Updates
April 15, 2024
EPA’s Landmark PFAS Drinking Water Standards

The final rule on the National Primary Drinking Water Regulation (NPDWR) for per- and polyfluoroalkyl substances (PFAS) was announced by the U.S. Environmental Protection Agency (EPA) on April 10, 2024.

Background

After considering 120,000 comments, EPA issued the first federal standards for PFAS in drinking water. The new rule will be effective 60 days after the date of publication in the *Federal Register*. In response to concerns over economic feasibility and implementation challenges, EPA extended the compliance deadline from three to five years, while continuing to claim that health risk reductions justify the regulation without needing to factor in all the costs.[1]

The Biden administration also announced nearly $1 billion in funding to help states and territories implement PFAS treatment measures through the Bipartisan Infrastructure Law.

Highlights of the Final Rule

The regulation primarily focuses on PFOA and PFOS, setting the Maximum Contaminant Level Goals (MCLGs) at zero due to potential carcinogenicity and Maximum Contaminant Levels (MCLs) at 4 parts per trillion (ppt).[2] For PFHxS, PFNA, and GenX, the MCL and MCLG are 10 ppt. A Hazard Index (HI) of 1.0 will be applied to mixtures involving two or more of PFHxS, PFNA, GenX, and PFBS.[3]

Compound	Final MCLG	Final MCL
PFOA	0	4.0 ppt
PFOS	0	4.0 ppt

Compound	Final MCLG	Final MCL
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (GenX)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

Takeaways

- Water utilities have up to three years after the date of publication in the *Federal Register* to complete the initial monitoring, and they are to include the results in their Annual Water Quality reports.
- In cases where PFAS levels exceed the set standards, utilities have five years after the date of publication in the *Federal Register* to implement treatment solutions and are required to notify the public.
- Despite funding from the Bipartisan Infrastructure Law that has been allocated to support implementation, utilities may still incur additional costs, due to the limited (and expensive) options to achieve the very stringent levels set by EPA, potentially affecting ratepayers.
- Regulated utilities will likely look upstream to consider the sources of influents that may contain PFAS.
- Moreover, these MCLs could influence cleanup standards for contaminated sites and inform discharge standards under the Clean Water Act and similar state laws, potentially resulting in liability or additional costs for regulated entities and likely increased litigation across the public and private sectors.

Endnotes

[1] Register Notice at 7, 108.
[2] *Id*. at 125, 165. MCLs are enforceable, and the MCLGs are intended to be health-based but are non-enforceable.
[3] A Hazard Index is the sum of hazard quotients from multiple substances. A hazard quotient is the ratio of exposure to substances and the level at which adverse effects are not anticipated to occur. *Id*. at 166.

Authors

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