Water Systems to Benefit From PFAS Rule Extension, Officials Say

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- The EPA proposed giving qualifying water systems two more years to comply with limits for PFOA and PFOS in drinking water, which water officials said will help utilities, especially smaller ones.
- The agency's proposal includes requirements for water systems with PFOA or PFOS levels at or above 12 ppt, which some officials said could be difficult to implement.
- The EPA will hold a public hearing on the extension proposal and a second rule to rescind the agency's 2024 decision to regulate four other PFAS, with comments due by July 20.

The EPA's proposal to give water systems more time to comply with part of a PFAS contamination rule will help utilities, but some requirements the agency proposed could be difficult to implement, water officials said.

The Environmental Protection Agency **proposed** Wednesday to give qualifying water systems two more years—until April 2031—to obtain financing, permits, and technologies to comply with limits the agency **set in 2024** for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)

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Smaller water systems especially need that time, said Kathryn Sorensen, director of research at Arizona State University's Kyl Center for Water Policy. Those systems are struggling to figure out which wells may be the source of the chemicals, which technologies to use, how to hire staff qualified to operate those technologies, and how to get enough money from their small customer base to pay for them, said Sorensen, a former director of Phoenix Water Services in Arizona.

Even larger systems that have been working to comply with the EPA's rule may need more time, said Alan Roberson, a water policy adviser and former executive director at the Association of State Drinking Water Administrators.

But, it will be interesting to see how water systems and other parties respond to the time-extension request the agency has proposed, he said. The agency is invoking a seldom-used Safe Drinking Water Act (SDWA) authority to offer time to qualifying drinking water systems, Roberson said.

The EPA will hold a public hearing July 7 on the extension proposal and a **second rule** it also **announced**. The second rule would rescind the agency's 2024 decision to regulate four other per- and polyfluoroalkyl substances (PFAS) and the limits set for them. The EPA must receive comments on both rules by July 20.

Unusual Approach

The agency has offered regulatory exemptions before, but it's rare, said Steve Via, director of federal relations for the American Water Works Association.

States, territories, or tribes with authority, or "primacy," to implement a SDWA regulation are the more traditional regulators to consider exempting drinking water systems when they have compelling reasons for being unable to comply with a standard, Roberson said. Water systems receiving an exemption typically agree to take actions to protect the drinking water supply, he added.

In this case, however, the EPA is proposing to grant exemptions because states and territories that have sought primacy over the 2024 rules may not yet have it, Roberson said. If they don't, the agency would decide whether a water system receives the two-year extension, he said.

The EPA's rule describes multiple compelling factors that may qualify a water system for the extension, including being a small or rural utility facing hardships due to economies of scale and technical expertise challenges.

The agency expects that many water systems will seek an extension before states have obtained primacy as the water utilities won't be able to make necessary improvements to comply with the current April 2029 deadline, the proposed rule said.

PFOA, PFOS Risks

Water systems also may want to comment on the clarity and feasibility of the agency's proposed requirements for systems that have 12 parts per trillion (ppt) or more of PFOA or PFOS in their drinking water, Roberson said.

The proposed rule includes assumptions about the risks of PFOA and PFOS at levels above the 4 ppt limit set by the 2024 rule, and ways to control concentrations above 12 ppt.

Concentrations of either chemical below 12 ppt don't pose an unreasonable risk to human health, according to the agency's proposal.

The agency would, however, impose requirements on water systems asking for the federal exemption if mandated monitoring reveals a water sample with PFOA or PFOS at or above 12 ppt. Those systems would have to **choose to take two of six possible actions**, such as providing water filters to customers, decreasing PFOA and PFOS levels in drinking water sources, or offering the public educational materials about the chemicals.

The PFAS-control actions won't be simple to carry out, and they could be triggered by a single sample of water being above 12 ppt, Roberson said.

Community Health

What's being lost in the EPA's discussion about both rules are the health protections the 2024 regulation offered communities across the country, said Robert Sussman, an attorney and former EPA official who volunteers for the Environmental Protection Network of former agency staff who raise concerns about policies they say fail to live up to the EPA's mission.

Health benefits of the regulation included fewer cancers, lower incidents of heart attacks and strokes, and reduced birth complications, the **EPA said** in 2024.

"When monetized, these quantifiable benefits alone exceed $1.5 billion per year," it said.

When the EPA announced the two proposals on Monday, agency Administrator Lee Zeldin said the rescission rule is needed because the Biden administration skipped a procedural step required by the SDWA. The agency will review the chemicals again and could set stricter limits, Zeldin said.

But the agency could have defended the decision to regulate the four PFAS and limits set as an appropriate interpretation of its statutory authority, said Sussman, whose Sussman & Associates represents PFAS-impacted communities and individuals. Sussman has filed friend-of-the-court briefs supporting the EPA's rule in litigation.

If the agency missed a procedural step, it was a harmless error, because the public had ample time to comment on the agency's reasoning for regulating the four PFAS and the regulatory standards it set, he said.

People are exposed to many PFAS in drinking water, not just two, Sussman said. The EPA's decision in 2024 to regulate PFAS beyond the most familiar ones was groundbreaking, he said. "Now we're back to ground zero."

To contact the reporter on this story: **Pat Rizzuto** in Washington at prizzuto@bloombergindustry.com

To contact the editors responsible for this story: **Zachary Sherwood** at zsherwood@bloombergindustry.com; **Maya Earls** at mearls@bloomberglaw.com