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Cabinet spécialiste en droit de l'environnement

Recent developments in the legal framework for PFAS substances

- International PFAS Congress, June 17th 2025
- Laurence LANOY, Doctor of Law, Lawyer, Specialist in environmental law

Le cabinet LANOY - AVOCATS

- Avocat depuis 1990, Laurence Lanoy a développé une pratique approfondie en droit de l'environnement - collaboratrice d'avocats au Conseil d'Etat et à la Cour de Cassation, puis chez Huglo-Lepage et Coudert Brothers LLP où elle a dirigé le département environnement - et a fondé un cabinet en 2005 spécialisé en droit de l'environnement qui fait aujourd'hui partie des pratiques réputées en France dans ce domaine.
- Le cabinet conseille et assiste des entreprises nationales et internationales et des collectivités publiques dans l'ensemble des domaines du droit de l'environnement :
 - **Droit de l'environnement industriel**
 - ✓ Installations classées et Seveso
 - ✓ Carrières
 - ✓ Sites et sols pollués
 - ✓ Audits de M&A, IPO, etc.
 - ✓ Produits chimiques et dangereux
 - ✓ Gestion des pollutions par les PFAS
 - ✓ Déchets
 - ✓ Eau...
 - **Droit de l'énergie**
 - ✓ Photovoltaïque, éolien, géothermie
 - ✓ Suivi de projets, aspects réglementaires et contractuels...
 - **Droit minier**
 - ✓ Titres miniers et autorisations d'exploitation
 - ✓ Hydrocarbures
 - ✓ Après-mine...
 - **Droit du développement durable**
 - ✓ Changement climatique, quotas de gaz à effet de serre, captage et stockage de CO2, bilan carbone
 - ✓ Management environnemental
 - ✓ RSE/ESG, information environnementale, neutralité carbone, Greenwashing...

Introduction :

PFAS Definition

- ▶ **Definition:** PFAS are per- and polyfluoroalkyl substances (PFAS), which include some 10,000 substances, the best known being PFOA and PFOS.
- ▶ **Interesting and unique properties:** non-stick, waterproof, high chemical and thermal stability.
- ▶ **Used in many fields for over 70 years:** textiles, food packaging (paper and cardboard), cosmetics, kitchen utensils, waterproofing agents, certain pesticides and medicines, fire-fighting foams, paints... which are therefore present in many everyday objects.
- ▶ PFAS are **toxic and persistent pollutants and endocrine disruptors.**
- ▶ **Rapidly changing regulations.**

Introduction : Pollution caused by PFAS

Negative health effects

PFAS : Large category of endocrine disruptors causing cancer, thyroid disorders, increased cholesterol levels, diabetes, immune system and fertility disorders.

PFOA : Recognized as a carcinogenic substance, 99% of the world's population now has traces of PFOA in their blood.

Pollution sources

Used in many industrial processes, fire-fighting areas and landfill leachates. PFAS are found in groundwater, water tables, soil and even ambient air. **More than 17,000 contaminated sites in Europe, according to a recent survey by the “Forever Pollution Project”.**

Major pollution accentuated by the **non-degradable and environmentally mobile nature of PFAS**. Accumulation in living organisms and in the environment.

To limit PFAS, action must be taken on all sources.

I - Legislative and regulatory framework for PFAS

- A) The existing legal framework
- B) Current regulatory developments

II - Legal risks and PFAS pollution management

- A) Issues and responsibilities surrounding PFAS
- B) Possible solutions for depollution

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

1) Upstream restrictions on the manufacture and use of specific PFAS at international and European level

- Stockholm Convention on Persistent Organic Pollutants (POPs) - 22 May 2001
- Regulation (EC) No 850/2004 of 29 April 2004 replaced by Regulation (EU) 2019/1021 of 20 June 2019 on persistent organic pollutants
- Regulation (EC) No 1272/2008 of 16 December 2008 on classification, labelling and packaging of substances and mixtures

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

1) Upstream restrictions on the manufacture and use of specific PFAS at international and European level

- **Regulation (EC) No 1907/2006 of 18 December 2006** concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)
- **ANNEX XVII of the REACH Regulation** - Restrictions on the manufacture, placing on the market and use of certain dangerous substances, preparations and articles
- **Commission Regulation (EU) 2024/2462 of 19 September 2024** amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards undecafluorohexanoic acid (PFHxA), its salts and PFHxA-related substances

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

2) Current regulatory developments

➤ For surface water and groundwater:

- **Directive 2000/60/EC of 23 October 2000** establishing a framework for Community action in the field of water policy
- **Directive 2013/39/EU of 12 August 2013** amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy Text with EEA relevance
- **Decree of July 27, 2018** amending the decree of January 25, 2010 on methods and criteria for assessing the ecological status, chemical status and ecological potential of surface waters taken in application of articles R. 212-10, R. 212-11 and R. 212-18 of the Environment Code.
- **Decree of April 26, 2022** amending the decree of January 25, 2010 establishing the water status monitoring program in application of article R. 212-22 of the Environment Code

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

2) Setting threshold values for water

➤ For drinking water :

- **Directive (EU) 2020/2184 of 16 December 2020** on the quality of water intended for human consumption

By January 12, 2026: limit values of 0.1 µg/l for the sum of the 20 PFAS of concern and 0.5 µg/l for the sum of all PFAS.

- **Transposed into French law by the ordinance of December 17, 2022 and its 2 decrees and around 15 application decrees of December 29 and 30, 2022.**
- **Decree of December 30, 2022**

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

3) PFAS monitoring of foodstuffs at European level

- ▶ EFSA scientific opinion published in July 2020
- ▶ European Commission recommendation of August 24, 2022
- ▶ **Commission Implementing Regulation (EU) 2022/1428 of 24 August 2022** laying down methods of sampling and analysis for the control of perfluoroalkyl substances in certain foodstuffs
- ▶ **Commission Regulation (EU) 2022/2388 of 7 December 2022** amending Regulation (EC) No 1881/2006 as regards maximum levels of perfluoroalkyl substances in certain foodstuffs
- ▶ **Regulation (EU) 2025/40 of 19 December 2024** on packaging and packaging waste

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

4) Monitoring aqueous discharges from industrial facilities under French law

- ▶ **Ministerial Decree of June 20, 2023** on the analysis of PFAS in aqueous discharges from certain industrial facilities
- ▶ **National action program 2024**
- ▶ **On May 7, 2025**, around 2,920 of the 3,600 industrial facilities identified and potentially concerned had completed their analysis campaigns. The results are progressively published on the government website

I - Legislative and regulatory framework for PFAS

A) The existing legal framework

5) Law n° 2025-188 of February 27, 2025

- Prohibition from January 1, 2026 of the manufacture, import, export and marketing of cosmetics, waxes, clothing, footwear and their waterproofing products containing PFASs.
- Establishment of a **national plan** to progressively reduce discharges of PFAS substances into water from industrial facilities, with the aim of eliminating such discharges within five years. Within a year of the law's promulgation, the government must draw up an action plan to finance the depollution of water intended for human consumption.
- Integration of PFAS monitoring into drinking water control procedures, and introduction of a tax on manufacturers, based on the polluter-pays principle and inspired by extended producer responsibility (EPR), of **100 euros per gram of PFAS discharged**.

I - Legislative and regulatory framework for PFAS

B) Current regulatory developments

- ▶ European Commission strategy of October 14, 2020
- ▶ On April 25, 2022, the European Commission published a roadmap in which it reiterates its determination to restrict the most dangerous chemical substances (including PFAS)
- ▶ On April 10, 2025, the European Parliament and Council reached an agreement amending the regulations governing the safety of toys sold in the EU.
- ▶ On May 7, 2025, the European Parliament adopted its recommendations in a report on the future European water resilience strategy.
- ▶ In her instruction of February 19, 2025 on the management of health risks linked to the presence of PFAS in water intended for human consumption, the Minister of Labor, Health, Solidarity and Families instructed ARS to implement PFAS monitoring of water quality throughout France by mid-2025
- ▶ Interministerial action plan to combat PFAS published on April 5, 2024

Comparison with foreign regulations

	Substances	Europe	France	Italie (Veneto)	Allemagne	Canada	Etats-Unis	Suisse
Eau potable	PFOS			0.03 µg/L		0,6 µg/L	4 ng/L (0,004 µg/L)	0,3 µg/L
	PFBA				10µg/L	30 µg/L		
	PFHxA				6 µg/L	0.2 µg/L		
	PFHpA					0.2 µg/L		
	PFOA			0.5 µg/L	0,1 µg/L	0,2µg/L	4 ng/L (0,004 µg/L)	0,5 µg/L
	PFNA				0,06 µg/L	0.2 µg/L		
	PFBS				6 µg/L	15 µg/L		
	PFHxS				0,1 µg/L	0.6 µg/L	10 ng/L (0,01 µg/L)	0,3 µg/L
	PFPeA					0.2 µg/L		
	PFOAS				0,1 µg/L			
	Somme des 20 PFAS	0,1µg/L	0,1µg/L pour les EDCH et 2 µg/L pour les eaux brutes DCH					
	Somme de tous les PFAS	0,5µg/L						

/!\ For the United States, these values are subject to change. Following a press release dated May 14, 2025, the Trump administration plans to relax PFAS regulations in drinking water.

Comparison with foreign regulations

	Substances	Italie (Veneto)	Allemagne
Eaux souterraines	PFOS	0,03 µg/	
	PFOA	0,5 µg/	
	Autres PFAS	0,5 µg/	
	PFPeA		3 µg/L
	PFHpA		0,3 µg/L
	PFDA		0,1 µg/L
	PFHpS		0,3 µg/L
	H4-PFOA		0,1 µg/L
	PFOSA		0,1 µg/L

Comparison with foreign regulations

	Substances	Norvège	Pays-Bas	Etats Unis
Sols	PFOS	2,3 ng/kg de poids sec	3 000 ng/kg ps	6 000 ng/kg ps
	PFOA	13 ng/kg de poids sec	3 000 ng/kg ps	16 000 ng/kg ps

➤ Litigation around the world

- **United States** : DuPont Chemours, Corteva, 3M
- **Belgium** : 3M
- **Italie** : Edison
- **France** : Arkema, Daikin, first civil lawsuit in France concerning PFAS contamination

II - Legal risks and PFAS pollution management

A) Issues and responsibilities surrounding PFAS

1) Bringing industrial processes into line with new values

- ▶ Stricter obligations for industrial operators
- ▶ Opportunity to implement voluntary approaches
- ▶ Government responsibility ?

II - Legal risks and PFAS pollution management

A) Issues and responsibilities surrounding PFAS

2) The responsibilities of companies responsible for pollution

- Administrative responsibility
- Tort liability
- Civil liability
- Criminal liability

II - Legal risks and PFAS pollution management

B) Possible solutions for depollution

- ▶ French National methodology for managing contaminated land of April 2017
- ▶ Historical studies
- ▶ Interpretation of the state of the environment (IEM)
- ▶ Management plan and Quantitative risk assessment studies
- ▶ Implementation of monitoring measures

PFAS study and monitoring programs

- 1) PROMISCES project - Bureau de recherches géologiques et minières (BRGM)
- 2) HBM4EU European biomonitoring program - ANSES / INSERM / European partners

CONCLUSION

- The law mainly governs the manufacture and use of PFAS, but regulations governing the management of these substances are evolving rapidly.
- However, in order to prohibit their use definitively, it is necessary to find substitutes for PFASs, which are used in many everyday objects because of their interesting properties.
- The massive use of these persistent, environmentally mobile substances by many industries has resulted in a large number of contaminated sites (over 17,000 in Europe). Pollution affects all environments (water, air, soil).
- A major restriction of PFAS substances under the REACH regulation is underway.
- France is moving towards widespread monitoring and regulation of PFAS substances
- Law of February 27, 2025
- The evolution of regulations is accompanied by an increase in litigation around the world due to PFAS contamination.



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