



# DERP FORUM

*Achieving Greater Success Through Strong Partnerships*

November 14-17, 2023 • Kansas City, MO

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## **IRP Track: PFAS Policy Update**

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**Office of the Deputy Assistant Secretary of Defense (Environment and Energy Resilience)**

**November 16, 2023**

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# Overview

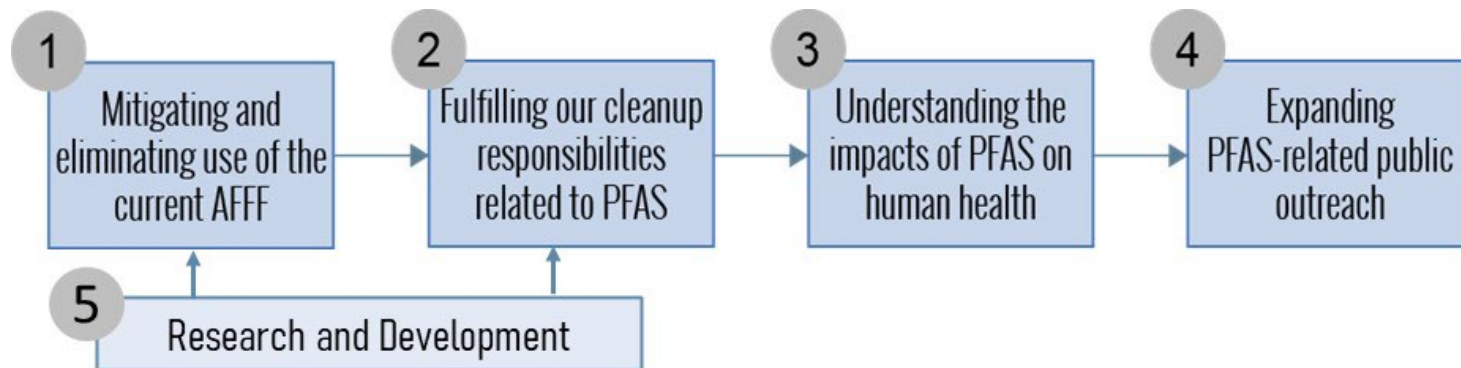
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- **PFAS Task Force**
- **DoD PFAS Policies, data calls, and guidance**
- **PFAS Policies Spotlight**
  - Section 345 Reporting
  - Protecting Personally Identifiable Information



# PFAS Task Force

- **SecDef established DoD's PFAS Task Force in July 2019**
  - Codified in 10 U.S.C. § 2714
- **Task Force goals:**





# DoD PFAS Policies, Data Calls, and Guidance

- To date, the PFAS Task Force has issued 48 memorandums for policies, guidance, and data calls
- In FY 2023, the PFAS Task Force issued 12 memorandums for policies, guidance, and data calls

## PFAS Policy Spotlight

- Section 345 Reporting
- Managing Controlled Unclassified Information (“PII Memo”)



Website: [defense.gov/pfas](https://defense.gov/pfas)



# PFAS Policies: Section 345 Reporting

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- **Public Disclosure of Department of Defense Testing Results of Per- and Polyfluoroalkyl Substances in Drinking Water Within a Covered Area, April 26, 2022**
  - Public Disclosure of Department of Defense's Planned Testing of Per- and Polyfluoroalkyl Substances in Drinking Water Within a Covered Area, June 15, 2022
- **Reasons for Policy:**
  - Section 345 of the Fiscal Year (FY) 2022 National Defense Authorization Act (NDAA)
  - Establish consistent DoD-wide approach in public disclosure of PFAS sampling results in drinking water within a covered area



# PFAS Policies: Section 345 Reporting

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- **What DoD was already doing:** DoD conducts sampling of drinking water off-base to ensure the Department identifies potential impacts of PFAS resulting from DoD activities.
  - Off-base drinking water includes non-DoD drinking water systems and private wells located outside the installation boundary.
- **What NDAA required DoD to do:** Publicly provide the final testing results for off-base drinking water located in “covered areas.”
  - Covered areas are locations in the United States that are adjacent to and down gradient from a military installation, Formerly Used Defense Site (FUDS), or National Guard facility.



# PFAS Policies: Section 345 Reporting

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## Specific Requirements from Section 345 of the FY2022 NDAA:

- Publicly disclose a final result of testing drinking water for PFAS in a covered area, regardless of whether testing is performed by the DoD or by a non-DoD entity on behalf of or pursuant to an agreement with the DoD,
- Provide local notification prior to any testing of PFAS in drinking water within a covered area, including testing which has not been previously publicly disclosed, and
- Publicly disclose the anticipated timeline for, and general location of, any planned testing for PFAS proposed to be conducted in a covered area.



# PFAS Policies: Section 345 Reporting

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- **DoD/ODASD(E&ER) Hosted Database [Demo]**
- **Requirements to Ensure Data Quality**
  - Provided spreadsheet to facilitate the data collection and ensure that data meets data entry requirements
  - Provide a monthly summary of completed sampling of PFAS in drinking water within a covered area to ODASD(E&ER)
  - Provide final testing results to ODASD(E&ER) within seven days of receipt





# PFAS Policies: Protecting Personally Identifiable Information

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- **Managing Controlled Unclassified Information in Department of Defense Environmental Cleanup Data and Reports, August 24, 2023 (“PII Policy”)**
- **Reasons for Policy:**
  - Ensure consistency among MILDEPs and promote transparency of information shared with states
  - Ensure DoD protects PII as required by law
  - Clarify data sharing language of Section 345(a)(2) of the FY2022 and Section 344 of the FY2023 NDAA



# PFAS Policies: Protecting Personally Identifiable Information

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## Personally Identifiable Information (PII) is protected from public release under the Freedom of Information Act (FOIA).

- **Names and addresses** of private individuals associated with DoD's sampling results are considered PII and in accordance with the law, DoD is not releasing names and addresses associated with our sampling results.
  - This includes any type of media sample (drinking water, groundwater, soil, etc.).
  - Names and addresses of public or commercial entities are not considered PII under the law.
- **Latitude and Longitude** data is not considered PII; however, DoD has decided to protect this information, when associated with the results of samples taken from *residential privately owned drinking water wells*.

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# PFAS Policies: Protecting Personally Identifiable Information

- **Latitude and longitude** data associated with results from **non-drinking water samples** is not protected under law or the DoD policy and should be shared with supporting regulatory agencies and may be made publicly available.
  - Examples of non-drinking water samples include soil, surface water, sediment, and groundwater samples.
  - Data should be shared with supporting regulatory agencies, as soon as practicable (e.g., when the next report/presentation is drafted), and can be made publicly available (e.g., provided to a RAB).
- **Latitude and longitude** data associated with results from drinking water or non-drinking water samples taken from **non-residential properties** is not protected under law or the DoD policy.
  - Data should be shared with supporting regulatory agencies, as soon as practicable (e.g., when the next report/presentation is drafted), and may be made publicly available.



# PFAS Policies: Protecting Personally Identifiable Information

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- **New Rights of Entry:** The policy requires the Military Departments to modify future access agreements to include a notification to residential property owners that the latitude/longitude associated with a result from drinking water samples taken from their property will be shared with state regulators and may be made publicly available.
  - This will enable DoD to share the latitude/longitude associated with future drinking water sampling results with state regulators and the public, while ensuring residential property owners are aware that the latitude/longitude will be shared.
- **Data Previously Collected:** The policy also directs the Military Departments to request permission from residential property owners for the latitude/longitude, associated with samples previously taken from their property, to be shared with state regulators and the public, when requested by a state regulatory agency.
  - This will enable DoD to share the latitude/longitude associated with past drinking water sampling results with state regulators and the public, while ensuring residential property owners are aware that the latitude/longitude will be shared.



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# Questions and Discussion



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# Backup Slides



# DoD PFAS Policies and Guidance

## ■ PFAS policies

- ASD(EI&E) Memorandum, “Memorandum for Sampling of Per- and Polyfluoroalkyl Substances in DoD-Owned Drinking Water Systems”, July 11, 2023
  - **ASD(EI&E) Memorandum, “Memorandum for Taking Interim Actions to Address Per- and Polyfluoroalkyl Substances Migration from DoD Installations and National Guard Facilities”, July 11, 2023**
  - **ASD(EI&E) Interim Guidance, “Memorandum for Taking Interim Actions to Address Per- and Polyfluoroalkyl Substances Migration from DoD Installations and National Guard Facilities”, July 11, 2023**
  - ASD(EI&E) Memorandum, “Guidance on Incineration of Materials Containing Per- and Polyfluoroalkyl Substances”, July 14, 2023
  - **ASD(EI&E) Memorandum, “Establishing a Consistent Methodology for the Analysis of Per- and Polyfluoroalkyl Substances in Matrices Other than Drinking Water”, August 7, 2023**
  - **ASD(EI&E) Memorandum, “Investigating Per- and Polyfluoroalkyl Substances within the Department of Defense Cleanup Program”, August 24, 2023**
  - **ASD(EI&E) Memorandum, “Managing Controlled Unclassified Information in Department of Defense Environmental Cleanup Data and Reports”, August 24, 2023**
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- \*Bold signifies DERP policies and guidance