

2025 Air & Waste Mgmt. Assoc. Conference: Louisiana Section

*L'Auberge Baton Rouge
Wednesday, October 29, 2025*

**PFAS
Litigation**

**AFFF MDL
No. 2873**

JODY J. FORTUNATO—
COSSICH, SUMICH, PARSIOLA & TAYLOR, L.L.C.



**AIR & WASTE MANAGEMENT
ASSOCIATION**

Louisiana Section

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

PFAS is a family of man-made chemicals that includes PFOS and PFOA. PFAS have been used worldwide since the 1950s in industry and consumer products, such as:

- Non-stick cookware
- Firefighting foams
- Water-repellent & stain-resistant fabrics
- Cosmetics
- Food packaging
- Other products that resist grease, water, and oil



**Stain- & water-
resistance
treatments**



**Nonstick
cookware**



**Waterproof
apparel**



**Cleaning
products**



**Firefighting
foam**



**Takeout
containers**



**Carpets &
textiles**

MAJOR SOURCES OF PFAS

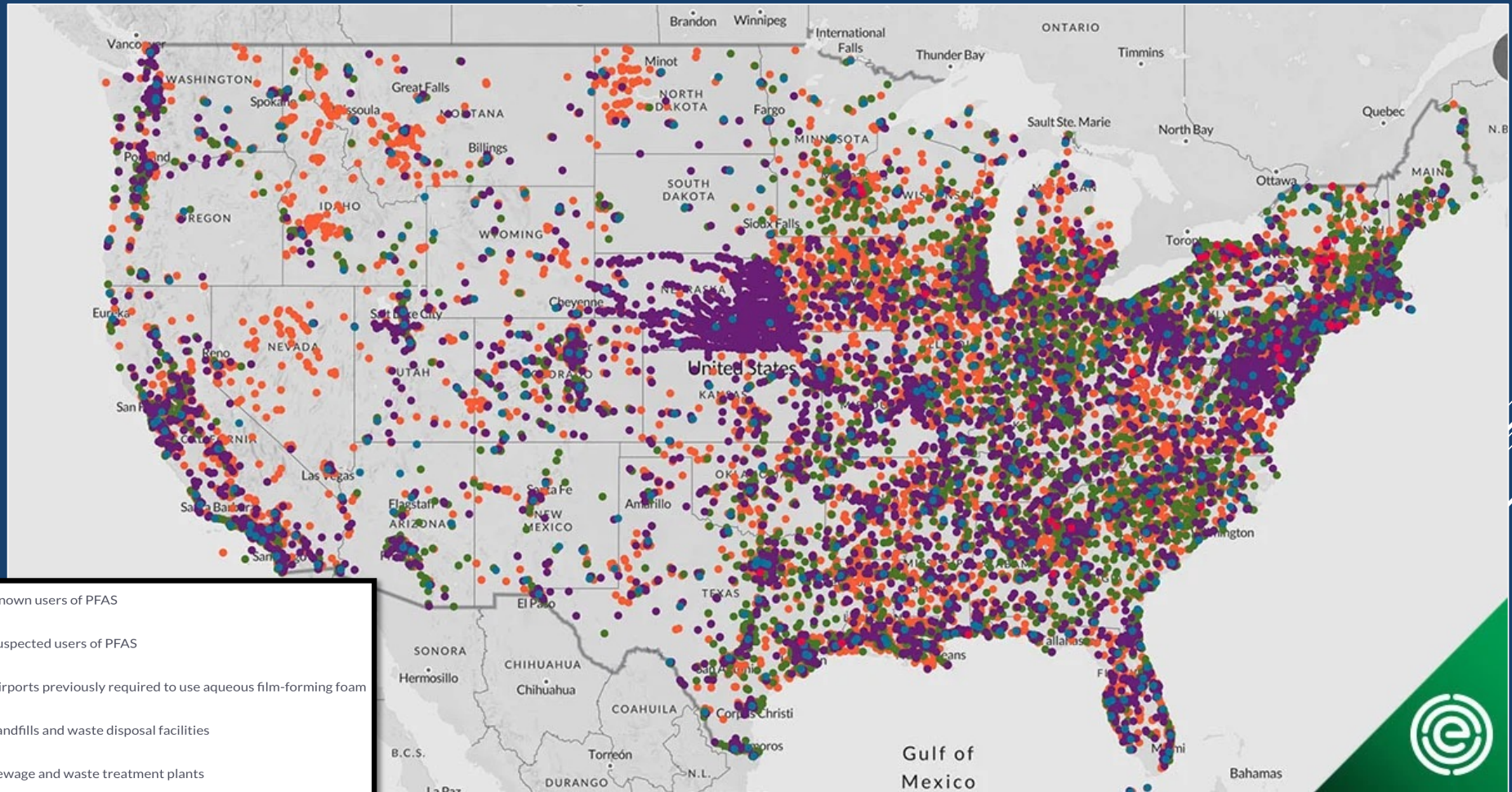
- ▶ Existing and Former Department of Defense Military Installations
- ▶ Airports
- ▶ Fire Training Facilities
- ▶ Superfund/RCRA Sites
- ▶ Landfills
- ▶ Electroplating
- ▶ Oil Refineries & Petrochemical Plants

AQUEOUS FILM-FORMING FOAM (AFFF)

As early as the 1960s, PFAS have been used in AFFF, a water-based foam developed to extinguish Class B (flammable liquid) fuel fires at airports fire stations, fire training facilities and military bases, among other places.



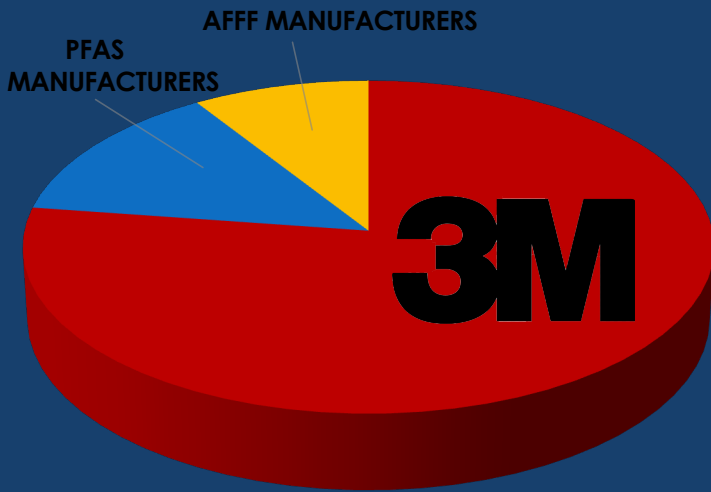
SUSPECTED INDUSTRIAL DISCHARGES OF PFAS



Source: Environmental Working Group https://www.ewg.org/interactive-maps/2021_suspected_industrial_discharges_of_pfas/map/



KEY PLAYERS



DEEPWATER CHEMICALS BASF TYCO FIRE NATIONAL FOAM CHEM GUARD
CLARIANT 3M
BUCKEYE COMPANY ARKEMA
E. I. DUPONT DE NEMOURS & COMPANY KIDDE CHEM DESIGN PRODUCTS INC. DYNAX
CHEMOURS

A photograph of the J. Waties Waring Judicial Center in Charleston, South Carolina. The image shows a large, multi-story building with a classical architectural style, featuring columns and a pediment. In the foreground, there is a circular fountain with a central statue, surrounded by a brick-paved area and a black wrought-iron fence. The courtyard is lush with greenery, including trees and manicured hedges. The text "J. WATIES WARING JUDICIAL CENTER" is visible on the building's facade. The overall scene is captured in a slightly desaturated, blue-tinted style.

**THE MDL COURT – US DISTRICT COURT FOR
SOUTH CAROLINA – CHARLESTON**

**IN RE: AQUEOUS
FILM-FORMING FOAM
PRODUCTS LIABILITY
LITIGATION**

MDL NO. 2873

FORMED: December 2018

COURT: U.S. District Court for the District of
South Carolina, Charleston Division

MDL JUDGE: Honorable Richard M. Gergel

TYPES OF PLAINTIFFS IN THE MDL:

States & Territories
Public & Private Water Providers
Individual Well Owners
Property Damage
Personal Injury
Medical Monitoring



STATUS OF THE MDL

- ❖ 7 years in
- ❖ Full Discovery: 312 depositions taken
- ❖ Defendant and third-party overall document productions: approx. 5,400,000 documents and 42,900,000 pages
- ❖ Aside from the Bellwether Plaintiffs, Defendants are not entitled to discovery from the other Plaintiffs except a Fact Sheet
- ❖ Christina Cossich and Phil Cossich in leadership
- ❖ Scott Summy appointed by Court as Settlement Counsel

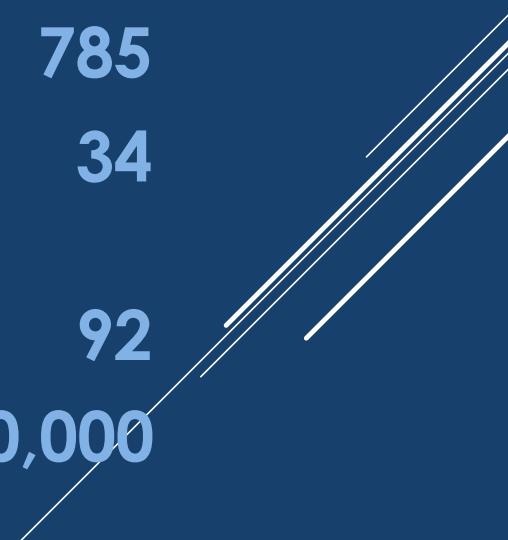
MDL STATISTICS

COURT: MDL No. 2873 In the U.S. District Court
for the District of South Carolina Charleston
Division

JUDGE: Honorable Richard M. Gergel

TYPES OF PLAINTIFFS IN THE MDL:

Water Providers	785
States and Territories	34
Airports/Fire Training Facilities	92
Personal Injury	+10,000



MAJOR SETTLEMENTS BY 3M AND DUPONT DEFENDANTS ANNOUNCED

\$10,500,000,000.00
– 12,500,000,000.00

3M

**FOR PUBLIC
WATER PROVIDERS**

Running Total:
\$13,685,000,000.00

\$1,185,000,000.00



Chemours™

3M AND DUPONT WATER PROVIDER SETTLEMENTS

3M Company

\$10.5 - \$12.5 BILLION

Court Approved Settlement on March 29, 2024

Excludes Property Damage, Wastewater and Stormwater

Settlement Awards are paid per source (Wells and Surface Water)

Settlement Awards are based on PFAS Contamination Levels and Flow Rates at each source

3M AND DUPONT WATER PROVIDER SETTLEMENTS (CONT'D)

DuPont Defendants

\$1.185 BILLION

Court Approved Settlement on February 8, 2024

Excludes Property Damage, Wastewater and Stormwater

Settlement Awards are paid per source (Wells and Surface Water)

Settlement Awards are based on PFAS Contamination Levels and Flow Rates at each source

MAJOR SETTLEMENTS BY TYCO/CHEMGUARD AND BASF ANNOUNCED

\$750,000,000.00

tyco



**FOR PUBLIC
WATER PROVIDERS**

**Running Total:
\$14,751,500,000.00**

\$316,500,000.00

BASF
The Chemical Company

MORE WATER PROVIDER SETTLEMENTS

Tyco/Chemguard

\$750 MILLION

Court Approved Settlement on November 22, 2024

Excludes Property Damage, Wastewater and Stormwater

Settlement Awards are paid per source (Wells and Surface Water)

Settlement Awards are based on PFAS Contamination Levels and Flow Rates at each source

MORE WATER PROVIDER SETTLEMENTS

BASF

\$316.5 MILLION

Court Approved Settlement on November 22, 2024

Excludes Property Damage, Wastewater and Stormwater

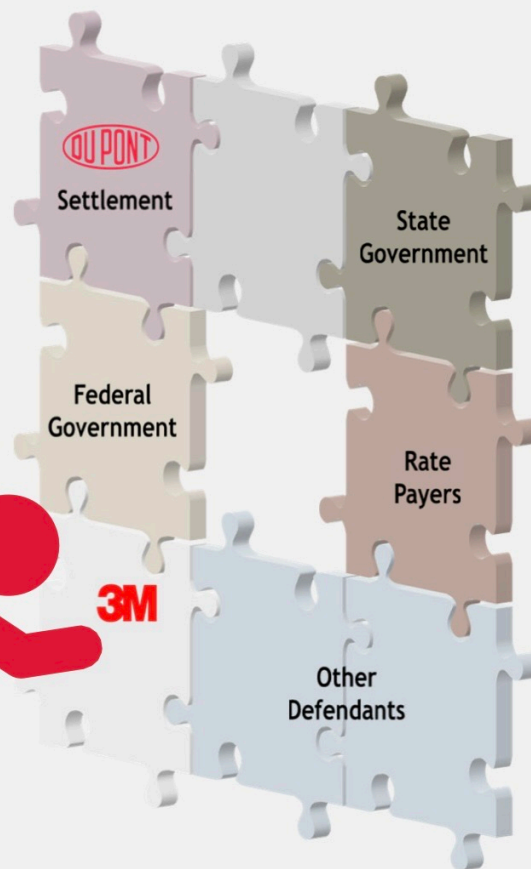
Settlement Awards are paid per source (Wells and Surface Water)

Settlement Awards are based on PFAS Contamination Levels and Flow Rates at each source

PFAS Problem Bigger than Defendants



Settlement
is just one
of many
sources



***NAVIGATING THE
SETTLEMENTS***

***GETTING MONEY TO
WATER PROVIDERS***



SPECIAL MASTER & CLAIMS ADMINISTRATOR ANTICIPATED PAYMENT SCHEDULES

Table 1	
Payment Batch Description	Anticipated Payment Initiation Timeline
3M - Payment 1 (2024 Payment Part 1)	Q2 2025
3M - Payment 2 (2024 Payment Part 2 + 2025 Payment)	Q2/Q3 2025
DuPont - Payment 1	Q2/Q3 2025
Tyco - Payment 1	Q4 2025
BASF - Payment 1	Q4 2025

SPECIAL MASTER & CLAIMS ADMINISTRATOR

3M – ANTICIPATED PAYMENT SCHEDULE & ESTIMATED VALUES

Table 2
Anticipated 3M Settlement Payment Schedule

A	B	C	D	E	F
Description	Timeline	Anticipated \$ per ABS Point Payment Amount	Payment % of Net Settlement Award	Cumulative (Rolling) \$ per ABS Point Paid	Cumulative (Rolling) % of Net Settlement Award Paid
3M - Payment 1	Q2 2025	\$0.0200	20.0%	\$0.0200	20.0%
3M - Payment 2	Q2 - Q3 2025	\$0.0456	45.6%	\$0.0656	65.6%
3M - Payment 3	Q2 2026	\$0.0064	6.4%	\$0.0720	72.0%
3M - Payment 4	Q2 2027	\$0.0048	4.8%	\$0.0768	76.8%
3M - Payment 5	Q2 2028	\$0.0056	5.6%	\$0.0824	82.4%
3M - Payment 6	Q2 2029	\$0.0050	5.0%	\$0.0874	87.4%
3M - Payment 7	Q2 2030	\$0.0034	3.4%	\$0.0908	90.8%
3M - Payment 8	Q2 2031	\$0.0034	3.4%	\$0.0942	94.2%
3M - Payment 9	Q2 2032	\$0.0030	3.0%	\$0.0972	97.2%
3M - Payment 10	Q2 2033	\$0.0028	2.8%	\$0.1000	100.0%
Totals		\$0.1000	100%	\$0.1000	100.0%

***NAVIGATING THE
SETTLEMENTS***

***PUBLIC WATER
SYSTEMS***



IMPORTANT DATES AND DEADLINES

Deadline Description	Dupont Deadline Date	3M Deadline Date	Tyco Deadline Date	BASF Deadline Date
Deadline to Submit Objections	11/11/2023	11/11/2023	8/24/2024	9/15/2024
Deadline to Submit Requests for Exclusion	12/4/2023	12/11/2023	9/23/2024	10/15/2024
Court's Final Fairness Hearing	12/14/2023	2/2/2024	11/1/2024	11/1/2024
Deadline to Withdraw Request for Exclusion	3/15/2024	3/15/2024	12/13/2024	12/13/2024
Phase One Public Water System Settlement Claims Form	7/26/2024	7/26/2024	4/8/2025	4/8/2025
Phase One Special Needs Claims Form	8/26/2024	8/26/2024	5/23/2025	5/23/2025
Phase Two Testing Claims Form	1/1/2026	1/1/2026	N/A	N/A
Phase Two Public Water System Claims Form	6/30/2026	7/31/2026	N/A	N/A
Phase Two Special Needs Claims Form	8/1/2026	8/1/2026	N/A	N/A
Phase One Supplemental Fund Claims Form	12/31/2030	12/31/2030	12/31/2030	12/31/2030
Phase Two Supplemental Fund Claims Form	12/31/2030	12/31/2030	N/A	N/A



BASELINE TESTING

NAVIGATING THE SETTLEMENTS

Product of AFFF MDL No. 2873 Leadership

Baseline Testing



- Any water source with PFAS detection does not require additional testing.
- Future Benefits for each well and/or surface water source is dependent on Baseline Testing.
- Any water source showing ND after 1/1/2019 satisfies baseline testing.
- Tests must comply with UCMR5.
- Must test water before advanced treatment.

BASELINE TESTING

NAVIGATING THE SETTLEMENTS



ACTION FUND CLAIMS

NAVIGATING THE SETTLEMENTS




SUPPLEMENTAL CLAIMS






NAVIGATING THE SETTLEMENTS

An aerial photograph of a large circular structure under construction. The structure features a complex radial steel framework that converges at a central point. The surrounding area is a construction site with various pieces of equipment, including a crane on the left and a white van in the bottom right. The entire image is overlaid with a semi-transparent blue filter.

SPECIAL NEEDS

NAVIGATING THE SETTLEMENTS

 Scope of Release

-  PWS release all claims against 3M arising out of PFAS contamination of drinking water system.
-  Claims for water sources that are not Baseline Tested are released and not eligible for future claim.
-  Claims for water sources that comply with Baseline Testing are released but eligible for future claim.
-  Claims for water sources with PFAS detections are released
-  Punitive Damages for Carve Out Claims are released.

Product of AFFF MDL No. 2873 Leadership

PFAS Claims not Released

PFAS contamination of other property or facility owned or operated by Class Member not related to PWS:

if claim seeks damages unrelated to drinking water or the PWS.

However, if GW claim then must identify Non-Class Potable Water is at risk OR GW damages relate to a state or federal order or regulation not tied to Class Member's PWS.

Examples include:

- ✓ Separate wastewater system
- ✓ Separate stormwater system
- ✓ Airport
- ✓ Fire-training facility
- ✓ Other public property





BANKRUPTCY
...
NAVIGATING THE SETTLEMENTS



THE CLAIMS ADMINISTRATOR

[HTTPS://WWW.PFASWATERSETTLEMENT.COM](https://www.pfaswatersettlement.com)

A decorative graphic consisting of several parallel white lines of varying lengths, slanted upwards from left to right, located in the bottom right corner of the dark blue background.

***THE PEC SITE:
(PLAINTIFFS' EXECUTIVE COMMITTEE)***

[HTTPS://AFFF-MDL.COM](https://afff-mdl.com)

NEXT BELLWETHERS

PERSONAL INJURIES



PERSONAL INJURY BELLWETHERS NEXT UP: OVERVIEW - CMO NO. 26

- ❖ Over 10,000 Personal Injury cases have been filed in the MDL
- ❖ The Court addresses the bellwether process for Personal Injury in CMO 26 signed May 5, 2023, by Judge Gergel
- ❖ New liability discovery, new expert discovery, new dispositive motions practice, and ultimately new trial dates
- ❖ October 2025 – trial date delayed for filing of unfiled claims

PERSONAL INJURY BELLWETHER NEXT UP: POOL ELIGIBILITY REQUIREMENTS



- ❖ Limited to plaintiffs claiming PFAS exposure from an AFFF source in their drinking water (direct dermal contact allegations excluded at this time)
- ❖ Limited to plaintiffs claiming exposure from AFFF use at:
 - ❖ Peterson Air Force Base and/or Colorado Springs Municipal Airport
 - ❖ Naval Air Station Joint Reserve Base Willow Grove and/or Naval Air Warfare Center Warminster



PERSONAL INJURY BELLWETHER NEXT UP: POOL ELIGIBILITY REQUIREMENTS

- ❖ For the purposes of this bellwether process, the Court has narrowly tailored the category of eligible plaintiffs to exclude those seeking only medical monitoring and/or property damage
- ❖ Also excluded from this bellwether are any claims in which class certification is sought
- ❖ Initial eligibility limited to plaintiffs alleging:
 - ❖ **Kidney cancer**
 - ❖ **Testicular cancer**
 - ❖ **Hypothyroidism/Thyroid disease**
 - ❖ **Ulcerative colitis**
 - ❖ Plaintiffs alleging high cholesterol, high blood pressure, preeclampsia have been excluded at this time

***UPCOMING
BELLWETHERS***

***THE “DIRT” CASES:
PRODUCT ID
DISCOVERY PHASE
NOW UNDERWAY***



THE “DIRT” CASES – CMO 32

Case Number	Caption	Site
2:23-cv-01484	City of Hialeah, Florida v. 3M Co., et al.	City of Hialeah Fire Training Facility
2:20-cv-01889	City of Tampa, Florida v. 3M Co., et al.	Tampa Fire Rescue Training Center
2:21-cv-02804	State of Alaska v. 3M Co., et al.	Cold Bay Airport
2:21-cv-02804	State of Alaska v. 3M Co., et al.	Deadhorse Airport
2:22-cv-01649	Commonwealth of Massachusetts v. 3M Co., et al.	Stow Former Fire Station
2:19-cv-02285	State of New Hampshire and Drinking Water and Groundwater Advisory Commission v. 3M Co., et al.	Richard Flynn Fire Academy
2:24-cv-06957	Palm Beach County v. 3M Co. et al.	Palm Beach International Airport and Palm Beach County Fire Rescue Training Facility
2:23-cv-02463	Howard County, Maryland v. 3M Co., et al.	James N. Robey Public Safety Training Center
2:21-cv-2464	City of Monroe v. 3M Co., et al.	Monroe Fire Department Drill Ground
2:21-cv-2464	City of Monroe v. 3M Co., et al.	Monroe Regional Airport
2:22-cv-04516	City of Shreveport v. 3M Co., et al.	Shreveport Fire Training Academy
2:24-cv-01577	Town of Oxford, Indiana v. 3M Co., et al.	Fire Station, 6024 S 450 E, Oxford, Indiana 47971


FUTURE BELLWETHERS

STATES & TERRITORIES

A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, located in the lower right quadrant of the dark blue background.

PARENS PATRIAE DOCTRINE

“The [State] . . . brings this action pursuant to its inherent *parens patriae* authority to remedy an injury to its ‘quasi-sovereign interest’ in the physical and economic health and well-being of its citizens and in preserving its public natural resources.”



STATES/ATTORNEYS GENERAL ALREADY IN THE MDL OR ALREADY FILED IN STATE COURT AND AWAITING REMOVAL

Alaska
Arizona
Arkansas
California
Colorado
Delaware
Florida
Guam
Illinois
Kentucky
Maine
Maryland
Massachusetts
Michigan
Mississippi
New Hampshire
New Jersey
New Mexico

New York
North Carolina
Northern Mariana Islands
Oklahoma
Ohio
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Tennessee
Texas
Vermont
Washington
Washington, D.C.
Wisconsin





***PFAS
DEVELOPMENTS
FROM THE EPA***

UCMR 5 2023-2025

PWSs will collect samples for 29 PFAS and lithium, during a 12-month period from January 2023 through December 2025.

EPA has lowered the UCMR 5 minimum reporting levels for PFOS and PFOA down from what they were under UCMR 3.

New UCMR 5 minimum reporting levels for PFOS and PFOA are 4 ppt.

What contaminants are in UCMR 5?

UCMR 5 specifies monitoring for 29 per- and polyfluoroalkyl substances (PFAS) and lithium listed in the table below.

Contaminant	CASRN ¹	MRL ² (µg/L)	Additional Information
25 PFAS: EPA Method 533			
11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS)	763051-92-9	0.005	PFAS are a group of synthetic chemicals used in a wide range of consumer products and industrial applications including: non-stick cookware, water-repellent clothing, stain-resistant fabrics and carpets, cosmetics, firefighting foams, electroplating, and products that resist grease, water, and oil. PFAS are found in the blood of people and animals and in water, air, fish, and soil at locations across the United States and the world.
1 <i>H</i> ,1 <i>H</i> , 2 <i>H</i> , 2 <i>H</i> -perfluorodecane sulfonic acid (8:2FTS)	39108-34-4	0.005	
1 <i>H</i> ,1 <i>H</i> , 2 <i>H</i> , 2 <i>H</i> -perfluorohexane sulfonic acid (4:2FTS)	757124-72-4	0.003	
1 <i>H</i> ,1 <i>H</i> , 2 <i>H</i> , 2 <i>H</i> -perfluorooctane sulfonic acid (6:2FTS)	27619-97-2	0.005	
4,8-dioxa-3 <i>H</i> -perfluorononanoic acid (ADONA)	919005-14-4	0.003	
9-chlorohexadecafluoro-3-oxanonane-1-sulfonic acid (9Cl-PF3ONS)	756426-58-1	0.002	
hexafluoropropylene oxide dimer acid (HFPO-DA)(GenX)	13252-13-6	0.005	
nonafluoro-3,6-dioxaheptanoic acid (NFDHA)	151772-58-6	0.02	
perfluoro (2-ethoxyethane) sulfonic acid (PFEESA)	113507-82-7	0.003	
perfluoro-3-methoxypropanoic acid (PFMPA)	377-73-1	0.004	
perfluoro-4-methoxybutanoic acid (PFMBA)	863090-89-5	0.003	
perfluorobutanesulfonic acid (PFBS)	375-73-5	0.003	
perfluorobutanoic acid (PFBA)	375-22-4	0.005	
perfluorodecanoic acid (PFDA)	335-76-2	0.003	
perfluorododecanoic acid (PFDoA)	307-55-1	0.003	
perfluoroheptanesulfonic acid (PFHpS)	375-92-8	0.003	
perfluoroheptanoic acid (PFHpA)	375-85-9	0.003	
perfluorohexanesulfonic acid (PFHxS)	355-46-4	0.003	
perfluorohexanoic acid (PFHxA)	307-24-4	0.003	
perfluorononanoic acid (PFNA)	375-95-1	0.004	
perfluorooctanesulfonic acid (PFOS)	1763-23-1	0.004	
perfluorooctanoic acid (PFOA)	335-67-1	0.004	
perfluoropentanesulfonic acid (PFPeS)	2706-91-4	0.004	
perfluoropentanoic acid (PFPeA)	2706-90-3	0.003	
perfluoroundecanoic acid (PFUnA)	2058-94-8	0.002	
4 PFAS: EPA Method 537.1			
<i>N</i> -ethyl perfluorooctanesulfonamidoacetic acid (NEtFOSAA)	2991-50-6	0.005	See above for PFAS information.
<i>N</i> -methyl perfluorooctanesulfonamidoacetic acid (NMefOSAA)	2355-31-9	0.006	
perfluorotetradecanoic acid (PFTA)	376-06-7	0.008	
perfluorotridecanoic acid (PFTrDA)	72629-94-8	0.007	

UCMR 5 MONITORING SCOPE

System Size (# of people served)	System Participation in Monitoring for 30 Contaminants
Small Systems (fewer than 3,000)	800 randomly selected surface water (SW), ground water under the direct influence of surface water (GWUDI), mixed sources (MX) and ground water (GW) systems
Small Systems (3,300 – 10,000)	All SW, GWUDI, MX, and GW systems
Large Systems (10,001 and over)	All SW, GWUDI, MX, and GW systems



***EPA'S
PFAS-RELATED ACTION
OVER THE
LAST THREE YEARS***

CSP&T

COSSICH
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TAYLOR, LLC
ATTORNEYS AT LAW

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