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To: Mike Berman
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Pennsylvania-American Water Sues PFAS Manufacturers

[Pennsylvania-American Water Company \(PAWC\)](#) is suing multiple PFAS manufacturers to recover costs incurred to monitor and treat PFAS-impacted drinking water supplies. PAWC owns and controls 67 public water systems and over 100 groundwater extraction wells throughout Pennsylvania and serves approximately 2.4 million residents. The PAWC lawsuit is not the first to be filed by a water district. Recently, the [City of La Crosse](#) in Wisconsin, the [Santa Clarita Valley Water Agency](#) in California, and 11 other districts in [Orange County](#), California have filed similar lawsuits. The PAWC claim was originally filed in Cumberland County Court but has recently been transferred to the U.S. District Court for the District of South Carolina, where it will be included in a multidistrict legislation with over [500 other PFAS-related complaints](#).

California Releases Notification Levels for PFBS

On March 5, 2021, the California State Water Resources Control Board's Division of Drinking Water (DDW) issued notification and response levels for perfluorobutane sulfonic acid (PFBS) of 0.5 parts per billion (ppb) and 5 ppb, respectively. Notification levels (NLs) are non-regulatory, health-based advisory levels for drinking water established by the DDW. Exceedance of the NL warrants timely notification to consumers pursuant to Health and Safety §116455. If concentrations in drinking water exceed the response level (RL), DDW recommends that the drinking water source is removed from service. The RL was recommended by the Office of Environmental Health Hazard Assessment (OEHHA) and is based on toxicological data for the reduction of thyroid hormones in pregnant mice. Contaminants with NLs and RLs may be considered candidates for establishing maximum contaminant levels (MCLs) but have not yet fully undergone the regulatory process.

Wisconsin Department of Natural Resources Sued Over PFAS Cleanup Requirements

A lawsuit was filed by a private dry cleaner and Wisconsin Manufacturers and Commerce in February 2021 alleging the Wisconsin Department of Natural Resources (WDNR) is overstepping its authority by issuing an interim decision that requires participants in the voluntary cleanup program to test for and address PFAS contamination before WDNR will certify the program has been completed. The complaint states that WDNR does "not have ... authority, nor an explicit statutory requirement, to implement or enforce any standard, requirement, or threshold related to emerging contaminants, including PFAS". The suit is requesting the court bar the WDNR from regulating emerging contaminants and argues the state bypassed the proper rulemaking process.

While WDNR is in the process of developing standards for PFAS in drinking water, surface water and groundwater, the state's rulemaking process could take over a year to complete. WDNR contends it has the authority to issue the interim decision under the state's "spills law" and it "would be remiss in its responsibility ... if it issued a Certificate of Completion for PFAS contamination that was not sampled" in light of PFAS state and national concerns. The lawsuit and the question of whether a state can require remediation of emerging contaminants without regulatory standards for assessment or cleanup will most likely be watched closely by other states.

EPA Re-Issues Actions on PFAS

EPA re-issued two actions to address PFAS in drinking water which had been undergoing review following the recent change in administrations. First, EPA re-issued the Proposed Rule for the 5th Unregulated Contaminant Monitoring Rule (UCMR 5) which would provide a broader base of PFAS data by requiring public water systems to test for 29 PFAS substances (as opposed to the 6 PFAS substances required under UCMR 3) from 2023 to 2025. This proposal is open for public comment until May 10, 2021 and has 2 scheduled public hearings. Second,

EPA confirmed the [Final Regulatory Determinations](#) for PFOS and PFOA and are moving forward on the process of developing drinking water regulations for these two compounds under the Safe Drinking Water Act.

PFAS Regulatory Criteria – Publications of Interest

Two publications have become recently available on PFAS guidance levels being developed by various states in the absence of federally mandated regulations. The Environmental Council of the States (ECOS) issued a [white paper](#) in March 2021 providing an analysis of the differences observed between states in regulating PFAS. A peer-reviewed [paper](#) authored by the New Jersey Department of Environmental Protection was recently published in *Environmental Toxicology and Chemistry* and provided a critical review of EPA drinking water guidelines for PFOS and PFOA. This paper also detailed how current guidelines for PFAS in drinking water developed by states vary from EPA guidelines, and provided references to the technical bases for these guidelines. The author concluded that additional state guidelines for PFOA, PFOS, and other PFAS are expected to continue to become available.

More PFAS Information: www.geosyntec.com/pfas

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