

The Legal Intelligencer

An Update on the EPA's Recent Action Regarding PFAS

By Charles J. Dennen

June 2, 2025

The first 120 days of President Donald Trump's second term have been marked by deregulation, federal funding cuts and efforts to improve government efficiency. But not all areas of the federal government and its prior initiatives have felt the same impact.

Under former President Joe Biden's administrative, the U.S. Environmental Protection Agency (EPA) made regulation of per- and polyfluoroalkyl substances (PFAS) a top priority. During Biden's tenure, the EPA issued its PFAS strategic roadmap, which laid out a comprehensive agenda identifying the EPA's intentions to address PFAS. Among other things, the EPA set drinking water maximum contaminant levels (MCLs) for certain PFAS compounds found in drinking water, designated perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), finalized a rule requiring report of PFAS data under the Toxic Substances Control Act (TSCA).

Thus far, the Trump administration has shown little indication that it plans to significantly roll back the Biden administration's work regarding PFAS.

EPA Announces Action to Address PFAS

On April 28, 2025, EPA Administrator Lee Zeldin announced upcoming agency action aimed at addressing PFAS. In particular, Zeldin announced a substantial list of actions

the EPA intends to pursue that are guided by the following principles: strengthening the science; fulfilling statutory obligations and enhancing communication; and building partnerships.

In all, Zeldin announcement included 21 different initiatives that are spread among the three principles outlined above. Although all 21 initiatives are outlined below, the most significant of which are the designation of an EPA lead for PFAS, the creation of effluent limitations guidelines to stop certain PFAS compounds from entering drinking water systems, and advanced remediation and cleanup efforts where drinking water systems are already impacted by the presence of PFAS.

The complete list of initiatives announced by Zeldin are as follows:



**Charles Dennen of
Archer & Greiner.**

Courtesy photo

PFAS Compound	Final MCL	Final MCLG
PFOA	4 parts per trillion (ppt)	Zero
PFOS	4 ppt	Zero
PFHxS (perfluorohexane sulfonic acid)	10 ppt	10 ppt
PFNA (perfluorononanoic acid)	10 ppt	10 ppt
HFPO-DA (sometimes referred to as “GenX” compounds)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1.0 (unitless) Hazard Index	1.0 (unitless) Hazard Index

Strengthening the Science

- Designate an agency lead for PFAS to better align and manage PFAS efforts across agency programs;
- Implement a PFAS testing strategy under Toxic Substances Control Act (TSCA) Section 4 to seek scientific information informed by hazard characteristics and exposure pathways;
- Launch additional efforts on air related PFAS information collection and measurement techniques related to air emissions;
- Identify and address available information gaps where not all PFAS can be measured and controlled;
- Provide more frequent updates to the PFAS destruction and disposal guidance—changing from every three years to annually—as the EPA continues to assess the effectiveness of available treatment technologies; and
- Ramp up the development of testing methods to improve detection and strategies to address PFAS.

Fulfilling Statutory Obligations and Enhancing Communication

- Develop effluent limitations guidelines (ELGs) for PFAS manufacturers and metal

finishers and evaluate other ELGs necessary for reduction of PFAS discharges;

- Address the most significant compliance challenges and requests from Congress and drinking water systems related to national primary drinking water regulations for certain PFAS;
- Determine how to better use RCRA authorities to address releases from manufacturing operations of both producers and users of PFAS;
- Add PFAS to the toxic release inventory (TRI) in line with Congressional direction from the 2020 National Defense Authorization Act;
- Enforce Clean Water Act and TSCA limitations on PFAS use and release to prevent further contamination;
- Use Safe Drinking Water Act authority to investigate and address immediate endangerment;
- Achieve more effective outcomes by prioritizing risk-based review of new and existing PFAS chemicals;
- Implement Section 8(a)7 to smartly collect necessary information, as Congress envisioned and consistent with TSCA, without overburdening small businesses and article importers; and
- Work with Congress and industry to establish a clear liability framework that operates on polluter pays and protects passive receivers.

Building Partnerships

- Advance remediation and cleanup efforts where drinking water supplies are impacted by PFAS contamination;
- Work with states to assess risks from PFAS contamination and the development of analytical and risk assessment tools;
- Finish public comment period for biosolids risk assessment and determine path forward based on comments;
- Provide assistance to states and tribes on enforcement efforts;
- Review and evaluate any pending state air petitions; and
- Resource and support investigations into violations to hold polluters accountable.

PFOA and PFOS Drinking Water MCLs to Remain in Place

On May 14, 2025, the EPA took an even more significant step in showing its hand regarding the regulation of PFAS in drinking water. As alluded to above, just last year, the Biden Administration set drinking MCLs for certain PFAS compounds. In particular, the final MCLs—and maximum contaminant level goals—were enacted for the following PFAS compounds:

Last week, the EPA announced that the MCLs of 4 ppt for PFOA and PFOS will remain in place. This may come as a surprise to a large portion of the regulated community as the messaging coming out of USEPA and the Trump administration over the last several months suggested that the MCLs for PFOA and PFOS might be scaled back in response to legal challenges to the national primary drinking water regulations (NPDWR).

This announcement is significant is because PFOA and PFOS are the drivers at the vast of majority of PFAS sites, meaning responsible parties that were hoping for—and maybe even expecting—the MCLs for PFOA and PFOS to be made less stringent now have to prepare for the

reality that 4 ppt will be the drinking water MCLs for both compounds.

With the EPA's announcement that it will keep the MCLs for PFOA and PFOS, it will be interesting to see what happens to the existing challenges to those MCLs. These challenges raise questions about the scientific basis of the MCLs, including the toxicity assessments used by the EPA. Leading up to last week's announcement, the EPA asked courts to stay the legal challenges while it evaluated the MCLs, which led many to believe that the MCLs would be made less stringent.

However, it is unclear from the EPA's announcement how extensively it reviewed the science that led to the decision to maintain the MCLs for PFOA and PFOS. Thus, the basis for the lawsuits being filed in the first place may still exist, although only time will tell whether the federal courts will allow the challenges to go forward.

In addition to keeping in place the MCLs for PFOA and PFOS, USEPA announced that the enforcement of those MCLs will be delayed from 2029 to 2031, which will afford drinking water systems an additional two years to come into compliance. According to the EPA, the delay in enforcement is in response to compliance challenges voiced by the regulated community and members of Congress.

Moreover, the EPA announced that it will rescind the MCLs for PFNA, PFHxS and GenX, and the Hazard Index MCL for the mixture of those three compounds and PFBS. This aspect of the announcement—while notable—is of less significance compared to the MCLs for PFOA and PFOS remaining in place.

The EPA plans to issue a proposed rule in fall 2025 and finalize the rule in spring 2026.

Charles J. Dennen is a partner in the environmental law department at Archer & Greiner, where he focuses on all areas of toxic tort and environmental law.