The Bipartisan Infrastructure Law: EPA's New Initiative Will Assist 200 Small or Disadvantaged Communities Reduce Their Exposure to PFAS and Other Contaminants

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On November 20, 2024, the US Environmental Protection Agency announced its new initiative—The Tackling Emerging Contaminants Initiative (Initiative). This Initiative is funded by a portion of President Biden's $50 billion Bipartisan Infrastructure Law (BIL) which has been implemented to improve the condition of the nation's drinking water. The BIL through the Initiative aims to also ameliorate the presence contaminants like per- and polyfluoroalkyl substances (PFAS) in public drinking water from the public water system or source water in small or disadvantaged communities throughout the United States. The BIL is the first law in history to allocate this much capital to the furtherance of safer drinking water.

The EPA, in accordance with the Initiative, issued guidelines for the implementation of the projects outlining what measures to address water contamination would be eligible for this funding. The Initiative by way of its Eligible Projects have different lenses all centered around reducing emerging contaminants in these small or disadvantages communities in different ways including:

+ "[e]fforts to address emerging contaminants in drinking water that would benefit a small or disadvantaged community on a per household basis";
+ "[t]echnical assistance to evaluate emerging contaminant problems";
+ "[p]rograms to provide household water-quality testing, including testing for unregulated contaminants";
+ "[l]ocal contractor training"; and
+ "[a]ctivities necessary and appropriate for a state to respond to an emerging contaminant."[1]

The programs furthered by the Initiative will be state led in order to not only facilitate easier implementation but reduce the encumbrances of paperwork for these small or disadvantaged communities to receive this funding. Eligible Projects under the Initiative are meant to be streamlined to build strategic infrastructure that does not create a quick fix for current contaminants but yields sustainable systemic decontamination practices to combat the historically disproportionate burden on small and disadvantaged communities' water supply.

PFAS are not the only contaminants that this Initiative suggests the states address for these small or disadvantaged communities. The program advises states when executing the goals of the Initiative to collaborate with state agencies dealing with hazardous waste prioritizing the mitigation of PFAS contamination and ascertaining other potential contaminants and where they might originate from. This EPA objective is just one of the potential areas of economic prospect for business organizations already addressing the effects or source of contamination in local water supplies. Particularly, these business organizations have the ability to step into the administration of these Eligible Projects as government contractors, third-party consultants, or even advisors to state agencies. Thus, building even greater state recognition, expanding their already existing client base, and exemplifying to consumers and state agencies alike their dedication to sustainable business practices and commitment to bettering the environmental landscape of the state and nation at large.

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For American businesses, the Initiative in conjunction with the Build America Buy America (BABA) Act (which endeavors to "to create long-term opportunities for domestic manufacturers and manufacturing jobs and build resilient domestic supply chains for a wide range of products"). The EPA included procedures for BABA compliance as it pertains to the water infrastructure grants like the Initiative.[2] With this, the EPA aspires to prioritize building the water work force and create more American jobs in the process.

This clear intent from the EPA opens the market for companies in the mitigation space, or those which would enter said space, to build their workforce, cultivate new mitigation strategies through research, and promote company growth all with the support and encouragement of the EPA and state organizations.

Moreover, entities prioritized by the BABA Act conducting activities funded by or in conjunction with the Initiative possess immense power to add to the economic landscape of these communities to greater degrees. These entities maintain the opportunity to employ other companies engaging in the mitigation of water contaminants to mitigate any contaminants released through their business activities. Looking to promote sustainability and environmentally friendly manufacturing processes, the entities may venture to reduce any potential contaminant release from new practices in manufacturing or supply chain activity before they pose a hazard.

While some states have been enacting laws regarding PFAS contamination in drinking water and other consumer products, this federal legislature shows a need for concerted effort among consumer, manufacturers, and governmental entities alike. Further it creates space for research, testing, and innovation in the realms of PFAS and other contaminants that could pose dangerous consequences to consumers.

Ultimately, the BIL, and the Initiative evidence the immense shift of the legislature to prioritize the decontamination and preservation of safe drinking water. This shift could also foreshadow a regulatory shift at the federal level pertaining to PFAS contamination in other FDA regulated sectors such as consumer products and food supply, which has only been addressed in a small number of states thus far.

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[1] Emerging Contaminants (EC) in Small or Disadvantaged Communities Grant (SDC)

[2] Emerging Contaminants in Small or Disadvantaged Communities Grant Program at p. 8.

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