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Practice Update

EPA Establishes First-Ever Drinking Water Standards for PFAS (Forever Chemicals)

April 11, 2024

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On April 10, 2024, the Biden administration set the first-ever national drinking water standards for six per- and polyfluoroalkyl substances (PFAS) in drinking water. PFAS are a large class of thousands of synthetic long-lasting chemicals which break down slowly over time. Their ability to withstand heat and repel water and stains makes PFAS useful in a wide variety of consumer, commercial, and industrial products, and in the manufacturing of other products and chemicals particularly popular in food packaging and the medical and emergency fire response industries. Because of their widespread use and prolonged presence in the environment, many PFAS are found in water, air, and soil across the nation. Exposure to PFAS can lead to bioaccumulation in tissues and blood and may result in harmful health effects, including infertility and birth defects, increased risk for certain cancers, negative immunological effects, and increased cholesterol levels.

Until the announcement by the U.S. Environmental Protection Agency (EPA) on April 10, there had been no nationwide drinking water standards in place for PFAS chemicals. As part of the EPA's National Primary Drinking Water Regulation Roadmap, the following drinking water standards were set:

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PFAS Chemical	Final Maximum Contaminant Levels (MCLs)
PFOA	4.0 parts per trillion (ppt)
PFOS	4.0 ppt
PFHxS	10 ppt
PFNA	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index

A “part per trillion” is roughly equal to one drop of water in 20 Olympic sized pools.

The rule is expected to apply only to public drinking water systems, not private wells. Public water systems have three years (until 2027) to monitor and report drinking water contamination levels to the public and five years (until 2029) to implement a system to reduce PFAS found above the limits and notify the public of the violation. The EPA estimates that approximately 6 – 10 percent of the country’s 66,000 public drinking water systems will have to take action to meet the standards. The EPA did not confirm what consequences non-compliant water systems may face.

While these drinking water standards are targeted for public water systems, other industries should be aware and vigilant. For instance, we think it’s likely a public water system with detections in its water supply in excess of these national drinking water standards will begin looking for other potentially responsible parties that may have discharged or otherwise contributed PFAS to their respective water systems.

The Biden administration also announced that $1 billion will be available to water systems and private wells to address PFAS — costs related to testing and treatment.

Please reach out to us if you have any questions. The EPA's announcement can be found here: Per- and Polyfluoroalkyl Substances (PFAS) | US EPA.
