

waters in the U.S. is likely a significant source of exposure to PFOS and potentially other perfluorinated compounds for all persons who consume freshwater fish, but especially for high frequency freshwater fish consumers.”²⁸ And communities of color and low income are more likely to bear the burden of PFAS pollution in their rivers, creeks, streams, and drinking water.²⁹

With this context in mind, the proposed update to the drinking water rules for just two PFAS compounds—PFOA and PFOS—is insufficient to protect human health and the environment, both legally and factually.

II. The proposed drinking water rules would violate federal law and jeopardize Georgia’s continued primary enforcement responsibility.

As an initial matter, the proposed rules are not legally sufficient under the Safe Drinking Water Act and its implementing regulations. As EPD recognized in the public announcement for the rule update, “The U.S. Environmental Protection Agency (EPA) finalized the National Primary Drinking Water Regulations (NPDWR) for 6 Per- and Polyfluoroalkyl Substances (PFAS) on April 10, 2024. States have two years from the promulgation of such regulations to adopt the standards into their state programs and rules.” (emphasis added). That is a correct statement of EPA’s 2024 rulemaking action and of the law pursuant to which EPA has granted Georgia primary enforcement responsibility. 42 U.S.C. § 300g-2(a)(1) (establishing primary enforcement responsibility for public water systems where a state has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations within two years of the date when the federal regulations were promulgated).

As mentioned, on April 10, 2024, EPA set limits for five individual PFAS: PFOA, PFOS, PFNA, PFHxS, and HFPO-DA, and it set as a sixth limit a Hazard Index MCL for mixtures of PFHxS, PFNA, HFPO-DA, and PFBS. 40 C.F.R. § 141.50(a)(24)–(25) and (b)(34)–(37). Georgia must adopt the same regulations, or it cannot legally retain primary enforcement responsibility. “To retain primary enforcement responsibility, States must adopt all new and revised national primary drinking water regulations promulgated in part 141 of this chapter and any other requirements specified in this part.” 40 C.F.R. § 142.12(a)(emphasis added); *see also id.* § 142.10(a) (“A State has primary enforcement responsibility for public water systems in the State during any period for which the Administrator determines, based upon a . . . submission under § 142.12, that such State . . . [h]as adopted drinking water regulations which are no less stringent than the national primary drinking water regulations (NPDWRs) in effect under part 141 of this chapter”) (emphasis added).

²⁸ Barbo, *supra* note 24, at 9.

²⁹ See Jahred M. Liddie et al., *Sociodemographic Factors Are Associated with the Abundance of PFAS Sources and Detection in U.S. Community Water Systems*, 57 ENV’T SCI. & TECH. 7902 (2023), <https://perma.cc/74YL-5EPM>; Susan Lee, *Dirty Water: Toxic ‘Forever’ PFAS Chemicals Are Prevalent in the Drinking Water of Environmental Justice Communities* (Aug. 2021), <https://perma.cc/HPM9-ULDX>; Genna Reed, *PFAS Contamination Is an Equity Issue, and President Trump’s EPA Is Failing to Fix It*, Union of Concerned Scientists (Oct. 30, 2019), <https://perma.cc/9JVE-QSQ4>;