

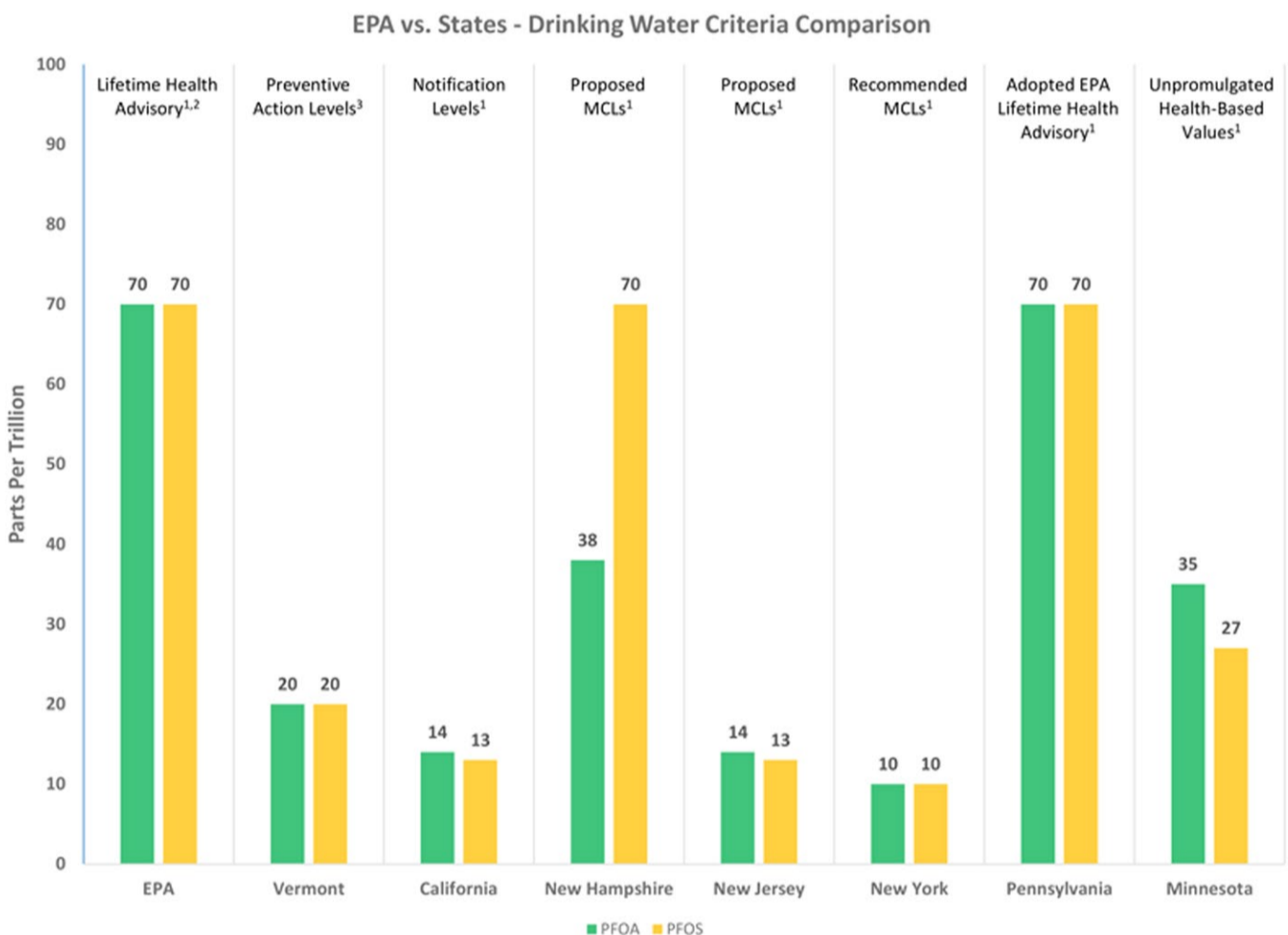
EPA RELEASED ITS PFAS ACTION PLAN – BUT STATES CHART THEIR OWN COURSE – MARCH 2019

On February 14, 2019, the United States Environmental Protection Agency (EPA) announced the release of its per- and polyfluoroalkyl substances (PFAS) Action Plan. Because of the importance of the PFAS issues, for the first time ever, the EPA hosted press conferences simultaneously in every one of its 10 regions across the country, including Philadelphia, where PFAS-related challenges faced by nearby communities have impacted public and private drinking water supplies.

The EPA's Action Plan priorities include:

- Propose a national drinking water regulatory determination for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) (by the end of 2019)
- Designation of PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
 - This designation would affect environmental due diligence, compliance reporting, and site investigation/remediation for these compounds
 - Inclusion of PFAS compounds in the next Unregulated Contaminant Monitoring Rule (UCMR) testing cycle ("UCMR 5", 2021 through 2025)
- Continued use of the 70 ng/L Lifetime Health Advisory (LHA) for PFOA and PFOS (individually or combined) to support enforcement actions

States and public stakeholders have been critical of the Action Plan citing a purported lack of urgency and commitment to concrete steps and timelines. Some states have taken or are planning to take actions, independent of EPA, to establish regulations and set cleanup standards for certain PFAS compounds. These state-led initiatives are highly variable with respect to environmental regulations and clean-up goals. These state actions have created an increasingly complex and inconsistent patchwork of requirements. The following chart illustrates the variability of drinking water endpoints that have been proposed or established to date by EPA and several states.



NOTES:

- 1 - Levels are subject to change pending final promulgation and/or adoption
- 2 - Lifetime Health Advisories are applicable to PFOA and PFOS individually, or in combination, if both chemicals are present at concentrations above the reporting limit
- 3 - Preventive Action Limits are applicable to PFOA and PFOS in addition to three other PFAS compounds individually, or in combination, if these chemicals are present at concentrations above the reporting limit

More recently, on March 13, 2019, the New Jersey Department of Environmental Protection (NJDEP) established Interim Specific Groundwater Quality Criteria (ISGWQC) for PFOA and PFOS, each set at 10 parts per trillion.

Langan continues to track the measures taken by individual states to address and regulate these compounds as federal actions follow the EPA PFAS Action Plan.

A copy of the EPA's PFAS Action Plan can be viewed at: <https://www.epa.gov/pfas/epas-pfas-action-plan>.

For more information on PFAS, the actions of EPA and states, and implications for drinking water, real estate transactions and environmental cleanup, please contact one of Langan's PFAS leaders:

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