260 | \$10,797 |

¹ This table reflects the high-end estimate of the number of respondent activities. The low-end estimate of zero respondent activities would correspond to zero respondent burden hours and costs.

6(f) Reasons for Change in Burden

As described in this ICR, EPA expects that the designation of PFOA and PFOS as hazardous substances under Section 102(a) of CERCLA would require any facility that identifies a release of one pound or more of PFOA or PFOS within a 24-hour period to report the release to the NRC, SERC, and LEPC. EPA estimates that this requirement will result in 6,415 annual burden hours and \$366,000 in annual costs across all respondents.

6(g) Burden Statement

The annual reporting and recordkeeping burden for this collection of information is estimated to increase baseline burden by 6,415 hours and \$366,000 per year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OLEM-2019-0341, which is available for online viewing at www.regulations.gov, or in person viewing at the OLEM Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the OLEM Docket is (202) 566-0270. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access

those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OLEM-2019-0341 and OMB Control Number 2050-NEW in any correspondence.