Cloudy Waters: The Legal and Financial Implications of New PFAS Legislation

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In 2024, the US Environmental Protection Agency (EPA) established maximum contaminant levels (MCL) for six PFAS chemicals in drinking water. That rule set MCLs of 4 parts per trillion (ppt) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), 10 ppt for perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA) (commonly known as GenX chemicals) and perfluorohexane sulfonic acid (PFHxS), and regulates mixtures of those three PFAS and perfluorobutane sulfonic acid (PFBS) through the use of a hazard index to determine their combined potential risk to human health. That final rule has, however, generated significant pushback from water utilities, municipalities and industry experts. These parties argue that existing studies on PFAS toxicity remain inconclusive, and there is no scientific consensus that levels this low are necessary to protect human health. Moreover, the costs associated with meeting these extremely low MCLs are exorbitant. According to industry estimates, bringing PFAS levels down to 4 ppt across US water systems could cost tens, if not hundreds, of billions of dollars. These costs would likely be passed down to ratepayers and small municipalities that lack the infrastructure or funding to comply. This financial burden is a significant reason why water associations have legally challenged EPA's MCLs, arguing that the rules are not only economically impractical but also lack scientific basis.

In response to these criticisms, EPA announced its decision to retain, but delay to 2031, the national enforceable drinking water standards only for PFOA and PFOs, while announcing its intent to rescind and reconsider the regulatory determinations for the other four PFAS chemicals. This regulatory pivot reflects a nuanced recalibration of the federal government's PFAS strategy by balancing ongoing public health protections with concerns about the feasibility of implementation, particularly for rural and small community water systems.

EPA's decision to rescind or reconsider MCLs has sparked significant criticism from environmental groups and some state agencies. In response to this outcry, Rep. Brian Fitzpatrick [R-PA-1] and Rep. Debbie Dingell [D-MI-6], Co-Chairs of the bipartisan Congressional PFAS Task Force, introduced “The PFAS National Drinking Water Standard Act of 2025,” legislation that seeks to reverse EPA's recent action and codify enforceable MCLs for all six PFAS chemicals that were originally regulated by EPA. The new legislation would give the rule the full force of federal law, ensuring the standards are insulated from future regulatory uncertainty or reversal. It is important to note, however, that the bill fails to address the costs associated with compliance.

As litigation proceeds and Congress debates the future of PFAS regulation, the underlying debate remains clear—how best to balance public health protection with scientific uncertainty, and how to fund compliance. It is clear, however, that the future of PFAS regulation and litigation is far from settled, and the cost-benefit factor is under serious scrutiny.

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