

PFAS Settlement: Water Provider Update

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Introduction to the PFAS Litigation

- Litigation has been ongoing since 2017. Currently settling with 3M and DuPont Defendants. Additional defendants include Tyco, Chemguard, BASF, ACG Chemicals, and Kidde-Fenwal, among others. Kidde-Fenwal in bankruptcy.
- Current EPA Interim Health Advisory Levels (HAL) for PFOS AND PFOA are .02 ppt and .004 ppt. The 2023 proposed rule, anticipated to go into effect by end of this year, will reduce that to **4 ppt**.
- This results in **unfunded mandates** across the country for municipalities.
- Taxpayers and water providers should not be responsible for all the costs to remediate and provide clean water directly related to PFAS.

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Current and Future Claim Types

Current Settlements

- Public Water Providers - Cities, Counties, Water Authorities

Non-Settled Future Water-Related/Property Cases:

- Soil Remediation - Airports, Fire Training Facilities
- Wastewater Treatment Facilities/Storm Water Facilities (that do not result in double recovery or that are state regulated)
- State - Attorneys General
- Private Well Owners

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UCMR and Terms

- **UCMR 3:** Unregulated Contaminant Monitoring Rule: 2013-2015 (6) PFAS Analytes
- **UCMR 5:** Unregulated Contaminant Monitoring Rule: 2023-2025 (29) PFAS Analytes
- **Proposed Settlement:** Pursuant to its terms, can still be amended but would mostly be for clarity at this point.
- **Phase 1 and Phase 2:** The defendants made these designations based on EPA UCMR 3 (Unregulated Contaminant Monitoring Rule) test results and results of pre-settlement testing. In very basic terms: Phase 1 claimants have a finding of PFAS detected in their drinking water systems, Phase 2 are likely to have a problem in the future but have not detected PFAS in their water prior to the settlements.
- **“Claim” = Past, Present, and Future :** If you are listed as a claimant, this is your one shot to participate.
- **“Measurable Concentration”:** Essentially anything above non-detect. **EPA Maximum Contamination Levels currently and in the future irrelevant for settlement purposes.**
- **Need To Test...Now!:** You need to analyze testing for all UCMR 5 PFAS analytes at every water source. Failure to test and submit for water sources that have never been sampled or that sampled non-detect in years past will disqualify the water source from consideration for present and future payments. We can accommodate before the opt-out deadlines.

Timing: Key Dates

Deadline Description	DuPont Deadline Date	3M Deadline Date
Deadline to Submit Objections	11/4/2023	11/11/2023
Deadline to Submit Requests for Exclusion	12/4/2023	12/11/2023
Court's Final Fairness Hearing	12/14/2023 at 10:00 AM EST	2/2/2024 at 10:00 AM EST
Phase One Public Water System Settlement Claims Form	60 Days After the Effective Date	60 Days After the Effective Date
Phase One Special Needs Claims Form	45 Days After the Phase One Public Water System Claims Form Deadline	45 Days After the Phase One Public Water System Claims Form Deadline
Phase Two Testing Claims Form	1/1/2026	1/1/2026
Phase Two Public Water System Claims Form	6/30/2026	7/31/2026
Phase Two Special Needs Claims Form	8/1/2026	8/1/2026
Phase One Supplemental Fund Claims Form	12/31/2030	12/31/2030
Phase Two Supplemental Fund Claims Form	12/31/2030	12/31/2030

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Settlement Amounts**Proposed Settlement Amounts just for water providers in 3M litigation****Phase 1: \$6.9B****Phase 2: \$3.6B-\$5.6B**

Earliest Possible Payment Date	Purpose	Amount with Phase Two <u>Floor</u> (before adjusting for Stuart and Rome)	Amount with Phase Two <u>Cap</u> (before adjusting for Stuart and Rome)
July 1, 2024	50% of Phase Two Testing Fund 67% of Phase One infrastructure	52,500,000 2,763,750,000	52,500,000 2,763,750,000
April 15, 2025	50% of Phase Two Testing Fund 33% of Phase One infrastructure 14% of Phase One O&M	52,500,000 1,361,250,000 385,000,000	52,500,000 1,361,250,000 385,000,000
April 15, 2026	16% of Phase One O&M	440,000,000	440,000,000
April 15, 2027	12% of Phase One O&M 70% of Phase Two infrastructure	330,000,000 1,478,400,000	330,000,000 2,318,400,000
April 15, 2036	8% of Phase Two O&M	112,640,000	176,640,000
TOTAL	100% of Phases One and Two	\$ 10,500,000,000	\$ 12,500,000,000

Contact Information

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