



April 4, 2024

RCRA Docket

Environmental Protection Agency

Submitted via the Federal eRulemaking Portal: <https://www.regulations.gov/>

RE: Comments on the Proposed Rule Entitled “Listing of Specific PFAS as Hazardous Constituents”
Docket No. EPA-HQ-OLEM-2023-0278

Dear Sir or Madam:

The Connecticut Department of Energy and Environmental Protection (“CT DEEP”) has reviewed EPA’s February 28, 2024 Proposed Rule “Listing of Specific PFAS as Hazardous Constituents.” CT DEEP generally supports this proposed rule, as it recognizes the need to address PFAS compounds within the RCRA Program, particularly as it relates to RCRA Corrective Action cleanups. However, CT DEEP has some comments on the proposed rule, as detailed below.

1. Availability of SW-846 Methods for all Nine PFAS Compounds. CT DEEP is encouraged that EPA has selected as many PFAS constituents as it has in this rule (i.e., nine). However, CT DEEP notes that there does not appear to be an established SW-846 Method for at least one of these compounds – namely, hexafluoropropylene oxide-dimer acid (also referred to as HFPO-DA or “GenX”). CT DEEP has the option of using other test methods for such compounds, such as the EPA water methods 533, 537, and/or 537.1. However, CT believes that having approved SW-846 Methods in place for all nine compounds would be preferable, as such methods are specifically referenced and incorporated in the RCRA regulations and thereby are fully enforceable.
2. Cleanup Criteria. CT DEEP questions whether or not EPA has, or is developing, health-based cleanup criteria for all nine of the PFAS constituents. CT DEEP currently has state cleanup standards for eight of the nine PFAS compounds from the Connecticut Department of Public Health, and could request a standard for the ninth if needed. However, having federal standards to consider in the development process would be helpful.
3. Groundwater Monitoring List in 40 CFR 264 Appendix IX. CT DEEP questions why EPA did not propose to add the nine PFAS compounds to the Groundwater Monitoring List in 40 CFR 264 Appendix IX. This would seem to be appropriate for consistency purposes, and because the list in 40 CFR 264 Appendix IX is specifically referenced in 40 CFR 264 Subpart F and 40 CFR 270.14. Does EPA have plans to add the nine PFAS compounds to 40 CFR 264 Appendix IX at some later date?

4. Land Disposal Restrictions – Universal Treatment Standards. CT DEEP questions whether or not EPA considered adding the nine PFAS constituents to the list of Universal Treatment Standards in 40 CFR 268.44. Doing so would be appropriate since 40 CFR 268.2(b) makes specific reference to 40 CFR 261 Appendix VIII.
5. Other RCRA Sections Possibly Impacted by Changes to 40 CFR 261 Appendix VIII. In the preamble, EPA states that the addition of the nine PFAS constituents to the list in 40 CFR 261 Appendix VIII would have little impact on the RCRA Program other than with respect to Corrective Action. However, the Appendix VIII list is referenced in many other places in the RCRA regulations in sections having to do with requirements other than Corrective Action. As noted in the previous comment, this includes the Land Disposal Restrictions language in 40 CFR 268.2(b). It also includes the RCRA requirements for hazardous waste Incinerators in 40 CFR 264 Subpart O and 40 CFR 265 Subpart O, as well as the requirements for Boilers and Industrial Furnaces (“BIFs”) in 40 CFR 266 Subpart H. CT DEEP recommends that EPA more carefully consider the potential impacts of the Proposed Rule to other sections of the hazardous waste regulations and, if appropriate, make additional changes as appropriate to the RCRA regulations.
6. Status of PFAS Compounds as Hazardous Wastes under the RCRA Regulations. CT DEEP would like to know what EPA’s plans are with respect to identifying PFAS compounds as hazardous waste. Until EPA makes clear its plans on this issue, there will continue to be uncertainty about the future regulations of PFAS wastes, and hesitancy on the part of treatment, storage, and disposal facilities to accept PFAS wastes out of concerns for RCRA liability, possible RCRA permitting implications, and for other reasons.

This concludes CTDEEP’s comments on the Proposed Rule. Please contact Ross Bunnell of my staff if you should have any questions on the foregoing. Mr. Bunnell may be reached by phone at (860) 424-3274, or by email at ross.bunnell@ct.gov.

Sincerely,



Gabrielle Frigon, Director
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division

GF:rqb

cc: Raymond Frigon, Director, DEEP Remediation Division – raymond.frigon@ct.gov