

Wisconsin Joins States Enacting Biden-Era PFAS Regulations Fueled by Legal Uncertainties at the Federal Level

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Wisconsin is the most recent state to take a side in the contested federal legal saga regarding drinking water standards and the regulation of per- and polyfluoroalkyl substances (PFAS). Wisconsin's Department of Natural Resources (WDNR) [unanimously approved a rule that would adopt Biden-era regulations](#) enacted by the Environmental Protection Agency (EPA) in 2024, following EPA's recent attempt to vacate drinking water maximum contaminant level (MCLs) standards for four PFAS.

In 2024, [EPA issued a rule](#) under the Safe Drinking Water Act that set individual limits on five PFAS chemicals and a hazard index for combinations of four PFAS. PFAS are commonly used in a variety of products, including water, stain, and wrinkle resistant fabric, food packaging, electronics, medical devices, and cosmetics. The rule was aimed at addressing growing public concerns over the presence of these chemicals in drinking water.

The Biden EPA's regulations set limits for two of the most studied chemicals—perfluorooctanoic acid (PFOA) and perfluorooctanoic sulfonic acid (PFOS)—at 4 parts per trillion, the lowest level that current technology can reliably detect. The Biden EPA regulations also set a limit of 10 parts per trillion for three other chemicals: perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA) (commonly known as GenX chemicals), and perfluorohexane sulfonic acid (PFHxS). A separate hazard index limit was also established for a mix of those three chemicals with a fourth, perfluorobutane sulfonic acid (PFBS).

To provide some perspective on just how low these standards were set, one part per trillion is the equivalent of one drop of water in 18 million gallons of water, roughly 27 Olympic-sized swimming pools. It can also be thought of as one second in 32,000 years, or one grain of sugar dissolved into 10 million gallons of water.

In September of 2025, the Trump Administration announced that [EPA would seek to vacate the MCL regulations](#) for PFNA, PFHxS, GenX, and PFBS. The administration argues that the Biden-era regulations were improperly issued because they failed to allow time for public comment and participation in the rulemaking process. President Trump's EPA stated, however, it would continue to enforce the pre-existing 4 parts per trillion MCLs for PFOA and PFOS.

Four months later, however, a [DC Circuit Court unanimously denied](#) the request by the Trump Administration for summary action to vacate the Biden-era PFAS MCLs. This decision preserves the regulatory status quo while the court considers full briefing on the merits later this year. Nevertheless, [EPA is still urging states to hold off](#) on passing laws regulating PFAS until EPA has exhausted all its remedies to challenge the regulations.

This, however, has not deterred states, such as [California, Minnesota, Michigan, Maine](#)—and now Wisconsin—from enacting their own regulations that mirror the Biden-era limits set on PFAS. “We owe it to every Wisconsinite to make progress on this issue as quickly as possible,” Peter Burress, Government Affairs Manager with Wisconsin Conservation Voters, said while addressing the WDNR board.

Some industry groups warn that adopting these regulations will be more costly than beneficial and will exacerbate water affordability issues. The WDNR estimates water utilities and businesses in Wisconsin will be required to spend [roughly \\$40 million to implement federal standards](#) and to address 96 public water systems that are currently above federal PFAS limits. The Association of Metropolitan Water Agencies (AMWA)—one of the organizations that filed a

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legal challenge to the 2024 PFAS MCL regulations when they were initially promulgated—[estimates that compliance costs](#) across all states would be a “multi-billion-dollar” endeavor, the brunt of which would be borne by individual households. The AMWA projects that Biden-era PFAS regulations could cost households “hundreds, and in some cases thousands, of additional dollars per year.” These large costs are particularly concerning to groups that argue that [the science linking PFAS to adverse health effects is uncertain](#).

Concerns also exist surrounding the possibility of disparate drinking water regulations across states and the impact those regulations may have on interstate commerce or states who share water reserves. [Colorado drinking water regulations](#) currently allow for 70 parts per trillion of PFOS, PFOA, and PFNA combined. Texas, on the other hand, [only recently proposed legislation](#) calling for PFAS levels to be monitored in drinking water. Both states sit on the Ogallala Aquifer, a natural underground water source that [supports 30% of US crop and animal production and supplies drinking water to 2.3 million Americans](#) across eight states. It is unclear what impact these disparate state regulations could have on these shared water source arrangements.

The parties to this litigation are scheduled to submit their final briefs to the DC Circuit Court of Appeals in March. A final decision on the viability of EPA's drinking water MCLs is expected later this year. In the meantime, given the uncertainty of federal PFAS regulation, expect additional states to step into the void in an attempt to regulate PFAS in drinking water.

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