

Rural Water Issues Advisory [12/9/2019]

House and Senate Negotiators Reach Agreement on PFAS Legislation - Consistent with NRWA's Policy Recommendation - Special Thanks to Senators Barrasso (WY) and Inhofe (OK): In a last second showdown on Thursday to reach a compromise on the annual defense bill, [House Democrats dropped their bid](#) to include provisions mandating a maximum contaminant level for PFAS in drinking water and requiring cleanup of the chemicals under the Superfund law. Senators Barrasso and Inhofe drew a "red line" against any move that would include the House-passed provision. The Senate version of the bill did NOT include the requirement for Superfund listing of PFAS. NRWA was backing the Senate version of the legislation and urged the House committee to exempt small and rural communities from Superfund liability in the House bill ([NRWA statement](#)). The Superfund issue and drinking water regulations were environmentalists' top priorities for the chemicals. Actor Mark Ruffalo, whose film "Dark Waters" is about PFAS contamination, [tweeted](#) Thursday night that "*Congress should not even be considering an #NDAA that fails to reduce PFAS discharges into drinking water supplies...*"

EPA Drinking Water Advisory Committee Raises Numerous Controversies: In a sharp departure from previous meetings, [this winter's meeting](#) resulted in numerous committee members raising issues with the national drinking water program. [Inside EPA](#) reported that "state regulators are underscoring that the SDWA is not working and are calling for an agency advisory panel to recommend changes..." This was in response to disparate state PFAS standards and regulations. "We're all doing our own thing. It's chaos out there," said committee member June Swallow, chief of the Rhode Island Department of Health's Office of Drinking Water Quality. Another committee member, Lisa Daniels, director of the Pennsylvania Department of Environmental Protection's Water Bureau, agreed and asked EPA if they would be receptive to having NDWAC form a workgroup to explore ways of amending the law to revise the standard-setting process. More than 20 states have moved to address PFAS through a variety of policies. The EPA lead and copper proposal was also critiqued at the meeting. Again, committee members - mainly representing state drinking water regulators - raised concerns about the complexity of EPA's proposal. "I foresee a nightmare" due to the potential for mixing up data on initial and follow up samples taken from the same tap, said Lisa Daniels. Concerns over other parts of the rule proposal included samples locations, the 24-hour notification requirement, determining "optimized" corrosion control, etc. Saied Kasraei, administrator of the Maryland Water Supply Program, said a utility that covers multiple zip codes might end up sampling in just one of the zip codes that has lead service lines (LSLs), and that "may create some inequality." State and drinking water utility members of NDWAC also questioned whether the sampling requirements for schools and child-care facilities will reduce children's exposure to lead. Swallow and Kasraei said their states have found it relatively easy to test at schools but childcare facilities are more complicated. Swallow said many childcare facilities refused testing. "It's a business issue for them," she said. NRWA committee member Wilmer Melton III, director of public works for the City of Kannapolis, NC, said it will be particularly complicated to test in-home childcare centers, which are generally less heavily regulated than larger childcare centers.

EPA Decides on Whether to Set MCL for PFAS, but Decision Remains Unknown Until White House Reviews: On December 4, EPA announced that it had sent the proposal to the White House ([EPA](#)). A [November 25 Congressional Budget Office report](#) estimates that the costs to comply with anticipated drinking water standards for PFAS are likely to exceed "several billion dollars."

President Trump Riffs on Water Pressure Standards and Low-flow Toilets ([YouTube.com](#)).

PFAS Drinking Water Contamination Not Widespread in Pennsylvania: The governor's office said Thursday that a first round of testing of drinking water samples did not indicate widespread contamination. One of 96 sites sampled in the first round tested above the federal health advisory level of 70 parts per trillion for two PFAS chemicals ([news](#)).

Justice Kavanaugh Open to Resurrecting “Nondelegation Doctrine”: In a November 25 U.S. Supreme Court paper, Justice Kavanaugh said that he would consider reviving the nondelegation doctrine. Suggesting that at least some congressional delegations of power are in his view unconstitutional ([Ballotpedia](#)).

Maine Rural Water Association [Comments](#) on State PFAS Policy: [excerpts]

- *“We do not agree that restrictions on residuals are appropriate as the current research by the DEP and CDC indicate soil to plant uptake linkage is not as strong as initially believed. Restrictions in this area could cause immediate changes for wastewater utilities and significantly raise costs for ratepayers. We do not support restrictions until stronger evidence is found regarding agronomic uses of residuals.”*
- *“A rush to rulemaking without adequate evidence may cause unnecessary actions and create undue financial burdens on municipal and private partners.”*
- *“All people should feel confident that their government is keeping them safe, regardless of the state in which they reside. Interstate commerce regulations may also be brought into the discussion as entities attempt to move residuals containing PFAS across state lines with differing regulations.”*

New Hampshire Rural Water Board Member’s Community Files Suit Against State PFAS Regulations and Wins in Court: A New Hampshire judge ordered that the state suspend at year’s end enforcement of its new rules tightening allowable limits on fluorinated “forever” chemicals because the state has not conducted an adequate cost-benefit analysis of the rule, as required under New Hampshire law ([Bloomberg](#)).

Kansas Operator Who Falsified Bacteriological Tests Gets Parole and Fine ([Wichita Eagle](#)).

National Rural Water Association