

New York PFAS Drinking Water Limits: What Companies Should Do Before the Governor Signs

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New York is close to tightening its PFAS drinking water limits and companies with any PFAS history should begin evaluating their potential exposure now.

Recently, the legislature passed a bill that would reduce the state's maximum contaminant levels (MCLs) for PFOA and PFOS from 10 parts per trillion (ppt) to 4 ppt. It would also set a limit of 10 ppt for PFNA, PFHxS, and HFPO-DA, better known as GenX. Governor Hochul has until the end of the year to act on the bill. If signed, public water systems must comply by May 1, 2029.

Although MCLs receive the most attention, the bill extends further. Specifically, the bill calls for a hazard index to address the combined exposure to certain PFAS and directs the Department of Health to report on whether additional measures are warranted. This reflects a changing regulatory landscape in New York, where authorities are transitioning from assessing individual chemicals alone to evaluating compound mixtures.

EPA established national PFAS drinking water standards in 2024. The agency has since moved to revisit portions of them, which has left many uncertainties as to which rules ultimately apply. New York has chosen to proceed on its own and other states are likely to follow. Consequently, businesses, water suppliers, and other related entities that operate in several states will face a patchwork of requirements, and the compliance analysis may differ across state lines.

Public water systems will bear the initial burden of testing, treatment, and the expense of both. However, utility providers that heavily spend on treatment technologies often seek to recover those costs from others.

As such, manufacturers, industrial facilities, waste handlers, and other businesses with PFAS activity near a water source should anticipate additional sampling and extensive inquiries about the origin of any contamination. In some cases, they should also anticipate cost-recovery demands. Such demands may arise even when the operations in question ended years ago.

Although drinking water standards are not proof of liability or injury, this distinction is often overlooked. A drinking water standard applies to the water system. Critically, a drinking water standard is not a discharge limit, and by itself, does not make any particular facility responsible.

The same is true of injury claims. Drinking water limits are public health values, built on conservative assumptions and policy judgments that differ from what a plaintiff must prove in a toxic tort personal injury case. Detecting PFAS levels above a regulatory limit merely establishes an exceedance exists; it does not establish a person's absorbed dose of PFAS, whether that dose caused a given disease, or whether a specific defendant was the source of exposure. Each of those is a separate question and requires its own analysis of exposure pathways, chemical-specific toxicology, epidemiology, and the facts of the alleged exposure. That said, the distinction between exceeding a limit and causing an injury is blurred more often than it should be.

Importantly, a new MCL for PFAS in drinking water does not automatically produce a new lawsuit. However, it does mean that questions and potential investigations will arrive sooner and from more directions. Therefore, companies and other business entities should prepare accordingly, and consider the following:

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(Continued)



- + Review sampling data and historical operations for files against the 4 ppt and 10 ppt values.
- + Examine potential remediation obligations, indemnities and environmental reserves for language tied to a regulatory standard.
- + Evaluate pending matters and analyze how this could alter expert retention and potential verdict values.
- + Identify exposure and causation experts in advance rather than after the first demand letter arrives.

We will continue to monitor whether the governor signs the bill and how the Department of Health approaches the hazard index, and can help clients assess how these standards apply to their operations and portfolios.