

**EPN Comments on Rescission of Regulatory Determinations and
Removal of Related Provisions for Four PFAS Substances
(PFHxS, PFNA, HFPO-DA (GenX), and the
Mixture of These Three PFAS Plus PFBS)**

Docket No.: EPA-HQ-OW-2025-0654

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The [Environmental Protection Network](https://environmentalprotectionnetwork.org) (EPN) harnesses the expertise of more than 800 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

Introduction

We urge the Agency to withdraw the proposed rescission rule.

EPA should be moving faster to protect people from per- and polyfluoroalkyl substances (PFAS) in drinking water, not reopening and weakening standards before communities ever receive the benefits. Families across the country have already waited years for enforceable protections against these forever chemicals. This proposal would make them wait even longer.

EPA relies on a selective legal footing to undermine PFAS regulations

EPA frames this as a legal-process issue. But its concern for legal footing appears selective and has been undermined by the D.C. Circuit Court. On June 26, 2026, the D.C. Circuit Court rejected a similar effort by the current EPA to overturn a Clean Air Act (CAA) rule based on analogous statutory provisions.¹ This decision seriously undermines EPA's rationale for the pending proposed rescission.

In *Kentucky v. EPA*, the DC Circuit Court reviewed CAA procedural requirements for publishing a list of pollutants and promulgating standards. In reviewing the CAA procedural requirements, the court held that CAA procedures and timeframes are designed to be action forcing provisions to ensure that EPA does not fall too far behind the evolving scientific evidence. In so finding, the court stated that the Administrator has the authority to combine actions and to act sooner than the time limits set forth in the statute.

The Safe Drinking Water Act (SDWA), like the CAA, establishes action forcing procedures and timeframes for listing and establishing standards for contaminants. The statutory language of the SDWA supports the concurrent processing of preliminary determinations with a proposed rule and allows for earlier timeframes. Section 1412(b)(1)(E) of the SDWA specifically states that the Administrator “may publish such proposed regulation concurrent with the determination to regulate.” The “not later than” timeframes for actions to list contaminants, to regulate a contaminant and to establish standards clearly encourages the Administrator to act sooner. Like the CAA, the

¹ *Commonwealth of Kentucky, et al v. Environmental Protection Agency* No. 24-1050 (and consolidated cases) (DC Cir 2026).

SDWA procedures are designed to be action-forcing provisions to ensure that EPA does not fall too far behind the evolving scientific evidence.

The procedures establishing Maximum Level Contaminant Goals (MCLGs) and National Primary Drinking Water Regulations (NPDWR) and related protections for certain PFAS compounds were clearly lawful. Preliminary determinations and proposed MCLG and NPDWR were published for public comment² on March 27, 2023, and final regulatory determinations were published on April 26, 2024.³ The EPA statutory interpretations set forth in these federal register notices explain the lawful basis for these actions.

Since the MCLGs and NPDWR and other protections related to certain PFAS compounds were legally adopted by EPA on April 26, 2024, EPA must withdraw its erroneous proposal to rescind the MCLGs and NPDWR and other protections related to certain PFAS compounds based solely on an erroneous statutory interpretation.

The procedural issue on which EPA's proposed rescission rule is based will soon be resolved by the D.C. Circuit Court of Appeals, and there is no justification for EPA to try to preempt the court's resolution of that issue.

SDWA Backsliding Provision

The proposed rescission is further barred by the SDWA antibacksliding provision. The SDWA requires revisions to any NPDWR to "maintain, or provide for greater, protection of health of persons."⁴ This provision applies to any revision at any time and there is no exception. EPA's proposal to rescind the NPDWR clearly does not maintain or provide greater protection for human health. In fact, it eliminates protections established by the 2024 rule and provides no protection from PFHxS, PENA, HFPO-DA nor Index PFAS for people drinking water contaminated with these chemicals.

EPA'S Proposed Rescission Creates Serious Harm To Public Health

While EPA has directed commenters to focus only on the legal issues of the rescission, EPN provides the following information on the serious public health impacts of the rescission. Since 1999, the Centers for Disease Control and Prevention (CDC) has been measuring PFOS, PFOA, PFHxS, and PFNA in blood samples from people living in the U.S. CDC and the Agency for Toxic Substances and Disease Registry (ATSDR) have also conducted multiple studies and exposure assessments which have confirmed that individuals living in communities with PFAS-contaminated drinking water have significantly higher levels of these four chemicals in their blood sera compared to the national average.⁵ It is unconscionable for EPA to rescind PFHxS and PFNA drinking water standards given these findings. The National Academies of Sciences, Engineering, and Medicine (NASEM) is so concerned that it recommends health screenings for patients with PFAS blood serum measurements that include PFHxS and PFNA at or above 2 ng/ml to check for hypertension

² [88 Fed. Reg. 18638.](#)

³ [89 Fed. Reg. 32532.](#)

⁴ 42 U.S.C 300(g)(1)(b)(9).

⁵ <https://www.atsdr.cdc.gov/pfas/hcp/clinical-overview/clinical-evaluation-management.html>

in pregnancy, thyroid function, breast cancer, kidney cancer, testicular cancer, and ulcerative colitis.⁶ If EPA rescinds these two standards as well as the standards for GenX and the Hazard Index, the American people will continue to be exposed to these highly toxic chemicals for many years beyond the current compliance date of 2029.

EPA's Proposed Rescission Harms and Complicates EPA's Cleanup Programs

The Superfund program bases cleanups upon Applicable or Relevant and Appropriate Requirements (ARARs), which include federal water quality standards. If EPA finalizes rescission of the PFHxS/PFNA/HFPO-DA and Hazard Index MCLs, the scope of cleanup for these substances would be impacted. Because the underlying toxicity values supporting the promulgation of these standards remain in place, cleanup decisions will rely on risk assessments rather than promulgated MCLs, creating greater uncertainty in the cleanup process. Given that the health and environmental impacts of these substances have been documented and reviewed in multiple settings, we expect that even if the proposed rescission is finalized, EPA will need to revisit the decision and promulgate standards for these highly persistent and toxic chemicals.

Rescission of these standards will likely cause some cleanup remedies to be revisited and will eliminate their consideration in future cleanup decisions. As noted above, we expect the standards will ultimately be reinstated. Thus, the main outcome of this rescission will be confusion and delay. Environmental impacts will increase because of this delay, and cleanup costs will rise as contamination continues to spread in the interim.

To ensure protective remedies, Superfund five-year reviews will need to revisit existing remedies if the proposed rescission is finalized and any subsequently reinstated standards prove stricter than the risk-assessment-based cleanup levels used in the interim. Thus, rescission of these PFAS standards will introduce a more uncertain decision-making process and may reduce the protectiveness of remedies.

Conclusion

Rescission is not a neutral act. It delays treatment for toxic chemicals that are persistent, harmful, and already present in drinking water. It benefits companies that do not want to pay the full cost of cleaning up PFAS contamination, while families are left buying filters and wondering whether the water they use to cook dinner or bathe their children is safe.

Once again, we have to remind the agency that EPA's mission is to protect human health and the environment. That means following the science, keeping enforceable protections in place, and moving urgently to reduce exposure, not searching for legal arguments to delay safeguards families need.

EPA should not treat the safety of families' drinking water as a legal technicality.

⁶ National Academies of Sciences, Engineering, and Medicine. 2022. Guidance on PFAS Exposure, Testing, and Clinical Follow-Up. Washington, DC: The National Academies Press.