

Advocacy Comments on EPA’s Proposed Fifth Unregulated Contaminant Monitoring Rule

On May 10, 2021, the Office of Advocacy submitted comments to the U.S. Environmental Protection Agency (EPA) on its proposed Fifth Unregulated Contaminant Monitoring Rule (UCMR 5). The regulation includes obligations of public water systems (PWS) to monitor for and report certain unregulated contaminants.

- The Safe Drinking Water Act requires the EPA to publish a list of unregulated contaminants which are likely to occur in public water systems and authorizes EPA to require PWS to monitor for and report these unregulated contaminants. The America’s Water Infrastructure Act of 2018 prohibits EPA from requiring small PWS to monitor for or report unregulated contaminants without providing funding from EPA for all non-labor costs. Small PWS are those public water systems serving 10,000 or fewer persons.
- On March 11, 2021, EPA published a proposed rule requiring PWS to monitor for and report 29 PFAS substances as well as lithium. The rule does not indicate that EPA will provide the funding for the non-labor costs of the rule. PWS must monitor and report to EPA even if neither EPA nor the applicable state has contacted the PWS about its monitoring and reporting obligations under UCMR 5. Smaller PWS must comply even if they receive water from an “upstream” PWS that is already monitoring and reporting. The proposed rule duplicates requirements for monitoring and reporting the presence of these contaminants imposed by other federal and state regulations.
- Advocacy is concerned about the potential effects the rule will have on small PWS if it is finalized without modifications. Advocacy made the following comments and suggestions to the agency:
 1. EPA should exempt all PWS from UCMR 5 obligations if the PWS received its water from another PWS subject to UCMR 5 monitoring and reporting obligations.
 2. EPA should exempt all PWS which are already required by other Federal and state regulations to monitor for and report the 29 PFAS and lithium identified in UCMR 5.
 3. EPA should expressly exempt small PWS from UCMR 5 obligations if EPA does not notify the small PWS that EPA has the necessary funding to pay for all non-labor costs associated with small PWS monitoring and reporting obligations under UCMR 5.
 4. EPA should provide at least 120 days’ notice to small PWS if the small PWS is subject to UCMR 5 obligations before requiring the small PWS to take any action under UCMR 5.
 5. EPA should define “inventory information” so the regulated community clearly understands what “inventory information” must be provided to EPA.

