



## EPA Takes New Steps to Regulate PFAS

EPA on February 22, 2021, [announced new steps](#) to address [PFAS](#) (per- and polyfluoroalkyl substances) in drinking water. These actions will collect new data on the presence of PFAS in drinking water and could lead EPA to establish maximum contaminant levels, commonly known as MCLs, for these substances under the Safe Drinking Water Act (SDWA).

PFAS are materials commonly associated with firefighting foam, nonstick coatings, water repellants, and many consumer products. Until recently they were largely unregulated, but they have been gathering significant public and regulatory scrutiny in the past few years. On February 22, EPA repropoed the Fifth Unregulated Contaminant Monitoring Rule (UCMR 5) to collect new data on PFAS in drinking water, and EPA issued final regulatory determinations concerning perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) under the SDWA. Some of these actions will be subject to public comment and stakeholder meetings.

Proposed UCMR 5 will collect data on 29 PFAS constituents in drinking water systems between 2023 and 2025. EPA will accept public comment on this proposal for 60 days following publication in the Federal Register and will hold two virtual stakeholder meetings at dates to be announced.

With EPA's final determinations regarding PFOA and PFOS under what is known as the SDWA Fourth Contaminant Candidate List, EPA will be implementing the National Primary Drinking Water Regulation process to these two chemicals. This process may lead to development of MCLs for these substances. There are currently no MCLs for PFAS chemicals. EPA has issued a health advisory [guidance for PFAS](#), and several states have moved separately to address PFAS.

These developments will affect municipalities and drinking water systems, beginning with the data-gathering requirements, when established. In time, they may affect manufacturers and others who use PFAS and similar chemicals in their processes and products. They may also affect those responsible to remediate legacy environmental sites, if PFAS standards developed for drinking water are translated into remediation requirements (to the extent applicable). These and other stakeholders will want to follow these regulatory actions as EPA moves forward.

This post was drafted by [Jim Price](#), an attorney in the Kansas City, MO office of Spencer Fane LLP. For more information, visit [www.spencerfane.com](http://www.spencerfane.com).