

EPA Takes Significant Step Toward PFAS Regulation

Alert

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EPA has taken another step in regulating per- and polyfluoroalkyl substances (PFAS) by proposing regulatory determinations for two PFAS in drinking water. Last Thursday, EPA announced its proposal to promulgate drinking water regulatory determinations for perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) and will be seeking public comment on its proposed decision to regulate the two substances as drinking water contaminants.

This determination is occurring under EPA's PFAS Action Plan, a broad regulatory initiative that seeks to assist states, tribes and communities across the nation in addressing PFAS. This action, by itself, will not impose mandates on permit holders, but it is the first step towards developing national primary drinking water standards for PFOS and PFOA under the Safe Drinking Water Act. Currently, no drinking water standards for these constituents exist.

U.S. EPA Administrator Andrew Wheeler stated in a news release last Thursday that, "[t]he U.S. leads the world in providing access to safe drinking water for its citizens, thanks in part to EPA's implementation of the Safe Drinking Water Act." He also stated that this action is part of the EPA's plan of "following through on its commitment in the Action Plan to evaluate PFOA and PFOS under this Act."

Under the Safe Drinking Water Act, EPA must propose a list of at least five unregulated contaminants on the Contaminant Candidate List (CCL) for public comment, which the agency will then consider whether to take further regulatory action. Among EPA's considerations during the comment period will be whether the contaminants have adverse health effects on humans and whether the contaminants will likely end up in public water systems at levels of public health concern.

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After the public comment process is complete, if EPA determines that the substances should remain listed on the CCL, EPA will begin the rulemaking process for national primary drinking water regulations. Any resulting standards will impact all public water systems and those who discharge into public water supplies.

This action is one of many the agency has taken to [regulate PFAS throughout the nation](#), including action under the Toxic Substances Control Act and the Comprehensive Environmental Response, Compensation and Liability Act.

Once the [proposed regulation](#) is published in the Federal Register, the public will have 60 days to submit comments on the determination. The docket has not yet been published in the Federal Register, but will be listed under Docket ID No. EPA-HQ-OW-2019-0583 once it is published.

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