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Contact

Cyrus Torabi
Irvine
(949) 417-0999
cyrus.torabi@kutakrock.com

EPA Announces Maximum Contaminant Levels for PFAS—Stricter Than California Standards

On April 10, 2024, the United States Environmental Protection Agency (“EPA”) adopted regulations setting mandatory limits on two types of PFAS (aka “forever chemicals”) in drinking water supplies. The limits set by the EPA are stricter than those adopted by the State of California in 2019 and are therefore expected to require operational changes and additional expenditures by California water utilities that do not already remove PFAS from their potable supplies.

Per- and polyfluoroalkyl substances (“PFAS”), which are sometimes referred to as “forever chemicals” because they do not break down, are part of a family of synthetic fluorinated organic chemical compounds. PFAS are water- and lipid-resistant substances that are useful for a variety of manufacturing processes and industrial applications. They are often present in water supplies which receive wastewater treatment plant effluent from active or former military installations, especially airbases that use or have used aqueous film-forming foams for firefighting purposes. Exposure to PFAS has been linked to deadly cancers, impacts to the liver and heart, and immune and developmental damage to infants and children.

California is one of 11 states that already have PFAS regulatory standards. In 2019, the California State Water Resources Control Board’s Division of Drinking Water set Notification Levels for two types of PFAS, Perfluorooctanoic acid (“PFOA”) and Perfluorooctanesulfonic acid (“PFOS”), at 5.1 and 6.5 parts per trillion (“PPT”), respectively. The EPA’s recent regulations set Maximum Contaminant Levels (“MCLs”) for PFOA and PFOS even lower, at 4 PPT each. Three other types of PFAS (known as PFNA, PFHxS and GenX) are subject to MCLs of 10 PPT. The EPA’s regulations require drinking water supplies to meet the new standards within five years, and the EPA is making nearly \$1 billion in funding available through the Bipartisan Infrastructure Law to implement PFAS testing and treatment by public water systems.

The two most common methods of removing PFAS are microfiltration reverse osmosis and granular activated carbon filters. Both methods are expensive and can require operational changes to older drinking water systems.

Kutak Rock LLP’s [Public Finance Practice Group](#) has broad-based expertise in assisting water utilities in California and across the nation in meeting their infrastructure needs. Please contact [Cyrus Torabi](#) in Kutak Rock’s Irvine office for further information about the EPA’s PFAS regulations or to discuss financing options. You may also visit us at www.KutakRock.com.



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