

BLOGS

Drinking Water; Environmental Protection Agency (EPA); Surface Water

EPA Moves to Address PFAS Discharges Under Clean Water Act Ahead of New Administration

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EPA recently proposed significant actions to address PFAS in wastewater under the Clean Water Act by (1) publishing recommended human health water quality criteria used to enact surface water quality standards and (2) proposing detailed studies and timeline for revisions to Effluent Limitation Guideline (ELG) program categories in Preliminary Plan 16.

Whether the incoming administration elects to pursue these efforts remains to be seen. Even if rescinded, the draft human health criteria may still serve to equip states with a model to regulate water quality under state law and inform future rulemaking.

Draft Human Health Water Quality Criteria

On December 26, EPA published draft human health water quality criteria (HHC) for three PFAS, PFOA, PFOS, and PFBS. [1] EPA’s water quality criteria are not enforceable themselves, however states must consider the criteria when establishing state water quality criteria and standards, which apply the criteria based on a water’s designated uses (*e.g.*, public drinking water supply, protection of aquatic life, recreation, agricultural, industrial, navigational). In setting HHC, EPA does not consider economic impacts or the technological feasibility of meeting concentrations.

Authorized states may then use water quality standards to establish limits in National Pollutant Discharge Elimination System (NPDES) permits. While permit effluent limits may also be established by regulation under the ELG program for industry sectors based on the technological feasibility of treatment, water quality standards may also be used.

EPA’s proposed criteria are:

Table 1. Draft Human Health Criteria (HHC) for Three PFAS.

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PFAS	Water + Organism HHC (ng/L; ppt) ¹	Organism Only HHC (ng/L; ppt) ¹
PFOA	0.0009	0.0036
PFOS	0.06	0.07
PFBS	400	500

¹ Values are provided in ng/L units to aid in comparison to method detection limit (MDL).

Notably, the HHC for PFOA and PFOS are below the detection limits of most commercial labs. Many commercial laboratories use a minimum detection limit of 2 ppt for individual PFAS compounds, meaning any detections would exceed the proposed HHCs.

In the draft recommended criteria, EPA also states that mixtures of PFAS can result in dose additive health effects, and that states may consider using a hazard index approach used for mixtures of PFAS using the HHCs. EPA used the health index approach in establishing drinking water standards for PFAS.

Some states have already established surface water quality standards for PFAS. Michigan set standards of 11 ppt PFOS and 66 ppt PFOA for water used as a source of drinking water, and 12 ppt PFOS and 170 ppt PFOA for nondrinking water sources.

The draft criteria are out for public comment through February 24, 2025. Whether the incoming administration continues these efforts is uncertain.

Preliminary Plan 16

On December 16, 2024, EPA released its Preliminary Effluent Guidelines Program Plan 16. Preliminary plans outline the results of EPA's annual review of effluent guidelines and pretreatment standards, identifying industrial sectors warranting revised standards, further analysis, or studies EPA is pursuing under the program. Past plans have announced results and plans for further studies, and plans to revise certain category standards to include PFAS limits. In Preliminary Plan 16, EPA proposes to take the following actions:

- Initiate detailed studies of the Battery Manufacturing Category, the Centralized Waste Treatment Category, the Oil and Gas Extraction Category, and industrial facilities that process PFAS into formulations for applications in commerce. These studies collect information on discharges and potential treatment to inform potential development of PFAS standards.
- Initiate a generic Information Collection Request budget to support effluent guidelines planning and rulemaking.

It also provides updates on three ongoing industrial category studies and the publicly owned treatment works influent study for PFAS:

- Airports: continue to monitor transition to PFAS free foams but not initiate rulemaking.
- Pulp, Paper, and Paperboard: continue to monitor industry transition to PFAS-free additives but not initiate rulemaking.
- Textile Mills: use a mandatory questionnaire to develop an updated national profile of textile mills and evaluate PFAS use and wastewater management practices to evaluate the existing ELGs.



- POTW Influent Study: continue with plans to administer a questionnaire to 400 of the nation's largest POTWs and require a subset of 200-300 to conduct PFAS testing of industrial user effluent, domestic wastewater influent, industrial influent, and POTW effluent to identify predominant industrial point source categories discharging PFAS in wastewater.

Finally it provides an update on the status of EPA's ongoing rulemaking efforts:

- Metal Finishing: collect more data and publish a proposed rule in 2026.
- Organic Chemicals, Plastics, and Synthetic Fibers: intended to publish proposed rule by Fall 2024.
- Landfills: propose revised ELGs in 2027.

Comments on Preliminary Plan 16 are due by January 17, 2025. Again, whether the incoming administration continues these efforts is uncertain.

If you have any questions regarding these developments, please contact one of the authors listed above, or your regular Lathrop GPM attorney.

[1] EPA previously promulgated water quality criteria for aquatic life, which were finalized in October 2025.