

EPA to Restrict PFAS in Drinking Water

Alert

03.16.2023

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On Tuesday, the U.S. Environmental Protection Agency (EPA) proposed the [first-ever federally enforceable regulatory limits](#) on per- and poly-fluoroalkyl substances, or PFAS, in drinking water. The agency plans to finalize the rule by the end of 2023.

The proposed rule would set a maximum contaminant level (MCL) of 4 parts per trillion (ppt) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), which is more stringent than any current state-imposed level. An MCL is the maximum level of a contaminant or group of contaminants (i.e., a mixture of chemicals) allowed in water that is delivered to users of a public water system. For comparison purposes, 4 ppt is the equivalent of diluting four drops of water in 20 Olympic-sized swimming pools.

The proposed rule would also regulate four other PFAS — perfluorohexane sulfonic acid (PFHxS), hexafluoropropylene oxide dimer acid (HFPO-DA) and its ammonium salt (commonly known as GenX chemicals), perfluorononanoic acid (PFNA) and perfluorobutane sulfonic acid (PFBS) — as a mixture. If finalized, public water systems would be required to use a hazard index calculation to determine when combined levels of those compounds pose a possible risk.

WHAT ARE PFAS?

“PFAS,” or per- and poly-fluoroalkyl substances, are a family of thousands of man-made chemicals that have been used in a wide range of consumer and industrial products since the 1940s. They are used in manufacturing to make products resistant to water, grease, oil, stains and fire. But the chemical properties that make PFAS so useful also mean the chemicals do not break down easily and are highly mobile in the environment. Some recent research has suggested that exposure to PFAS may lead to adverse human health effects.

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IMPLICATIONS FOR STATES AND DRINKING WATER UTILITIES

If a state does not already have PFAS drinking water standards that are in line with EPA's proposal, it will need to issue regulations that are at least as strict as the federal regulations. Some states have drinking water limits, but many do not.

If finalized, the proposed regulation will require public water systems to monitor for these PFAS chemicals, notify the public of the levels of these PFAS in drinking water and reduce the levels if they are found to exceed the proposed regulatory standards.

In February 2023, EPA announced the availability of \$2 billion from President Biden's Bipartisan Infrastructure Law (BIL) to address emerging contaminants and PFAS in drinking water across the country. Allocated to states, this funding will be made available to communities as grants through EPA's Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Grant Program.

NEXT STEPS

EPA has released a pre-publication version of the proposed rule. Once the proposed rule is published in the *Federal Register*, affected stakeholders must provide comments to the EPA within the 60-day public comment period. After the close of the comment period, the agency must respond to the comments before publishing a final rule.

EPA will be holding [two informational webinars](#) about the proposed PFAS drinking water regulation today, March 16, 2023 (general overview), and March 29, 2023 (technical overview). It will also hold a public hearing on May 4, 2023, where members of the public can register to attend and provide verbal comments to EPA on the proposed rule.

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 and assess associated risks in real time.

For more information on the EPA restrictions, please contact [Brittany Barrientos](#), [Aimee Davenport](#), [Andy Davis](#), [Kristen Ellis Johnson](#), [Kyle Foote](#), [Sarah Lintecum Struby](#), [Claire Williams](#) or the Stinson LLP contact with whom you regularly work.

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