



**M**CLENNAN ROSS

# PFAS Legal Updates

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PRESENTED BY SEAN PARKER & OELLE FRENCH

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# Today's Presenters



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# AGENDA

1. Recent Developments in Regulation
2. New Reporting Requirements
3. Case Law Updates

# 1. Recent Developments in Regulation

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# March 2025 - The Final Report

- The Final Report concludes that all substances in the defined PFAS class (which excludes fluoropolymers) meet the “toxic substance” criteria set out in section 64 of CEPA.
- Specifically, it concludes that the substances ( i) are or may enter the environment in an amount that could have immediate or long -term harmful effects on the environment or its biological diversity and (ii) may enter the environment in a way that constitutes, or may constitute, a danger in Canada to human life or health.

# March 2025 – The Risk Management Approach

- Principally aims to: ( i) reduce releases of PFAS into the Canadian environment to avoid adverse effects in a manner that balances environmental protection with economic feasibility; and (ii) reduce human exposure to PFAS, including disproportionately impacted populations.
- Sets out current and upcoming data collection initiatives, as well as certain reporting requirements, aimed at collecting additional information on the class of PFAS.
- Proposed 3 Phases of Risk Management

# PROPOSED 3 PHASES FOR RISK MANAGEMENT

- **Phase 1:** Prohibiting the use of PFAS (excluding fluoropolymers) in firefighting foams (not currently regulated), due to the high potential for environmental and human exposure
- **Phase 2:** Prohibiting the use of PFAS (excluding fluoropolymers) in consumer products where alternatives exist. Prioritization of uses for prohibition is based on, and will take into account, costs and benefits, availability of suitable alternatives and other socio-economic considerations.
- **Phase 3:** Prohibiting the use of PFAS (excluding fluoropolymers) requiring further consideration through stakeholder engagement and further assessments (namely for those which there may not be feasible alternatives).

# September 2025 – Phase 1 Initiation

- The Federal Government published the *Consultation Document on Phase 1 of the Risk Management of Perand Polyfluoroalkyl Substances (PFAS), Excluding Fluoropolymers: Prohibition of the Use of PFAS, not Currently Regulated, in Firefighting Foams*(the “Consultation Document”);
- This Consultation Document pertains to Phase 1, which concerns the manufacture, import, use and selling of PFAS in fire fighting foams.

# OTHER RISK MANAGEMENT MEASURES

- The addition of 163 individual PFAS to a new Part 1, Group C of the National Pollutant Release Inventory (“NPRI”), a public inventory of releases, disposals and transfers of pollutants, as confirmed by a notice published in the *Canadian Gazette* on March 8, 2025, which will require organizations to report on such substances to the NPRI starting with calendar year 2025;
- Managing federal contaminated sites through the Federal Contaminated Sites Inventory, which now includes, as part of an update in 2023-2024, a contaminant category that allows users to search easily for federal sites contaminated/impacted by PFAS;
- Updates to the *Prohibition of Certain Toxic Substances Regulation*, 2012;
- Health Canada and the Canadian Food Inspection Agency have also implemented new measures for regulating PFAS.

# REGULATIONS ACROSS CANADA

British Columbia	Alberta	Ontario	Quebec
<ul style="list-style-type: none"><li>Contaminated Sites Regulations;</li><li>Design Guidelines for Drinking Water Systems in British Columbia;</li><li>Water Quality Guidelines for Aquatic Life</li></ul>	<ul style="list-style-type: none"><li>Tier 1 Soil and Groundwater Remediation Guidelines</li></ul>	<ul style="list-style-type: none"><li>“Interim” Advice for drinking water (2017)</li></ul>	<ul style="list-style-type: none"><li>Fertilizing Residual Materials Management Code;</li><li>Surface Water Quality Criteria.</li></ul>

## **2. New Reporting Requirements**

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# CURRENT STATUS

- The Federal Government is currently compiling responses received from the Notice;
- Regulations on Reporting are not expected to be published until Spring 2027;
- The impacts of the new Regulations will differ according to business group (e.g. small business v. importer/distributor);
- Overall, the new reporting obligations are novel and seek to improve public knowledge of PFAS sources and quantities in Canada.

# **3. Caselaw Update**

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# CLASS ACTIONS

- *Egan et al. v National Research Council of Canada et al* (2025 ONSC 2533);
- *Edward Louis Sheerr and Susan Diane Sheerr v. His Majesty the King, as represented by the Attorney General of Canada* (Newfoundland & Labrador, November 2024);
- *BC v. 3M* (British Columbia, June 2024);
- *Mead v. 3M* (Ontario, July 2024)
- *Lynch v. 3M* (British Columbia, Sept 2024);
- *Muskoday First Nation v. 3M* (Manitoba, August 2024).

# TRIBUNAL DECISIONS

- Veteran Review & Appeal Board
  - **100004676157 (Re)**: New medical evidence of PFAS linked to ulcerative colitis;
  - **100005287020 (Re)**: Military fire-fighter who was diagnosed with bladder cancer. They had worked extinguishing simulated aircraft fires with AFFF (a type of PFAS) and evidence from the American Cancer Society was discussed which has found AFFF to be carcinogenic/toxic;
  - **100005868327 (Re)**: More likely than not that Veteran's cancer had no genetic origin, exposed to known carcinogens and hazardous materials (including PFAS) in work environment;
  - **100005470645 (Re)** Multiple myeloma; scientific evidence to support link between exposure to PFAS and the development of the Veteran's diagnosis.

**Questions?**

**Thank You.**

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