DC Panel Puts the Brakes on EPA's Attempt to Undo PFAS MCLs

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On Wednesday, January 20, 2026, a three-judge panel of the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) unanimously denied a request by the Trump Administration to vacate and remove maximum contaminant limits (MCLs) on four per- and polyfluoroalkyl substances (PFAS) that were imposed in 2024 by the Biden Administration. In April 2024, the Environmental Protection Agency (EPA) adopted the first ever national drinking water limits for six PFAS in drinking water (the rule). EPA established MCLs for perfluorooctanoic acid (PFOA) and perfluorooctanoic sulfonic acid (PFOS) at 4 parts per trillion (ppt), the lowest level that current technology can reliably detect. The rule also set a MCL of 10 ppt for perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA) (commonly known as GenX chemicals), and perfluorohexane sulfonic acid (PFHxS). In addition, based on EPA's assertion that certain PFAS are often found together in various combinations, the rule regulates the mixture of PFNA, HFPO-DA, PFHxS, and perfluorobutane sulfonic acid (PFBS) through the use of a Hazard Index of 1 to determine if the combined levels of these PFAS pose a potential risk to human health. The goal of the rule was to protect public health and address growing public concerns over the presence of these chemicals in drinking water supplies.

On October 7, 2024, two groups of plaintiffs challenged the MCL rule, claiming that it violates the Safe Drinking Water Act (SDWA) and "is neither feasible nor cost-effective . . . and creates significant risks for water system compliance and water affordability."[1] Similarly, plaintiffs argued that "rational"[2] PFAS regulation "requires a measured and evidence-based approach that the rule lacks."[3]

Following multiple requests for an abeyance to delay the litigation while the Trump Administration determined its position with respect to the MCLs, on September 11, 2025, EPA announced that the agency would continue to defend the MCLs for PFOA and PFOS but would seek to roll back or vacate MCLs and the Hazard Index for the other four PFAS chemicals (PFHxS, PFNA, HFPO-DA (GenX) and PFBS). EPA argued that the rule should be vacated because it improperly issued its regulatory determination and final rule in tandem, which did not allow the public to properly comment on and participate in the rulemaking process. The SDWA prohibits revisions to MCLs unless the revision creates greater health protection. Vacating the rule would, however, provide a way around that, as its legal effect would be to treat the rule as if it never existed. While industry plaintiffs supported vacatur, environmental groups opposed EPA's efforts.

Ultimately, the DC Circuit Court unanimously denied the request to vacate. The court explained that "[t]he merits of the parties' positions are not so clear as to warrant summary action,"[4] and it refused to unwind the rule while the case proceeds on the merits. The decision keeps the Biden-era standards fully in place—for now. It is important to understand, however, that the court's denial of EPA's motion does not resolve the legality of the rule. Instead, it preserves the regulatory status quo while the court considers full briefing on the merits. Final briefs are currently due in early March.

With the court's rejection of EPA's attempt to simply vacate a portion of the rule, the MCLs for PFHxS, PFNA, HFPO-DA (GenX), and PFBS remain in place until a final decision on the merits. The final determination by the DC Circuit Court of Appeals will likely have a profound impact on future federal and state regulation of PFAS and on how far an administration can go to undo regulations promulgated by the prior administration.

[1] Brief of Petitioner at 2, *American Water Works Association v. United States Environmental Protection Agency*, No. 24-1188 (D.C. Cir. Oct. 7, 2024) [hereinafter American Water Works Association Brief].

[2] Brief of Petitioner at 1, *National Association of Manufacturers v. United States Environmental Protection Agency*, Nos. 24-1188, 24-1191, & 24-1192 (D.C. Cir. Oct. 7, 2024) [hereinafter *National Association of Manufacturers Brief*].

[3] *Id.*

[4] Motion for leave to file revised and expanded intervenor brief ruling at 1, *National Association of Manufacturers v. United States Environmental Protection Agency*, No. 24-1188 (D.C. Cir. Jan. 20, 2026).