



EPN Comments on Extending the Compliance Deadline for the PFOA and PFOS Maximum Contaminant Levels

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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

On May 18, 2026, EPA announced a proposed rule allowing a two-year federal exemption from requirements related to perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) drinking water standards for eligible drinking water systems. Under this proposed rule, all public water systems that lack a variance from PFOA and PFOS Maximum Contaminant Level (MCL) requirements, were in operation on or before June 24, 2024, and are located in states that do not have primacy for these MCLs are eligible to submit a request to EPA for a two-year delay in compliance. If EPA approves a request for exemption, compliance with these MCLs will be delayed from April 26, 2029, to April 26, 2031. EPA has been urging states to delay their primacy applications for PFOA and PFOS MCLs and has released Primacy Extension Request Documents that allow states extra time to prepare their applications to enforce these MCLs. EPA can only approve exemptions if states do not have primacy or if state laws do not prohibit exemptions from drinking water requirements. If states have primacy for PFOA and PFOS MCLs, only they can approve exemptions.

EPA argues in this proposed rule that this federal exemption is needed because it will be infeasible for state primacy agencies to handle all the requests for extensions due to new factors arising since the 2024 rule was enacted that make it impossible for many water systems to meet the 2029 compliance deadline. EPA describes the following four criteria that must be met to qualify for this federal exemption from the 2029 compliance deadline: 1) compelling factors delay compliance; 2) water system in operation on June 25, 2024, or if not in operation, no reasonable alternative source was available for a new system; 3) exemption will not result in unreasonable risk to health; and 4) management or structural changes cannot reasonably be made that will result in compliance by 2029 or improve drinking water quality.

EPN urges EPA to withdraw this proposal and retain the 2029 compliance date for PFOA and PFOS MCLs. We find that the proposed rule does not provide convincing evidence that new conditions will result in water systems overwhelming state primacy agencies with requests for exemptions from these MCLs. We see no evidence that conditions have changed substantially over the past two years; indeed, it is likely that professionally managed water systems have already begun planning and incorporating anticipated changes into their long-range plans. Hence, we fully expect that both Public Water Systems (PWS) and state primacy agencies are better prepared now than they were in 2024.

Finally, in its 2024 action, EPA provided hundreds of articles upon which it determined the need for federal action under the requirements of the Safe Drinking Water Act (SDWA); this proposal provides no data overriding that earlier considered and consequential determination.

In the sections below, EPN provides comments on EPA's proposed exemption criteria and on specific issues flagged for comment in the preamble of this proposed rule.

EPA identifies compelling factors that necessitate a federal exemption from the 2029 compliance date

EPA proposes that drinking water plants can get an exemption because of recent inflation in construction materials, volatility in global steel markets, and filtration media supply chain disruptions. EPN notes that EPA presents no evidence that inflation and supply chain problems have suddenly appeared in the two years since the 2024 rule was finalized that now prevent water systems from complying with the 2029 deadline. New Jersey has more per- and polyfluoroalkyl substances (PFAS) contaminated drinking water systems than other states and has not slowed construction of treatment systems over the past two years. In New Jersey, PFAS treatment systems have already been installed and are operating at 56 drinking water plants, and treatment systems are being developed at 28 more plants.

EPA proposes that drinking water plants can get an exemption if they lack certified operators to run the PFAS treatment system. EPN is aware that lack of certified personnel is a long-term personnel problem that water systems have been working to resolve for years and can be addressed in time to meet the 2029 deadline. State primacy agencies are fully capable of addressing exemptions needed for this personnel issue on a site-specific basis.

EPA proposes that drinking water plants can get an exemption if they cite financial limitations. Water systems always strive to keep water bills as low as possible for their customers, and this should be possible in many cases. EPA and USDA are providing billions of dollars for PFAS drinking water treatment and multiple legal settlements with PFAS producers are paying out billions of dollars to water systems. We note that both the federal government and the courts have made these resources available to address the known health damages associated with exposure to PFAS chemicals. This unprecedented funding for new drinking water treatment will definitely defray the costs for ratepayers at many water systems and preclude the need for a two-year compliance delay.

EPA proposes that an exemption is needed so more monitoring data can be collected to better design PFAS treatment systems, but EPN does not find this justifies a two-year delay in compliance. The fifth Unregulated Contaminant Monitoring Rule (UCMR5) data is already available, and the 2024 rule provided the maximum five-year compliance period for PFAS drinking water standards in order to give water systems three more years to monitor before designing and installing treatment by 2029. Water systems have had two more years to prepare and will have adequate monitoring data by 2027 to support cost-effective treatment system designs.

EPA proposes that two additional years are needed to allow time for source water protection measures to reduce PFAS contamination in drinking water systems and for innovative technology to be developed. EPN is stunned EPA is citing the need for more time for source water protection measures to be implemented when EPA has been refusing to release a January 2025 proposed rule requiring chemical companies to remove PFAS from their wastewater. Chemical companies are one

of the greatest sources of PFAS drinking water contamination in the country, and EPA could be finalizing wastewater treatment requirements by now if the agency had released the proposed rule when it was ready last January. EPN notes that since 2025 EPA has also not updated the public on the status of wastewater treatment requirements for metal finishing plants and landfills that were being developed in the previous administration. Metal finishing plants and landfills are also major sources of PFAS contamination of drinking water. EPN is equally stunned that EPA maintains two additional years are needed for innovative treatment technologies to be developed. Technology innovators have been hard at work for years because twenty states already have drinking water standards for at least one PFAS chemical and EPA's national PFAS standards were scheduled for enforcement in 2029. Regulation incentivizes technology innovation while EPA's proposed regulation will undoubtedly slow innovation.

EPA also proposes that two additional years are needed for compliance in order for water systems to take advantage of EPA's PFAS Outreach and Tackling Emerging Contaminants Real Water Technical Assistance. EPN notes that EPA's loss of 4,000 scientists and engineers over the past year will certainly slow these technical assistance programs, but the American public should not be forced to drink contaminated water until 2031 because of this. EPN further notes that EPA's elimination of its Integrated Risk Information System (IRIS) will prevent EPA from determining the safe levels of the 17 PFAS chemicals detected in drinking water systems whose health effects are currently unknown. That loss of scientific expertise will lower the value of EPA's emerging contaminant technical assistance for years into the future.

EPA identifies water systems with concentrations below 12 ppt for both PFOA and PFOS as eligible for the federal exemption because they do not pose unreasonable risk

EPA's proposal states that EPA "identifies water systems with concentrations below 12 ppt for both PFOA and PFOS as eligible for the federal exemption because they do not pose unreasonable risk." However, the proposed rule does not define what constitutes an "unreasonable risk" or provide a scientific rationale for selecting the 12 ppt threshold. Without a clear definition and supporting analysis, regulated entities and the public cannot understand how EPA evaluated hazard, exposure, uncertainty, cumulative impacts, or risks to sensitive populations in reaching this conclusion.

The selection of 12 ppt also appears arbitrary because the proposal provides neither justification nor substantiation for that value. The threshold resembles concentrations used in certain Superfund emergency response contexts. If EPA derived or adapted the 12 ppt value from the Superfund program, the agency should explicitly acknowledge and justify its use in this rulemaking. Emergency response thresholds are developed for a different statutory purpose—guiding critical interventions, rapid removal, and response actions—and are not necessarily appropriate for determining whether longtime drinking water exposures present an "unreasonable risk" for purposes of granting regulatory exemptions. Indeed, a short-term immediate intervention is fundamentally different from a long-term standard, both under SDWA and in real life.

Importing a threshold from another regulatory program without explaining its relevance to this context would be arbitrary and capricious. Agencies must provide a reasoned explanation demonstrating why a standard developed for one purpose is appropriate for a materially different regulatory decision. Moreover, if the 12 ppt threshold is based on a Superfund emergency response level, that fact suggests EPA has already recognized that contamination at or near that concentration may warrant federal intervention. It is therefore difficult to reconcile a conclusion that

concentrations below 12 ppt categorically "do not pose unreasonable risk" without additional scientific justification.

Under the Administrative Procedure Act (APA), EPA must articulate a rational connection between the facts found and the choices made. Here, the proposal appears to rely on a convenient, conclusory statement rather than a transparent, evidence-based explanation grounded in toxicology, exposure assessment, epidemiology, or risk characterization.

Accordingly, EPA should either refrain from extending the compliance deadlines or provide a robust scientific and legal justification demonstrating that the public health and environmental harms resulting from delayed compliance have been fully evaluated and appropriately weighed in the agency's decision-making process.

EPA identifies management and restructuring issues that are eligible for the federal exemption

EPA proposes to consider the following measures in deciding whether management and restructuring can reasonably be made to comply with PFOA and PFOS MCLs or to improve drinking water quality: 1) rate increases, accounting changes, appointment of state-certified operator under State's Operator Certification Program, and contractual agreements for joint operation with one or more public water system; 2) activities consistent with State's Capacity Development Strategy to help water systems acquire and maintain capacity to comply; and 3) ownership changes and physical consolidation with another public water system. EPA states that all of these measures need more time since most systems exceeding MCLs will need to install advanced treatment technologies, or enter into water system partnerships, or physically consolidate or connect with another nearby system. EPA maintains that these actions take years to do so the 2029 compliance deadline cannot be met. EPA fails to acknowledge that the delay in starting will exacerbate this. The longer contamination continues, the higher the levels will be and the more people will be exposed to unnecessary health risks. Beginning sooner will reduce total costs (including both costs to the PWS and the health damages to US residents), reducing the burden on the recipients.

EPA is requesting comment on whether it should require Tier 2 public notice for exempted systems

EPA notes that Tier 3 Public Notice will apply to exempted facilities which will not have to notify the public until one year after the exemption is approved and then annually after that. EPA requests public comment on whether the Agency should instead require Tier 2 Public Notice in which the facility must notify the public within 30 days of operating under the exemption.

EPN strongly supports shifting the public notice requirement for exempted water systems from the current Tier 3 public notice to a Tier 2 public notice. The Tier 3 notice is defined in the public notification regulation as an annual notice applying to a PFAS exceedance that does not have a direct impact on human health. The Tier 2 notice is defined as a 30-day notification where there is a PFAS exceedance that does have a direct impact on human health but does not pose an immediate risk which would trigger a Tier 1 notice. The Tier 2 notice fits the PFAS situation, which would let the water system customers know almost immediately to take actions necessary to seek alternative drinking water. The Tier 2 notice is repeated every 30 days until the exceedance is addressed.

EPA's Economic Analysis discounts costs and benefits using the old 3% and 7% rates rather than the new 2% rate that OMB required in the prior administration

The May 20, 2026, proposed extension rule does not provide a written rationale explaining why it used discount rates of 3 percent and 7 percent from the replaced (2003) version of OMB Circular A-4¹ rather than 2 percent, which is prescribed by the 2023 OMB Circular A-4.² The decision to use the replaced discount rates is curious, particularly given that the companion rescission rule, proposing to rescind 4 PFAS compounds, uses 2 percent in some of its calculations.

The Impacts of Shifting the MCL Compliance Date are Ignored

EPA proposes to extend the compliance dates without acknowledging the damages associated with that action. Postponing compliance will extend the time that people are exposed to unsafe levels of PFOA and PFOS, incurring both higher adverse health effects and higher total costs for both consumers' health and utilities' operations. Land application of biosolids is among the principal sources of environmental contamination, so the delay will also increase the contamination by PFAS in the environment. Given the extreme persistence of PFAS in the environment, this delay will increase future risks and the need for cleanup and escalate costs as an undue burden on U.S. taxpayers.

Impacts on Superfund, RCRA and Brownfields cleanups

The Superfund program bases cleanups upon Applicable or Relevant and Appropriate Requirements (ARARs), which include federal water quality standards. The extension of the compliance date should not impact cleanup decisions for PFOA and PFOS under RCRA/CERCLA, since the underlying MCLs remain unchanged. However, the extended compliance timeline could slow implementation of drinking water treatment and prolong unnecessary exposure to unsafe levels of PFOA and PFOS.

Delays in implementation will also surface in Superfund five-year reviews, and will result in additional health impacts. These delays will further increase cleanup costs as contamination continues to spread.

Impact of the Delay of Enforceable MCLs on PFAS Levels in Biosolids

The delay in enforcing the MCLs for PFOA and PFOS will delay actions to limit PFOA and PFOS in biosolids. Per EPA's 2025 draft Sewage Sludge Risk Assessment for PFOA and PFOS, land application of PFAS-contaminated biosolids is a demonstrated pathway capable of producing unacceptable risks. In the 2025 draft, the highest-risk exposure routes EPA identified were: drinking milk from pasture-raised cows that consumed contaminated forage, soil, and water; drinking contaminated surface or groundwater on or near the impacted property; eating fish from a lake affected by runoff; and eating beef or eggs from pasture-raised cattle or hens on treated pasture. While it is important to recognize that other sources of PFAS contamination must also be addressed, failure to address PFAS in biosolids will perpetuate the cycle of human exposure to PFAS.

¹ <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>

² <https://www.federalregister.gov/documents/2023/11/13/2023-24819/issuance-of-revised-omb-circular-no-a-4-regulatory-analysis>

Conclusion

Delays in establishing MCLs for PFAS will lead to longer periods without enforceable limits, which means public water systems will continue to serve water above the health-based standards for PFOA and PFOS. Public water systems will not have to remove these contaminants to meet the MCL for an additional two years, which will increase the risk of long-term exposure for millions of people who will be exposed to these chemicals through their drinking water. This also means more people will be exposed to these chemicals through edible crops where biosolids (commonly containing PFOA and PFOS) are applied to agricultural land. When applied to soil, PFAS can leach into the root zone or be directly absorbed by plant roots. Delaying compliance will increase the risk of toxicity and concentration of PFOA and PFOS in biosolids before they are applied to land.

We urge EPA to withdraw this proposal and retain the 2029 compliance date for PFOA and PFOS MCLs.