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# Delaware Enacts PFAS Legislation

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Delaware has taken the initial steps to start addressing PFAS contamination in its drinking water. Like the federal government, the First State is preparing to issue regulations to limit so-called “forever chemicals,” which have been linked to health concerns including cancer.

### **What You Need to Know:**

- Delaware has enacted a law to begin the process, at the state level, to address PFAS contamination in drinking water.
- The law contemplates establishment of state-level maximum contaminant levels (“MCLs”) for PFAS, which includes PFOA and PFOS.
- By January 1, 2022, DNREC is required to provide results of a statewide survey on PFAS in drinking water and a plan for addressing identified PFAS contamination.
- If Delaware adopts MCLs lower (stricter) than forthcoming USEPA regulation, the state standard will be the operative standard.

On October 20, 2021, Delaware Governor John Carney signed [House Bill 8](#), “An Act To Amend Title 29 Of The Delaware Code Relating To Drinking Water” (HB 8), into law. The law directs Delaware’s Division of Public Health, in collaboration with its Department of Natural Resources and Environmental Control (DNREC), to establish state-level maximum contaminant levels (“MCLs”) for certain contaminants found in public drinking water systems in the state. Such contaminants include “PFAS,” man-made chemicals often referred to as “forever chemicals,” which include PFOA and PFOS.

The process of setting limits is now in the hands of DNREC and Delaware’s Division of Public Health, which have nine months from the signing of HB 8 to propose MCLs for PFOA and PFOS in drinking water and to conduct public hearings. On or before January 1, 2022, DNREC is required to provide the Governor and the General Assembly with the results of a statewide survey on PFAS in drinking water, as well as a specific plan for addressing PFAS contamination identified in the state-wide survey. Notably, there is an ongoing PFAS Exposure Assessment in New Castle County, Delaware, near the New Castle Air National Guard Base located at the New Castle County Airport, which used aqueous film forming foam containing PFAS for firefighting training in the past.

At present, Delaware follows the United States Environmental Protection Agency’s (USEPA) non-enforceable “health advisory limit” of 70 parts per trillion for PFOA and PFOS in drinking water. At the federal level, USEPA intends to propose enforceable limits for PFOA and PFOS by the fall of 2022 and finalize the limits a year later pursuant to its recently released [PFAS Roadmap](#). If Delaware adopts MCLs lower (i.e., stricter) than whatever is eventually proposed by USEPA, the state standard would be the operative level.

Attorneys in Saul Ewing Arnstein & Lehr’s Environmental Group have experience with current and emerging PFAS requirements pursuant to state and federal law and are available to assist with such matters.

**This alert was written by Pamela J. Scott and Melissa A. Clarke, both members of the Firm’s Environmental Practice. Pamela can be reached at (302) 421-6878 or [Pamela.Scott@saul.com](mailto:Pamela.Scott@saul.com). Melissa can be reached at (609) 452-3142 or [Melissa.Clarke@saul.com](mailto:Melissa.Clarke@saul.com). This alert has been prepared for information purposes only. Did you find this information useful?**

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