

## Update to PFAS Contamination in Wisconsin's Public Drinking Water Supplies: Regulatory Context

### *Highlights*

- Studies indicate that even very low levels of exposure to PFAS compounds can lead to adverse health effects.
- In 2022, Wisconsin set a 70 ppt standard for PFAS in drinking water. Such standards are also commonly referred to as maximum contaminant levels or MCLs.
- In 2024, EPA issued a final rule establishing MCLs for 6 PFAS compounds, including an MCL of 4 ppt for two of the most studied PFAS compounds: PFOA and PFOS. In May 2025, EPA issued a press release affirming the PFOA and PFOS MCLs and indicating an intent to rescind MCLs for four other PFAS compounds. To date, EPA has not initiated rulemaking that would carry out that intent.
- Wisconsin—and most other states—need to set MCLs at least as stringent as EPA's.

### *Introduction*

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Most people in the United States have measurable levels of perfluoroalkyl and polyfluoroalkyl substances (“PFAS”) exposure. The U.S. Environmental Protection Agency (“EPA”) and the State of Wisconsin have identified PFAS as a threat to public health, safety, and welfare. Two of the most studied PFAS substances are perfluorooctanoic acid (“PFOA”) and perfluorooctanoic sulfonic acid (“PFOS”).

Adverse health effects related to PFAS exposure include increased rates of prostate, kidney, and testicular cancers; decreased fertility; developmental delays in children; immune system dysfunction; and liver damage. Recent scientific studies indicate that even minute levels of PFAS compounds can lead to these health effects. Wisconsin regulations currently set the drinking water MCL for PFAS at 70 parts per trillion (“ppt”). However, in April 2024 EPA finalized an MCL of 4 ppt for PFOA and PFOS, and set MCLs for four additional PFAS, so the Wisconsin Department of Natural Resources (“WDNR”) is required to adopt EPA's lower PFAS limits for drinking water. Wisconsin water utilities and other regulated industries need to prepare to meet the lower standards, which will apply according to the timeline in the below graphic.

### *Legal Context*

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The Safe Drinking Water Act authorizes EPA to issue health advisories for contaminants that are not yet subject to a National Primary Drinking Water Regulation. Health advisories assist state and local governments to protect the public from chemicals in drinking water by providing information about health effects and treatment technologies. Health advisories are not legally enforceable and are subject to change as new information becomes available.

In 2016, EPA published health advisories for PFOA and PFOS. EPA set the health advisory levels at 70 ppt for the two PFAS, individually or combined. Based on more recent studies that suggest even near zero levels of exposure cause adverse health effects, in June 2022, EPA replaced the 2016 level with new interim health advisory levels: 0.004 ppt for PFOA and 0.02 ppt for PFOS.

The Safe Drinking Water Act authorizes EPA to establish enforceable National Primary Drinking Water Regulations for contaminants in drinking water from public water systems. EPA may create health-based, aspirational Maximum Contaminant Level Goals and enforceable Maximum Contaminant Levels that public water systems must meet. Following peer-reviewed scientific research, in March 2023, EPA issued a proposed rule setting an MCL for six PFAS substances. EPA finalized that rule in April 2024.

In May 2025, EPA issued a press release affirming that it would enforce a 4ppt MCL for two substances: PFOA and PFOS. EPA also expressed its intent to extend deadlines for complying with the new MCLs for PFOA and PFOS and its intent to rescind regulations relating to four other PFAS compounds, including PFHxS, PFNA, HFPO-DA (commonly known as GenX). To date, EPA hasn't proceeded with rulemaking necessary to carry out these changes.

### ***EPA Rulemaking Timeline: Primacy & Enforcement***

As to the 4ppt MCLs for PFOA and PFOS, states need to update standards to be at least as stringent as the federal drinking water standard. EPA delegates primary enforcement responsibility, called “primacy,” for public water systems to states if they meet certain requirements. These requirements include adopting drinking water regulations that are no less stringent than the National Primary Drinking Water Regulations promulgated by EPA and implementing adequate procedures for enforcement. Every state except Wyoming, plus the District of Columbia, has been granted primacy. The graphic below shows the timeline for states to adopt new primacy programs to remain in compliance with EPA’s final PFOA and PFOS MCL. These dates are based on the April 2024 final rule and are subject to some uncertainty due to EPA’s 2025 press release, ongoing litigation, and the change in federal administration.



### ***Wisconsin’s Legal Context***

In August 2019, Wisconsin Governor Tony Evers issued an executive order that established a PFAS Coordinating Council to develop a state-wide action plan to develop best practices and protocols for identifying and managing PFAS. The action plan was developed in collaboration with state agencies and serves as a roadmap for Wisconsin to address PFAS. The action plan recommends increased state-wide PFAS sampling; public education and engagement on the adverse effects of PFAS; increased research and knowledge of PFAS; and phasing out the use of PFAS.

In 2019, based on scientific research documenting the harmful effects of PFOS and PFOA, the Wisconsin Department of Health Services recommended an MCL of 20 ppt for these PFAS. However, in 2022, the Wisconsin Natural Resources Board, the governing body of the WDNR, rejected these recommendations and instead approved a standard of 70 ppt, which was consistent with EPA’s 2016 health advisory levels. The WDNR revised its drinking water regulations accordingly to establish MCLs of 70 ppt for PFOA and

PFOS. In November 2022, the Department of Health Services again recommended a combined MCL for eighteen PFAS at 20 ppt.

When EPA finalized the MCLs in 2024, it established minimum uniform federal standards. States may opt to regulate more stringently, but not less. By April 2026, the WDNR, the Natural Resources Board, and other decision-makers in Wisconsin's rulemaking process must adopt rules to comply with at least the 4 ppt MCL for PFOA and PFOS, or risk noncompliance with enforcement responsibilities delegated by EPA.

### *Policy Recommendations*

- The WDNR and Natural Resources Board must respond to EPA's regulation and should adopt EPA's PFAS MCLs within two years of the 2024 final rule.
- Wisconsin agencies should continue to follow the state-wide PFAS action plan and regularly update it as they learn more about the effectiveness of their policies.
- Public water utilities that have detected PFAS above 4 ppt, perhaps even lower, should take action to protect the public from exposure and identify available funding sources to minimize the cost of treatment for ratepayers. All regulated entities should be mindful of the need to comply with PFAS MCLs.
- The State should identify funds and allocate them to water utilities to come into compliance with new regulations.

### *Implications*

- The Center for Water Policy recommends the above actions to ensure consistency with the most recent scientific studies and the Safe Drinking Water Act.
- The Wisconsin Legislature should anticipate the need for funds for public water utilities to meet the federally required standards within the next 2 to 6 years.

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