

# EPA Proposes Rule to Repeal Federal Drinking Water Regulations for Certain PFAS Compounds

By Charles J. Dennen

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On May 18, 2026, the U.S. Environmental Protection Agency (EPA) announced a proposed rulemaking that would repeal federal drinking water regulations for several per- and polyfluoroalkyl substances (PFAS): perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and hexafluoropropylene oxide dimer acid and its ammonium salt (HFPODA, commonly known as GenX chemicals), as well as the Hazard Index approach applicable to mixtures of PFHxS, PFNA, HFPODA and perfluorobutane sulfonic acid (PFBS).

This article summarizes the EPA's prior drinking water regulations of certain PFAS compounds, the EPA's stated basis for its most recent proposed rulemaking, the impact of the proposal on public water systems and the regulated community, and the role of the *Loper Bright* decision in the EPA's proposed rulemaking.

## Background on PFAS Drinking Water Regulations

The Safe Drinking Water Act (SDWA) authorizes the EPA to establish national primary drinking water regulations (NPDWRs) for contaminants in public water systems when: the contaminant may have an adverse effect on human health; it



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is known to occur or there is a substantial likelihood it will occur in public water systems with a frequency and at levels of public health concern; and regulation presents a meaningful opportunity for health risk reduction. For each regulated contaminant, the EPA sets a nonenforceable maximum contaminant level goal (MCLG), which are not legally enforceable standards and are instead aspirational thresholds. The EPA then sets legally-enforceable maximum contaminant levels (MCLs).

On April 10, 2024, the EPA announced the final NPDWRs to establish MCLs for certain PFAS in drinking water. The individual compounds cov-

ered by the final NPDWRs are: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), PFNA, PFHxS, HFPODA and PFBS. Additionally, the final rule covers PFAS mixtures containing at least two or more of PFHxS, PFNA, HFPO-DA, and perfluorobutane sulfonic acid (PFBS) using a Hazard Index MCL to account for the combined and co-occurring levels of these PFAS in drinking water. The EPA simultaneously set MCLGs for those same compounds.

The final MCLs and MCLGs were as follows:

PFAS Compound	Final MCL	Final MCLG
PFOA	4 parts per trillion (ppt)	Zero
PFOS	4 ppt	Zero
PFHxS	10 ppt	10 ppt
PFNA	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 (unit-less) Hazard Index	1.0 (unit-less) Hazard Index

In May 2025, the EPA announced that the MCLs for PFOA and PFOS would remain in place. However, the EPA simultaneously announced its intention to rescind the MCLs for PFNA, PFHxS and GenX, and the Hazard Index MCL for the mixture of those three compounds and PFBS and reconsider the regulatory determinations for those PFAS compounds. In that regard, the EPA explained that the rescission of those MCLs was to "ensure the determinations and any resulting drinking water regulations follow the SDWA process."

### **Proposal to Rescind Drinking Water Regulations**

According to the EPA's press release announcing the proposed PFAS rescission rule, the proposal to

rescind the MCLs for PFNA, PFHxS, HFPODA, the Hazard Index MCL for the mixture of those three compounds and PFBS "is necessary to correct the unlawful procedure under which regulations for these PFAS were promulgated. The EPA's proposal is solely based on a need to correct this unlawful process." The EPA cited concerns regarding the scope of statutory authority under the SDWA to use a Hazard Index as an enforceable NPDWR construct for disparate PFAS, and questioned whether certain aspects of the prior rule aligned with SDWA requirements for setting MCLs "as close as feasible" to MCLGs versus adopting a treatment technique. The EPA also referenced interpretive issues about how cost and technology feasibility must be weighed at the NPDWR stage.

In explaining its basis for the proposed rule-making, the EPA also relied on the U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). In *Loper Bright*, the Supreme Court curtailed long-standing *Chevron* deference, holding that courts may not defer to a federal agency's reasonable interpretation of an ambiguous statute simply because the statute is ambiguous. Instead, courts must exercise independent judgment in interpreting statutes. Under *Loper Bright*, courts may still consider agency views to the extent they are persuasive, consistent with the statutory text and structure, and grounded in expertise, but the prior default of deference to reasonable agency interpretations no longer applies.

Ultimately, the EPA concluded that "the agency promulgated an unlawful drinking water standard by proposing and finalizing a drinking water standard for PFHxS, PFNA, HFPO-DA and the Index PFAS without following the step-wise process mandated by Congress. The EPA's unlawful promulgation thwarted the fundamental processes required under the statute and affects not just the NPDWR but also the simultaneously issued regulatory determinations for these contaminants."

## Impact on Public Water Systems and Regulated Community

With the federal NPDWRs for PFNA, PFHxS, HFPODA, the Hazard Index MCL for the mixture of those three compounds and PFBS likely to be repealed, federal obligations tied to those standards will be removed as of the repeal's effective date. Specifically, public water systems will no longer be required to monitor, report or treat for the rescinded PFAS compounds.

It is important to note that this proposed rulemaking comes with several limitations. Indeed, the relief may only be temporary. While the proposed would repeal drinking water regulations for PFHxS, PFNA, HFPODA and PFBS, the EPA did not rule out the possibility of future regulation of these compounds: "Once the EPA has taken final action to correct the unlawful process by rescinding the current regulations for PFHxS, PFNA, HFPO-DA, and Hazard Index mixtures of these three PFAS plus PFBS, the agency will take steps to follow through on its commitment to evaluate additional PFAS in drinking water for future regulation. While the EPA cannot pre-determine the outcome, it is possible that the result could be more stringent requirements."

Additionally, also on May 18, 2026, the EPA announced a proposed rule to uphold the federal drinking water MCLs for PFOA and PFOS while also providing an option for public drinking water systems to request additional two years—until 2031—to comply with the enforceable limits. This announcement is particularly significant 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.

## The Role of 'Loper Bright'

The EPA's invocation of *Loper Bright* in this proposed rulemaking is notable, to say the least. Among other things, the EPA's proposed rulemaking reflects a concern that defending the existing NPDWRs for PFHxS, PFNA, HFPODA, the Hazard Index MCL for the mixture of those three compounds and PFBS would require litigation under the more stringent interpretive regime introduced by *Loper Bright*.

In the wake of *Loper Bright*, the EPA's interpretations of ambiguous SDWA terms—such as the contours of "feasible," how to aggregate multiple contaminants for compliance, how to weigh uncertainty in toxicology, and the sufficiency of record support for cost and technology assumptions—will receive reduced judicial deference. Federal courts are instead required emphasize statutory text, structure, and history, requiring the EPA to demonstrate that its choices align closely with the SDWA's language and are supported by robust scientific evidence.

With that said, the EPA apparently does not have the same concerns regarding the MCLs for PFOA and PFOS. This could be viewed as an acknowledgment by the EPA that the scientific basis for these MCLs is strong enough to withstand legal challenges, even in light of *Loper Bright*.

## Conclusion

With the repeal of the NPDWRs for PFHxS, PFNA, and HFPODA/GenX, and withdraw the Hazard Index approach for mixtures of those PFAS with PFBS, the impact of *Loper Bright* continues to take shape. Despite the repeal, many practical drivers of PFAS risk management remain. In particular, the MCLs for PFOA and PFOS remain in place.

**Charles J. Dennen** is a partner at Archer & Greiner in the environmental law group. He can be reached at [cdennen@archerlaw.com](mailto:cdennen@archerlaw.com) and 856-673-3932.