

PFAS/Safe Drinking Water Act: U.S. Environmental Protection Agency Issues Final National Primary Drinking Water Standards



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The United States Environmental Protection Agency (“EPA”) on April 11th issued final Safe Drinking Water Act (“SDWA”) National Primary Drinking Water Standards for six PFAS which include:

- Perfluorooctanoic acid (PFOA)
- Perfluorooctane sulfonic acid (PFOS)
- Perfluorohexane sulfonic acid (PFHxS)
- Perfluorononanoic acid (PFNA)
- Hexafluoropropylene oxide dimer acid (HFPO-DA)
- Perfluorobutane sulfonic acid (PFBS)

(collectively, “PFAS”)

PFAS consists of a large group of man-made chemicals. Their properties include resistance to heat, water, and oil. They have been described as persistent in the environment and resist degradation.

Examples of their commercial and industrial applications include:

- Fabrics for furniture
- Paper packaging for food and other materials
- Firefighting at airfields
- Utilization in a number of industrial processes
- Various consumer products

Potential human exposure to PFAS includes pathways through drinking water, air, or food.

The SDWA is the federal law that protects drinking water supplies. The statute requires that EPA identify drinking water contaminants. The federal agency is then required to develop rules that either set maximum permissible levels for the contaminants or establish protocols to treat the water to minimize the levels of the contaminant. All owners or operators of public water systems are required to comply with the primary (health-related) standards.

The states can be delegated the ability to enforce their requirements established by the SDWA. The Arkansas Department of Health implements this program in Arkansas.

The establishment of these standards has been a focus of significant attention. EPA states that it evaluated over 120,000 comments submitted by the public on its proposal. This is also stated to have included consultations in stakeholder engagements held both prior to and following the proposed rule.

Maximum contaminant levels finalized for each of the six PFAS include:

- PFOA – 4.0 parts per trillion
- PFOS – 4.0 parts per trillion
- PFHxS- 10 parts per trillion
- PHNA – 10 parts per trillion
- HFPO-DA (commonly known as GenX Chemicals) – 10 parts per trillion
- Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFVS – One unit less/hazardous index

Public water systems are required to monitor for these PFAS. They are required to have completed initial monitoring by 2027. Further, such systems have five years (by 2029) to reduce PFAS if monitoring indicates that drinking water levels exceed the maximum contaminant levels. In addition, starting in 2029, public water systems that have PFAS in drinking water which violates one or more of the maximum contaminant levels are required to take action to reduce levels of such PFAS in their drinking water and provide notification to the public of violation.

EPA estimates that compliance with the final rule will cost approximately \$1.5 billion on an annual basis. It estimates that health benefits in terms of fewer cancers, lower incidents of heart attacks and strokes, and reduced birth complications will be approximately \$1.5 billion per year.

In announcing the final rule, EPA states that approximately \$1 billion in what it describes as “newly available funding” will be available through the Bipartisan Infrastructure Law for states and territories to implement PFAS testing and treatment at public water systems. The funds are also stated to be available to assist owners of private wells to address PFAS contamination. Also referenced is \$9 billion provided by the Bipartisan Infrastructure Law to assist communities with drinking water impacted by PFAS and other emergency contaminants.

The new standards for PFAS will have implications for others besides public water systems. For example, the Comprehensive Environmental, Compensation, and Liability Act (i.e., Superfund) requires remedial actions to achieve a level of cleanup that would attain maximum contaminant levels established for current or potential sources of drinking water under the SDWA. In addition, public owned treatment works and wastewater treatment plant operators have expressed concern that their passive receipt of materials containing PFAS could jeopardize their ability to land apply some biosolids. Similar concerns apply to landfills that are passively receiving materials that may contain PFAS.

A link to the final rule can be found [here](#).