



U.S. Environmental Protection Agency Revises Regional Screening Levels and Regional Removal Management Levels and Implements Other Actions and Goals to Address PFAS

On May 18, 2022, the U.S. Environmental Protection Agency (EPA) added five per- and polyfluoroalkyl substances (PFAS) to its Regional Screening Level (RSL) and Regional Removal Management Level (RML) lists, increasing the total number of PFAS chemicals from one to six. The five added PFAS chemicals EPA are:

- Hexafluoropropylene oxide dimer acid and its ammonium salt (HFPO-DA, a/k/a GenX);
- Perfluorooctanesulfonic acid (PFOS);
- Perfluorooctanoic acid (PFOA);
- Perfluorononanoic acid (PFNA); and
- Perfluorohexanesulfonic acid (PFHxS).

These join perfluorobutanesulfonic acid (PFBS), which EPA added to the RSL and RML lists in 2014 (and revised in 2021 with an updated toxicity assessment). The RSLs and RMLs are not cleanup standards; they are risk-based values used to identify contamination and inform whether additional actions may be necessary at a given site to protect human health and the environment. Specifically, EPA utilizes RSLs to identify whether contaminated media at a given site should be further investigated (e.g., if a constituent's concentration exceeds the RSL, it likely requires additional investigation; concentrations below the RSL generally do not). RMLs are one of many factors EPA uses to support a decision whether to conduct a removal action at a site. The updated RSL tables are available [here](#) and the RML tables are available [here](#).

More broadly, these updates are among many PFAS-related steps EPA has taken or intends to take in the coming months and years. They follow three actions, described below, that EPA took in April 2022 to address PFAS in water.

1. To better investigate and analyze PFAS in water, EPA published its [Draft Method 1621](#), a screening method capable of measuring aggregated concentrations of chemicals with carbon-fluorine bonds at the parts per billion level, i.e., it measures concentrations of PFAS, as well as non-PFAS fluorinated compounds, such as pesticides and pharmaceuticals. EPA intends this method to be used to broadly screen for the presence of fluorinated compounds, with more sensitive methods, e.g., [Draft Method 1633](#), utilized to identify specific PFAS compounds. Both of these methods are progressing through the validation processes.

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2. To address some discharges of PFAS, EPA issued a [memorandum](#) titled, “Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority.” The memorandum includes monitoring provisions, analytical methods, pollution prevention, and best management practices to reduce PFAS discharges by applicable industrial direct dischargers (including, but not limited to, organic chemicals, plastics and synthetic fibers; metal finishing; electroplating; electric and electronic components; landfills; pulp, paper, and paperboard; leather tanning and finishing; plastics molding and forming; textile mills; paint formulating; and airports). Although the memorandum specifically focuses on EPA-issued permits and authority, EPA intends to publish similar guidance to state permitting authorities in 2022.
3. To protect aquatic life from PFAS contamination, EPA proposed Clean Water Act freshwater aquatic life ambient water quality criteria for PFOA and PFOS. If finalized, states and authorized tribes can consider the criteria in developing their own water quality standards. The proposals are open to public comment through July 2, 2022 and a fact sheet summarizing the criteria is available [here](#).

In addition to these examples, EPA continues to move toward accomplishing other PFAS-related goals, many of which are summarized in the agency’s “PFAS Strategic Roadmap: EPA’s Commitments to Action 2021–2024,” available [here](#). Among its targets for 2022, EPA intends to propose national primary drinking water regulations for PFOA and PFOS (fall 2022), which would require monitoring of public water supplies (and further action if PFOA and/or PFOS are found to be present in concentrations above their respective maximum contaminant levels (MCLs)). EPA also intends to propose a rule to designate PFOA and PFOS as CERCLA hazardous substances (spring 2022), which would require facilities to report PFOA and PFOS releases above applicable reportable quantities and authorize EPA to use additional enforcement and cost recovery authority, including potentially “reopening” previously remediated Superfund sites. Final rules for each of these proposals are expected in 2023.

Between now and 2024, EPA also plans to collect data and develop PFAS Effluent Limitations Guidelines (ELGs) to be incorporated into direct discharger NPDES permits to limit pollutants from entering the nation’s waters. ELGs establish national technology-based regulatory limits for specific pollutants in wastewater discharges into surface water and into municipal sewage treatment facilities. EPA aims to publish proposed rulemakings for ELGs for the organic chemicals, plastics and synthetic fibers industries (summer 2023) and the metal finishing and electroplating industries (summer 2024). EPA intends to complete studies of electrical and electronic component facilities, textile mills, and landfills and data reviews of other industries, including leather tanning and finishing, plastics molding and forming, and paint formulating, to inform whether to initiate future related rulemakings. EPA released its Preliminary Effluent Guidelines Program Plan 15 in September 2021, available [here](#), the final version of which is targeted for publication in fall 2022 and will address whether future regulatory actions are needed for other industries.

While the federal government focuses on its goals, some of which may implicate state requirements, many states continue to implement their own actions with respect to PFAS. Pennsylvania, for example, is progressing toward finalizing MCLs for PFOA and PFOS, the first time the commonwealth has set such regulations for any contaminant. In February 2022, the Environmental Quality Board (EQB) published a proposed rule to establish MCLs for PFOA and PFOS of 14 parts per trillion (ppt) and 18 ppt, respectively, which are similar to standards set in other states. EQB held five virtual public hearings on the proposed rule and accepted public comments through April 27, 2022 (comments are available [here](#)). If the rule is finalized as proposed, it will set initial compliance monitoring requirements beginning January 1, 2024, for community and nontransient noncommunity water systems serving a population greater than 350 persons and all bottled, vended, retail and bulk systems, and January 1, 2025, for systems serving fewer than 350 persons.

As the federal government and state governments move to address PFAS at their respective paces, in some cases working on the same issues (e.g., drinking water regulations), it remains to be seen how these efforts will or will not mesh. Regardless, Babst Calland attorneys will continue to track PFAS developments at the federal and state level and are available to assist you with PFAS-related matters. For more information on these developments and other remediation matters, please contact Matthew C. Wood at (412) 394-6583 or mwood@babstcalland.com, Mackenzie Moyer at (412) 394-6578 or mmoyer@babstcalland.com, or any of our other [environmental attorneys](#).

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