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# Municipal Reporter


## PUBLIC HEALTH AND SAFETY

*"We need to look at public health and safety through a fresh lens."*

# PFAS and Municipal Water Supplies and Wastewater

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"PFAS" is an acronym for per- and polyfluoroalkyl substances, a family of thousands of widely used manmade chemicals that resist grease, oil, water and heat. PFAS has been used in firefighting foams, protective coatings and stain-resistant garments and carpets. PFAS are mobile and persistent; they bioaccumulate while resisting degradation in the environment (hence the nickname "forever chemicals."). They're also ubiquitous, present in personal care products like shampoo and dental floss. As a result, approximately 98-99% of people have PFAS in their bodies, and studies have shown negative health outcomes with low levels of chronic exposure to PFAS.[2] Problematically, PFAS make their way into municipal water supplies and wastewater.

Given how widespread PFAS are, many states have begun regulating them by establishing maximum contaminant levels[3] and instituting PFAS product bans.[4] On January 14, 2023, Pennsylvania's Department of Environmental Protection (PADEP) adopted a new rule known as the Safe Drinking Water PFAS MCL Rule ("PFAS MCL Rule").[5] The PFAS MCL Rule sets a maximum allowable level in drinking water for two PFAS compounds, PFOA and PFOS at 14 parts per trillion (ppt) and 18 ppt, respectively.

Under the PFAS MCL Rule, initial compliance monitoring for community and non-transient noncommunity water systems serving more than 350 persons and for all bottled, vended, retail and bulk hauling water systems begins January 1, 2024. Initial monitoring for community and non-transient non-community water systems serving 350 or fewer persons begins January 1, 2025. Because PFAS are so pervasive, care must be taken to avoid cross-contamination of samples, and sample collection by specially trained professionals is advisable.

## Understanding PFAS Risks

Local governments, including water utilities and municipal solid waste facilities, serve as passive receivers of PFAS chemicals. PFAS come from various "upstream" sources — industries, household products, even human waste — and flow through municipal facilities. Problematically, currently available methods of wastewater treatment do not remove PFAS, causing wastewater treatment discharges and sludges to inadvertently spread PFAS, including to drinking water supplies.

Municipalities can develop a better understanding of PFAS contamination risk by inventorying potential PFAS release areas. Examples of locations with potential for soil, groundwater or surface water PFAS contamination include anywhere firefighting foam[6] was sprayed in the past, such as current and former fire training areas and fire house locations, airports, historic landfills and dumping locations. Prioritizing the sampling of wells at or near these locations may be advisable. If PFAS are detected in drinking water, the site inventory may provide clues to source(s) and potential extent of contamination.

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## Addressing and Funding PFAS Contamination

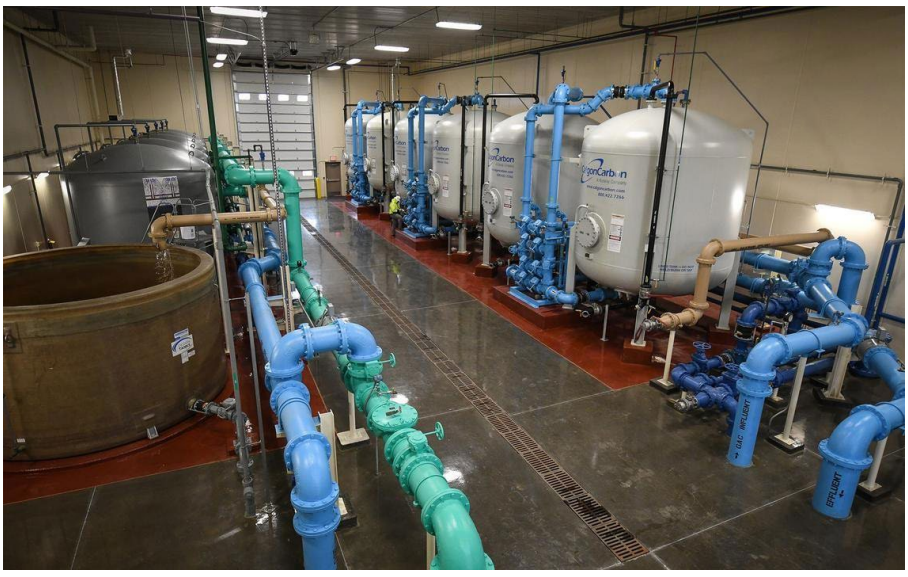
Certain technologies will remove PFAS from drinking water supplies, including activated carbon adsorption, ion exchange resins and high-pressure membranes. While such technologies can be used in drinking water treatment facilities, they are expensive. Thankfully, some funding may be available for local governments.

For instance, the Pennsylvania Infrastructure Investment Authority ("PENNVEST") Per- and Polyfluoroalkyl Substances Remediation Program ("PENNVEST PFAS Remediation Program") was established to provide funding to remediate PFAS present in public drinking water supply systems when the PFAS source is not related to a qualified former military installation. Another program exists for qualified military installations and is administered by the PA Department of Revenue.

Faced with thousands of lawsuits over their firefighting foam products, several companies agreed to settlements that establish funds to help water suppliers cover PFAS sampling and remediation costs.

In June 2023, Chemours, Corteva and E.I. DuPont de Nemours and Company (collectively, "DuPont") agreed to pay up to $1.19 billion into such a fund, and in a separate agreement, 3M agreed to pay up to $10.3 billion. These funds are available to almost all municipal drinking water suppliers. An official website, sanctioned by the court overseeing the cases, provides information on the settlements, and claims can be filed there.[7]

The DuPont and 3M settlement agreements are lengthy and include conditions and releases of claims. Moneys from the funds will be allocated according to a formula based in part on flow and concentration data. ***Importantly, if an eligible public water supplier did not file an objection or request to be excluded, it is bound by the DuPont and 3M settlements, and claims against the settling companies for PFAS in the water supply now and in the future are released.*** Therefore, it is important to file claims for testing costs and, if PFAS is detected in the water supply, for cleanup costs by the required deadlines. ❑



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*[2] Environmental Protection Agency, EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan 9, 13 (2019), https://www.epa.gov/sites/default/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf.*

*[3] The Environmental Protection Agency (EPA) is also in the process of creating a national limit for some PFAS substances in drinking water. The EPA expects to finalize this rule by the end of 2023.*

*[4] Pennsylvania's state legislature recently introduced bills impacting food packaging containing PFAS. Senate Bill 1351 prohibits the manufacturing, distribution, sale or offer for sale of any food packaging containing PFAS in any amount. It would also require manufacturers to post a certificate of compliance at the place of business to attest that the food packaging follows the requirements outlined in the legislation. Likewise, Senate Bill 302 would restrict firefighting foam containing PFAS.*

*[5] 25 PA. CODE CH. 109*

*[6] In many cases, municipal airports and fire departments were required by federal law to use firefighting foam containing PFAS chemicals.*

*[7] Public Water System Settlements, available at: pfaswatersettlement.com*