

Delaware Enacts Senate Bill No. 72 in Response to Weakened PFAS Federal Regulations

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July 10, 2025

On June 30, 2025, Delaware legislators unanimously passed regulations that would require water providers in the state to begin testing for per- and polyfluoroalkyl substances (PFAS) next year, one year sooner than federal requirements, and aim to reduce PFAS levels in drinking water to almost zero by 2029. The new regulations come just as the Trump Administration threatens to weaken federal PFAS regulations.

The state's new PFAS regulations are akin to the US Environmental Protection Agency's (EPA) regulations setting maximum contaminant levels (MCLs) for two types of PFAS, specifically PFOA (perfluorooctanoic acid) and PFOS (perfluorooctane sulfonate), to 4 parts per trillion (ppt). Delaware will also require drinking water providers to ensure levels of three other types of PFAS (PFHxS (perfluorohexane sulfonic acid), PFNA (perfluorononanoic acid) and GenX chemicals) do not exceed 10 ppt and set a Hazard Index MCL of 1 for mixtures containing two or more types of PFAS (PFHxS, PFNA, HFPO-DA, or PFBS). Unlike the new Delaware regulations, the EPA's current proposal eliminates restrictions on these types of PFAS in drinking water.

Delaware's largest city Wilmington, dubbed the chemical capital of the world, is home to several manufacturers of PFAS-containing products. PFAS chemicals have been detected in cities across the State, as well as rivers and streams. While PFOA and PFOS are commonly detected throughout the country, PFHxS are frequently found in communities near airports and military bases, which is claimed to result from discharges of aqueous film forming foam (AFFF). In fact, reports from the US Centers for Disease Control and Prevention provide that residents near the Wilmington Airport have elevated levels of PFHxS in their blood, purportedly from drinking contaminated water associated with the National Guard's use of AFFF at the airport's base.

Last year, the EPA implemented regulations requiring water providers to test and treat PFAS to almost zero by 2029. Yet, just last month, the agency proposed rolling back certain PFAS restrictions and extending the deadline for compliance of same to 2031.

That said, these regulations come at a cost, especially to smaller drinking water providers, who fear that treatment systems that remove PFAS will cost millions. Schools, and small and rural communities, including mobile home communities, that operate onsite water systems are no exception to Delaware's new regulations. There are also concerns about bridging educational gaps about PFAS and purported associated health effects.

While the federal government recently allocated \$9.8 million to fund PFAS treatment in small Delaware communities, the Delaware Rural Water Association is concerned that federal funding will stall, especially due to the Trump Administration's proposed EPA budget cuts. Delaware officials indicated the state would use funds from a multi-defendant PFAS litigation settlement, totaling \$50 million, to help water providers reduce PFAS levels in drinking water over the next decade.

As federal, state and local agencies continue to develop and implement regulations regarding PFAS, companies, municipalities, private business owners, and other stakeholders must implement best practices to ensure compliance and minimize potential risks.

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