



Drinking Water Suppliers Face Challenges After EPA Establishes Near Zero Health Advisory for PFAS

Drinking water systems that supply tap water need to begin preparing for how they will meet new National Drinking Water Standards set for proposal in Fall 2022 based on EPA's recently issued Interim Health Advisory for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) near zero. On June 15, 2022, [EPA announced a new Interim Lifetime Health Advisory](#) for PFOA at 0.0000000000000004 g/L (4 parts per quadrillion) and for PFOS at 0.0000000000000020 g/L (20 parts per quadrillion) in tap water.

EPA's new advisory level is thousands of times more stringent than EPA's [2016 Health Advisory](#) of PFOA and PFOS at 70 parts per trillion and the [Agency for Toxic Substances and Disease Registry's current risk levels](#) for PFOA: 78 ppt (adult) and 21 ppt (child), and PFOS: 52 ppt (adult) and 14 ppt (child). And the new levels are significantly below any current laboratory detection or quantification limits, currently around 2 ppt. Consequently, it defies logic how EPA expects drinking water supply systems to even currently assess PFAS levels in relation to the newly released levels.

EPA's actions targeted at PFOA and PFOS are part of a larger agency-wide initiative regarding [per- and poly-fluoroalkyl substances \(PFAS\)](#). PFAS are a class of human-made carbon-fluorine long-chain chemical bonds that have been widely used in a variety of water-repellent non-stick applications, including firefighting foam and fabrics. While most uses have been phased out at this time, EPA notes that the chemicals are highly persistent and bioaccumulate.

Although EPA has yet to establish an enforceable Maximum Contaminant Level (MCL) or Treatment Technique for PFOA and PFOS under the federal Safe Drinking Water Act – a step that the agency notes it will take [with a proposed rule in Fall 2022](#)

[and a final rule in Fall 2023](#) – EPA’s June 2022 Health Advisories make clear that any such final enforcement limits will likely present significant challenges for municipal and privately-owned drinking water suppliers.

EPA [recommends the following actions](#) for public drinking water supply systems:

- Assess Contamination
- Inform EPA and the Public
- Limit Exposure
 - According to EPA “There are different ways to reduce risks from PFAS. In some cases, drinking water systems may be able to reduce concentrations of PFAS by closing contaminated wells or changing the rates of blending of water sources, where the available quantity of drinking water is not compromised. Systems may also remove PFAS by installing technologies such as granular activated carbon, ion exchange or high-pressure membranes. These technologies can be installed at the treatment plant, or for some smaller systems or for private wells it may be more effective to use point of use devices that have been demonstrated to remove PFAS.”

EPA’s Health Advisory may well lead consumers to move to plastic-bottled water for all drinking water. But bottled water is not regulated by the EPA. Rather, the FDA regulates bottled water as a packaged food under the Federal Food, Drug and Cosmetic Act. Adding to the challenges for consumers, a recent large-scale peer-reviewed [scientific study](#) approximately 40 percent of bottled water had detectable concentrations of PFAS. In other words, EPA’s action may well drive more consumers to switch to more costly bottled water alternatives without any meaningful health benefits, all the while increasing the amount of plastic waste and plastic pollution generated, which impact other EPA priority areas including [Trash-Free Waters](#) and [plastic use reduction and recycling](#). Further, EPA’s advisory also fails to provide any assurance that it is safe for consumers to bath or shower in water above the Health Advisory noting only that “only a small amount of PFAS can get into your body through skin.”

This blog post was drafted by [Andrew Brought](#), an attorney in the Kansas City, Missouri office of Spencer Fane.