Revisions to the Unregulated Contaminant Monitoring Rule (UCRM 5)/Safe Drinking Water Act: U.S. Environmental Protection Agency Final Rule Requiring Collection of PFAS and Lithium Occurrence Data

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The United States Environmental Protection Agency ("EPA") released a final rule undertaking revisions to the federal Safe Drinking Water Act ("SDWA") Unregulated Contaminant Monitoring Rule ("UCMR 5") for public water systems ("PWSs"). See 86 Fed. Reg. No. 73131.

UCMR 5 will require certain PWSs to collect national occurrence data for 29 per- and polyfluoroalkyl substances ("PFAS") and lithium.

1996 amendments to the SDWA require that EPA once every five years issue a new list of up to 30 unregulated contaminants that PWSs must monitor. The purpose of this requirement was to generate baseline data that the federal agency could combine with toxicological research to determine which contaminants warrant the position of drinking water standards. In other words, EPA uses the UCMR to collect data for contaminants that are suspected to be present in drinking water and do not have health-based standards set under the SDWA.

EPA has stated that it evaluates candidate UCMR contaminants using a multi-step prioritization process. The first step includes identifying contaminants that:

1. Were not monitored under prior UCMR cycles
2. May occur in drinking water; and
3. Are expected to have a completed, validated drinking water method in time for rule proposal

Step 2 considers:

- Availability of health assessments or other health-effects information
- Public interest
- Active use; and
- Availability of occurrence data

In the third step EPA considers:

- Stakeholder input
- Cost effectiveness of the potential monitoring approaches
- Consideration of implementation factors
- Further evaluation of health effects, occurrence, and persistence/mobility data

The above-referenced final rule represents the fifth promulgation of a UCMR.

Note that the UCMR 5 applies to certain PWSs. PWSs are systems that provide water for human consumption through pipes or constructed conveyances, to at least 15 service connections or that regularly serve an average of at least 25 individuals daily at least 60 days out of the year. The final rule provides that EPA will apply it to all PWSs serving 3,300 or more people and a representative sample of 800 systems serving 25 to 3,299 people – subject to availability of appropriations. Further, if the agency does not receive the appropriations needed for monitoring all such systems, it states that the number of systems asked to perform monitoring will be reduced.

UCMR 5 identifies a sampling period of 2023 to 2025. EPA states it will:

- Coordinate laboratory approval
- Tentatively select representative small systems
- Organize Partnership Agreements
- Develop State Monitoring Plans
- Establish monitoring schedules of inventory
- Conduct outreach and training

A copy of the Federal Register Notice can be found here.