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EPA PFAS Update: Final Drinking Water Standards and Revised PFAS Disposal Guidance

The Environmental Protection Agency (EPA) this week announced two significant actions intended to tackle per- and polyfluoroalkyl substances (PFAS), also known as "forever chemicals": a final rulemaking to create enforceable maximum contaminant levels (MCLs) for PFAS in drinking water, and an update to the guidance document on the destruction and disposal of PFAS and materials containing PFAS.

National Drinking Water Standards

On April 10, EPA announced the Final National Primary Drinking Water Regulation for five PFAS and GenX chemicals plus a mixture of a least two of four PFAS (the Final Rule). The Final Rule sets enforceable maximum contaminant levels and health-based non-enforceable "maximum contaminant level goals" (MCLGs) for the following compounds:

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as ng/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

Public drinking water systems (PDWs) subject to the Final Rule must complete initial monitoring for these substances in three years and must make this information public beginning in 2027. If monitoring shows that the tested drinking water exceeds the MCLs, PDWs must "implement solutions that reduce" the contaminants within five years (by 2029). Beginning in 2029, PDWs whose drinking water violates one or more of the above MCLs must take action to reduce levels of PFAS compounds and must also provide public notice of the violation[s]. Simultaneously, EPA announced nearly $1 billion in newly-available grant funding through the Bipartisan Infrastructure Law to assist states and territories in implementing PFAS testing and treatment regimes at PDWs required by the Final Rule. The Final Rule represents the first enforceable federal regulation aimed at addressing PFAS levels in public drinking water. EPA estimates that "between 6% and 10% of the 66,000" PDWs in

the United States "may have to take action to reduce PFAS to meet these new standards." A link to EPA's announcement of the Final Rule can be found here.

EPA Updated Interim Guidance

On April 8, EPA released for public comment its Updated Interim Guidance on Destroying and Disposing of Certain PFAS and PFAS-Containing Materials (the Interim Guidance), which provides a new technology framework intended to enable "technology developers to assess emerging innovative destruction and disposal methods." The Interim Guidance identifies underground injection, disposal in permitted hazardous waste landfills, and thermal treatment (incineration and catalyzation) as technologies which "(in no particular order) have a lower potential for environmental release of PFAS compared to other technologies in the same category, and are viewed as more protective technologies." Public comments may be submitted for 180 days following publication in the Federal Register for the purpose of providing additional updates to the guidance as it evolves. The Interim Guidance makes the following comments on each "more protective" technology:

- **Underground Injection**: while the Interim Guidance notes that this technology has a "lower potential for environmental release when compared to other destruction and disposal technologies," the "limited number of wells currently receiving off-site PFAS and waste transportation logistics may significantly limit the type and quantity of PFAS-containing fluids appropriate for underground injection."
- **Permitted Hazardous Waste Landfills**: The Interim Guidance notes that "EPA recommends Subtitle C landfills when PFAS levels of the waste are relatively high and landfill disposal is the selected option," but that "new information demonstrates landfilling could have higher PFAS releases to the environment than previously thought in 2020."
- **Thermal Treatment**: The Interim Guidance notes that "uncertainties remain about the effectiveness of thermal treatment" and that "EPA encourages additional testing with EPA-approved or EPA-evaluated methods by waste managers of thermal treatment operations, including for products of incomplete combustion." The Interim Guidance also prescribes a new analytical method, OTM-50, to "allow better characterization of products of incomplete combustion."

The Interim Guidance also notes that EPA continues to seek collaboration with thermal treatment facilities for cooperation on air emission testing during thermal treatment of PFAS waste. EPA has also partnered with academia and industry to collect data on four emerging technologies: supercritical water oxidation, gasification and pyrolysis, electromechanical oxidation, and mechanochemical degradation. The Interim Guidance notes that "while the results from these studies show promise for PFAS destruction, further work using newly available methods is needed to more fully characterize" their performance. Although the Interim Guidance does not create a mandate to dispose of PFAS waste by using the recommended methods, it does provide an important weather vane on the technological developments in—and regulator-accepted methods for—dealing with PFAS waste. A link to EPA's Interim Guidance document can be found here. If you or your organization have questions about the Final Rule, Interim Guidance or other PFAS-specific questions, please reach out to one of the attorneys in the sidebar.

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