

Drinking Water/Clean Water Advisory Workgroup

**Division of Water
Carey Johnson, Director**



March 2023

PFAS National Primary Drinking Water Regulation

- EPA proposing a national primary drinking water regulation (NPDWR) to establish legally enforceable levels, called Maximum Contaminant Levels (MCLs) for six PFAS in drinking water:
 - PFOA and PFOS as individual contaminants, and
 - PFHxS, PFNA, PFBS, HFDO-DA (GenX) as a mixture
 - Proposed Final Rule late 2023-early 2024
 - Requires water systems to monitor and notify, similar to Tier 2 notifications (within 30 days)
- EPA is also proposing health-based, non-enforceable Maximum Contaminant Level Goals (MCLGs) for these six PFAS chemicals.
 - MCLGs and the maximum contaminant level in drinking water where there are no known or anticipated negative health effects allowing for a margin of safety.

Proposed Levels

Compound	Proposed MCLG	Proposed MCL (enforceable levels)
PFOA	0 ppt*	4.0 ppt*
PFOS	0 ppt*	4.0 ppt*
PFNA	1.0 (unitless) Hazard Index	1.0 (unitless) Hazard Index
PFHxS		
PFBS		
HFPO-DA (GenX)		

*ppt = parts per trillion (ng/L)

The Hazard Index is a tool used to evaluate potential health risks from exposures to chemical mixtures. EPA will share calculations and provide an online tool.

Requirements for Public Water Systems

1. Monitoring

- Quarterly for surface water and large groundwater systems
- Biannually for others
- Options to reduce monitoring

2. Public Notification

- Similar to a Tier 2 notification
 - Within 30 days of the violation

3. Treatment

- Reduce the levels of these PFAS in drinking water if they exceed the proposed standards

Public Comment Period and Docket

- EPA is requesting comments on the proposed rule
- Action is not final and doesn't require any actions until regulation is final
- The public docket can be accessed at: www.regulations.gov under Docket ID: EPA-HQ-OW-2022-0114.
- Written comments must be submitted to the public docket 60 days following the proposed rule publishing in the Federal Register
- More information on EPA dockets: <https://www.epa.gov/dockets/commenting-epa-dockets>

Path Forward

- Uses Lab methods 533 and 537.1
- State primacy updates in next 2 years
- Economic Analysis of proposed rule:
 - Cost: \$772 million per year
 - Benefit: \$1.2 billion per year



Productivity

DOW's Priorities for 2023



Accountability

- Strategically inform and influence water infrastructure investments including supporting small, disadvantaged communities
- Support department's PFAS-related work
- Implement the Division's nutrient reduction strategy and Gulf Hypoxia Taskforce participation
- Continue to ensure permits (KPDES, KNDOP, floodplain etc.) – are protective, includes dialog with permittees to support economic development, and are issued timely
- Continue supporting response to natural disasters – Dec. 2021 tornado; July 2022 flood; other incidents
 - Includes a dam failure occurring on 3/10/2023
- Conduct flood, dams, and drought risk assessments for state hazard mitigation plan
- Streamline internal processes with documentation (SOPs) to improve efficiency
- Continue enhancing partnerships and collaborations with stakeholders

2023 Bills of Interest

- **HB 160 – Water Pollution Control (mixing zones)** – [23RS HB 160 \(ky.gov\)](#) - this bill passed the House; has been assigned to the Senate NREC and had its 2nd reading yesterday (3/13).
-
- **HB 264 – Regulatory relief** – [23RS HB 264 \(ky.gov\)](#) - the “General Regulatory Sandbox Program” this bill is one of great concern – while streamlining permitting and encouraging innovation are admirable goals, this bill would potentially allow trials that fall outside environmental and other safety regulators in favor of a new agency that is not party to the delegation agreements the Commonwealth has with the EPA. It exposes the Commonwealth to loss of its delegated programs and regulation directly by the federal government. The bill passed the House on Feb 28, and passed the Senate 37-0 yesterday (3/13) with amendments regarding the membership of the advisory committee, so it was returned to the House Rules committee.
-
- **SJR 79 - Nuclear Energy Development Working Group** – [23RS SJR 79 \(ky.gov\)](#) Establish the Nuclear Energy Development Working Group; attach the working group to the Energy and Environment Cabinet for administrative purposes and staff support. SJR is supported by EEC; it passed the Senate on March 2, and has been assigned to the House State Govt committee last Friday (3/10).
-
- **SB 226 – Environmental Permitting** – [23RS SB 226 \(ky.gov\)](#) – would create KPDES permitting standards that are not within the authority of the Cabinet and are not aligned with the requirements of the Clean Water Act or the agreements between the EPA and the Commonwealth. . It exposes the Commonwealth to loss of its delegated KPDES program and regulation directly by the federal government. The bill passed the Senate on March 7, and passed the House yesterday (3/13).
-
- **SB 263 – Regionalization of public water and WW services** – [23RS SB 263 \(ky.gov\)](#) - encourages consolidation, merger, and regionalization; will require better asset management planning, etc. It passed the Senate on March 10 (last Friday), and was received in the House yesterday (March 10); awaiting committee assignment.
-
- **SB 277 – Water Resources** - [23RS SB 277 \(ky.gov\)](#) – our bill passed the Senate on March 8, and was assigned to the House NREC yesterday (March 13).

Water Infrastructure

- Generational investment in water infrastructure in the Bipartisan Infrastructure Law (BIL)
- Federal and state agencies still ramping up
- 5 years of funding
- Implementation and project ranking ongoing
- DOW participating in several other opportunities
 - Closing the Wastewater Gap in Harlan Co. with EPA and USDA RD
 - Grant program for emerging contaminants in small, disadvantaged communities
 - SRF for emerging contaminants and lead service lines

Nutrients

- Strategy
 - Support Agriculture Water Quality Act implementation
 - Marketing campaign works!
 - Promote wastewater optimization at POTWs including partnership with EEC Office of Energy Policy to support optimization studies
 - Promote nutrient-related BMPs in MS4s
 - MS4 GP expires in April 2023
 - Participate in EPA's Gulf Hypoxia Task Force
 - Promote implementation of Nature Based Solutions
 - Efforts to include NBS in state hazard mitigation plan (updated in 2023)

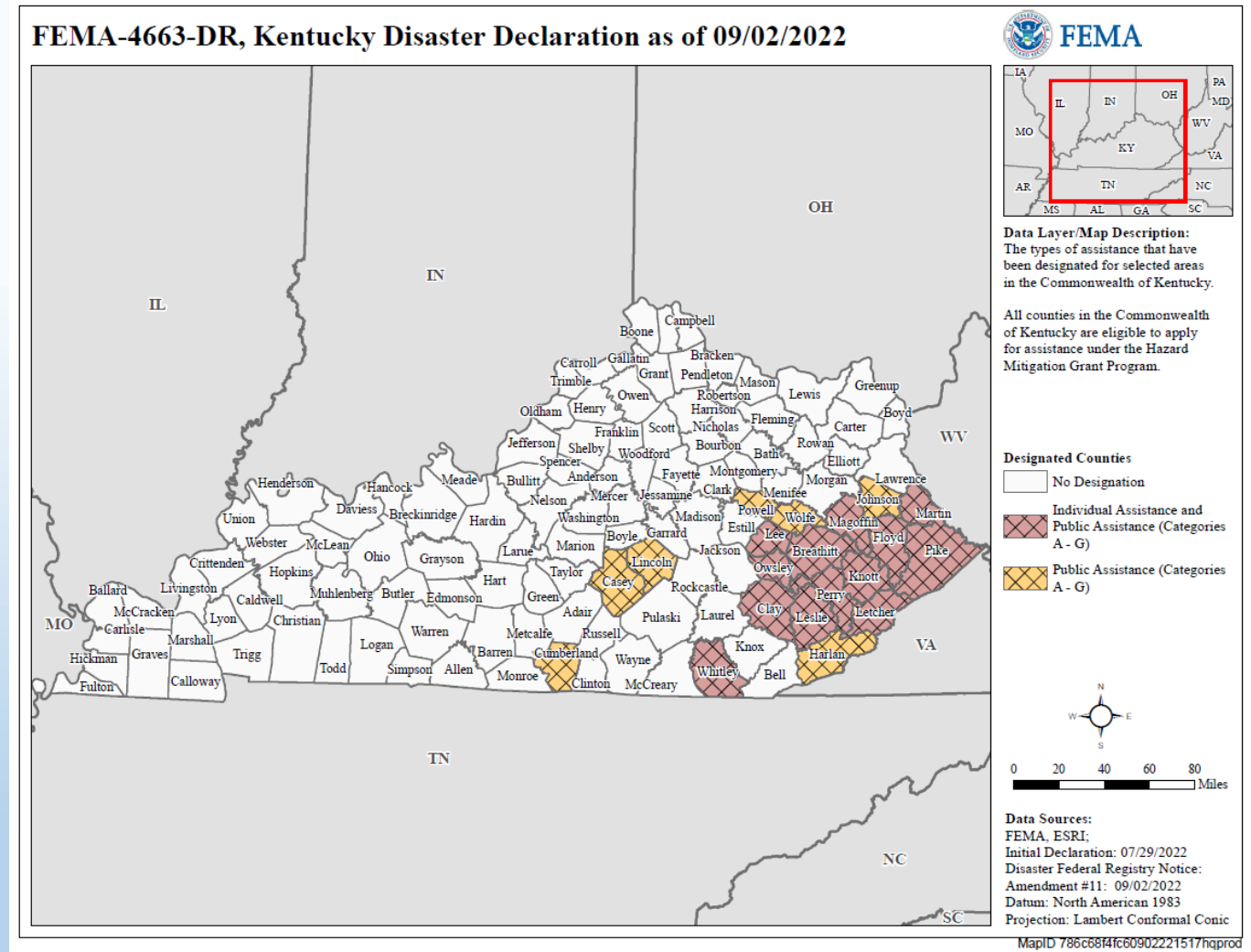
MS4 General Permit (KYG20) Renewal

KPDES General Permit for Small Municipal Separate Storm Sewer Systems (MS4)

- 100 communities covered under 44 permits
- Valid dates: 3/30/2018 - 4/30/2023
- DOW will be engaging the regulated community in the next few months as we develop a draft permit for renewal

July 2022 Flood

- 8 counties PA
- 12 counties PA and IA
- DOW estimates over \$1 billion in damage to water and wastewater alone
- EKSAFE fund set up
- Years of recovery



WOTUS

- The U.S. EPA and the Department of the Army (Army) published the final “Revised Definition of ‘Waters of the United States’” rule in the Federal Register on January 18, 2023; the rule will become effective on March 20, 2023
- EPA’s response to KY’s lawsuit filed on 2/22 issued on 3/3/2023 cites status quo
- Upcoming webinars :

Rule Overview

March 22, 2023, 2-3:30 p.m. ET

https://www.zoomgov.com/webinar/register/WN_Qj6hC1ETQ-o6UyTEyGiTw

This webinar provides an overview of the final rule “Revised Definition of ‘Waters of the United States.

Relatively Permanent Standard

March 30, 2023, 2-3:30 p.m. ET

https://www.zoomgov.com/webinar/register/WN_kIqGLuAiTa-3xFFxzWBB3g

This webinar focuses on the relatively permanent standard for determining the jurisdictional status of certain waters.

Significant Nexus Standard

April 5, 2023, 2-3:30 p.m. ET

https://www.zoomgov.com/webinar/register/WN_SozIFw5rSResY36LyuEOAw

This webinar focuses on the significant nexus standard for determining the jurisdictional status of certain waters.

Exclusions and Other Topics

April 12, 2023, 2-3:30 p.m. ET

https://www.zoomgov.com/webinar/register/WN_iUDO7OfWTteFRh7oD5XL_A

This webinar discusses the rule’s eight categories of exclusions (waters and features that are not “waters of the United States”) and will include time for discussion of any topics not otherwise addressed in the webinar series.

Drinking Water/Clean Water Advisory Workgroup

- Collaborative stakeholder group formed in 2014 and comprised of representatives of with interests in Drinking and Clean Water
- Convened by the DOW Director focus on significant issues affecting the regulated community and consumers
- Provides a forum for discussion of ideas and to provide feedback to DOW