

EPA Sets Health Advisories for Drinking Water

Alert

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The Environmental Protection Agency (EPA) has taken another step impacting the regulation of per- and polyfluoroalkyl substances (PFAS) in drinking water. PFAS are a family of man-made, environmentally-persistent chemicals (or “forever chemicals”) with a chain of carbon-fluorine bonds. They are used in a variety of consumer and industrial products such as nonstick cookware, waterproof clothing, cosmetics and, historically, in firefighting foam and airport defoaming agents.

On June 15, 2022, the EPA, citing newly available science, [announced](#) it had issued four new lifetime drinking water health advisories (HAs) for PFAS. EPA’s announcement also makes clear they will move forward this fall to propose a PFAS National Drinking Water Regulation, with the intent of issuing a final rule (after public notice and comments from interested parties) in the fall of 2023. The reach of these rules will impact manufacturers and users of PFAS, downstream distributors, and public water systems, to name a few.

While the new HAs are non-enforceable statements that provide guidance to states, Tribes, and water systems, the HAs also provide insight into what the EPA may include in its proposed rules, and will inform the imminent designation of PFAS chemicals as Superfund “hazardous substances.” The new HAs fall into two categories. The first includes “interim” lifetime HAs for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). The interim designation leaves the door open for the EPA to revise the HAs if or when it reviews new scientific studies. In 2016, the EPA had issued similar interim HAs for PFOA and PFOS, which stated the maximum level of each chemical at 70 parts per trillion (ppt). The new HAs, which the EPA based on newly available science, set the maximum concentration levels significantly lower: 0.004 ppt for PFOA, and 0.02 ppt for PFOS. In all likelihood, the EPA’s forthcoming proposed rule will follow this trend of more stringent maximum contaminant levels (MCLs) for PFAS in drinking water.

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The second category of HAs are “final” lifetime HAs, and apply to perfluorobutane sulfonic acid and its potassium salt (PFBS) and hexafluoropropylene oxide dimer acid and its ammonium salt (GenX chemicals). The EPA had never before issued HAs pertaining to these PFAS, which are used as replacements for PFOA and PFOS. As alluded to in the [press release](#) accompanying the EPA’s announcement, the new subjects of these HAs signal the EPA’s forthcoming proposed rule may extend beyond PFOA and PFOS, and the EPA is even considering actions to address “groups of PFAS.”

The EPA also announced it was making available \$1 billion in grant funding for states, territories, Tribes, and Alaskan Native Villages to reduce PFAS in drinking water through the Infrastructure Investment and Jobs Act. Interested parties can register for an [EPA webinar](#) on June 23, 2022 at 12:00 p.m. EDT, and must submit a letter of intent to participate in the grant program by August 15, 2022.

The EPA’s announcement is a development promised by EPA’s “[PFAS Roadmap](#),” and part of a broader, coordinated effort by government agencies to confront PFAS and other emerging contaminants. Stinson’s environmental attorneys are keeping watch of all of the developments related to the regulation of PFAS, and are prepared to help you navigate the shifting regulatory landscape for PFAS in real time.

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