

# EPA Sued for Trying to Label Certain Water Filters as Pesticides

Analysis by [Dr. Joseph Mercola](#)

October 31, 2023

## STORY AT-A-GLANCE

- › October 16, 2023, Rep. Matt Gaetz, R-Fla., began pressing the Environmental Protection Agency for answers about the move to force major water filtration companies that use silver to label their products as a “pesticide”
- › Since the 1990s, silver has been used in water filtration devices without reports of health hazards or incidents. The second most popular filtration system, Berkey Water Filters, has filed suit against the EPA, alleging the rules were changed without notice or compliance with the Administrative Procedure Act
- › Rep. Matt Gaetz, R-Fla., wrote to the EPA administrator noting silver is not, on its own, considered a pesticide and that the EPA should be helping incentivize water-filtration systems to protect people from contaminated municipal and well water supplies
- › EWG testing showed Berkey filters remove 100% of PFAS from the water supply, which has contaminated well over 100 million American public utilities and has been found in 97% of Americans tested for the contaminant
- › The underlying reason for attacking water filtration systems that have used silver for over 25 years without incident has not yet been identified. But it is apparent that while the EPA has known about the damage PFAS has on human health, they have done little to nothing for over five decades to protect your drinking water from this ubiquitous chemical

**October 16, 2023, Rep. Matt Gaetz, R-Fla., began pressing the Environmental Protection Agency for answers about the move to force major water filtration companies to label**

their products as a “pesticide.”<sup>1</sup>

In 1948, the basis of the Clean Water Act was enacted, which was then expanded in 1972.<sup>2</sup> Under the regulation of the Environmental Protection Agency, pollution control programs have been initiated to improve the national water quality. Yet, despite decades of opportunity, the water supply remains contaminated.<sup>3</sup> You can check your water supply at the Environmental Working Group (EWG) [Tap Water Database](#).<sup>4</sup>

One 2020 study<sup>5</sup> demonstrated that PFAS, forever chemicals, were detected in 20% of private wells and 60% of public wells across 16 Eastern states. The Guardian noted that previous water supply analyses had demonstrated PFAS was ubiquitous in municipal water supply systems. Finding PFAS in the nation's private wells was yet another demonstration of the dangers to the American public from water.

PFAS chemicals are linked to serious health problems including thyroid disease, hormone disruption, cancer, birth defects and liver disease.<sup>6</sup> The Guardian reported<sup>7</sup> that analysis of public utility records demonstrated well over 100 million Americans are exposed to PFAS through the municipal water supply.

They also reported that Scott Faber, vice-president of government affairs with the EWG, said this was just another demonstration of how regulators have “failed us” and highlighted the need to ban PFAS production. After 25 years of use without incident, the EPA now wants to label home filtration devices that can eliminate PFAS chemicals as “pesticides.”<sup>8</sup>

## **Rep. Matt Gaetz Demands Answers From the EPA**

October 16, 2023, Gaetz wrote to Michael Regan, administrator at the EPA, pressing for justification for the EPA moving toward the classification of water filters as a pesticide. The letter notes:<sup>9</sup>

*“The EPA has sought to justify this classification by noting that Berkey filters incorporate silver in their design, which is not on its own considered a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or under*

*prior EPA guidance. Millions of water filters incorporate silver and, if regulated as pesticides, will be forced to label their products with aggressive warning signs and register their products as pesticides.”*

The Berkey water filter system is the second most popular filtration system next to Brita.<sup>10</sup> As Gaetz notes, the move would force water filtration systems to use warnings that would make it appear that filter systems, which had been in use for over 25 years, were suddenly hazardous to your health.

The material in question is silver, which has been included in water filtration systems since the 1990s. As the Washington Examiner notes,<sup>11</sup> 90% of the silver in use is in water filtration systems, according to the EPA.

Gaetz is also requesting documents<sup>12</sup> related to how the EPA made their decision to act as well as information on the EPA’s position that any product containing silver might now be classified as a pesticide.

## **Berkey Water Filters Sues the EPA**

Berkey Water Filters initiated a lawsuit against the EPA filed in the United States District Court Northern District of Texas-Fort Worth division on August 9, 2023.<sup>13</sup> In the complaint, James Shepherd, trustee for New Millennium Concepts LTD, manufacturer of the Berkey Water Filter, alleges that the EPA decided in 2022 without notice that the 2007 ruling on Berkey's gravity fed nonelectric filters should be changed, writing:<sup>14</sup>

*“... it demanded plaintiffs register their mechanical filter products as a “pesticide device” and then recently as a “pesticide” without authority and without complying with the APA’s [Administrative Procedure Act] rulemaking process.”*

In his letter to the EPA, Gaetz notes<sup>15</sup> “At a time when Americans are increasingly unhealthy and their water filled with contaminants, such as endocrine disruptors, heavy metals, and 'forever' chemicals, such as PFAS, the EPA should be pursuing policies

within its regulatory authority that incentivize increased use of water-filtration systems, not less.”

He went on to write,<sup>16</sup> “The EPA must end its attack on Berkey Water Systems immediately and focus on the job it was created to do — keep Americans safe — a job Berkey Water Systems has arguably done more effectively.”

The notation that Berkey Water Systems is arguably doing a more effective job than the EPA is in reference to testing by the EWG demonstrating that the Berkey had “100% elimination of forever chemicals measured in these tests and a useful life of many years.”<sup>17</sup>

The EWG notes one way to reduce your intake of “forever chemicals” at home is to use a water filtration device that removes them effectively. Comments from readers<sup>18</sup> include questions as to whether the EPA will be moving to regulate all things with silver, such as silver jewelry, coins, electronic devices and tableware.

Another writes, “I would speculate that our government is about to “manage” our water — for our own good and to save the planet. I also suspect that they may test and outlaw private wells, using the same “logic” they’re using to decimate Berkey.”<sup>19</sup>

## **PFAS: Home Water Filter Systems Offer Timely Protection**

At the consistent urging of health advocacy groups like the EWG,<sup>20</sup> in March 2023, the EPA announced a proposed National Primary Drinking Water regulation, which includes the cleanup of PFAS chemicals. Faber commented on the announcement, saying:<sup>21</sup>

*“Today’s announcement by the EPA is historic progress. More than 200 million Americans could have PFAS in their tap water. Americans have been drinking contaminated water for decades. This proposal is a critical step toward getting these toxic poisons out of our water. The EPA’s proposed limits also serve as a stark reminder of just how toxic these chemicals are to human health at very low levels.”*

When you consider the mounting evidence that PFAS chemicals damage the environment and humans, that some home water filtration systems can remove a large percentage of PFAS chemicals and that after decades, the EPA now recognizes that PFAS are dangerous in the water supply, you must ask why they are attacking water filtration systems that have operated without incident for over 25 years.

In addition to regulating your ability to filter your water supply, the EPA also allows the use of sewage sludge as fertilizer for your food, **renamed "biosolids"** by slick industry PR firms. This is a growing and under-publicized threat to human health as it is the residue generated during the treatment of domestic waste and contains a cocktail of hazardous substances from industry, hospitals and humans – anything that is discharged into the sewage system.

The application of biosolids to farmland means that what's in the water can be incorporated into the plants, and later land on your dinner plate. If eating contaminants isn't bad enough, the next step is wastewater recycling, another name for which is drinking toilet water. While the world faces areas of drought, the World Bank<sup>22</sup> suggests that recycling wastewater makes sense and the Los Angeles Times reports that:<sup>23</sup>

*"... cities and water agencies are investing heavily in large-scale wastewater recycling facilities - systems that will purify the billions of gallons of treated sewage that are currently flushed out to sea."*

In other words, the EPA has been ineffective and unable to supply Americans with clean water, which is polluted with chemicals and biological contaminants, and yet they now believe they can suddenly filter **toilet and sewage water** well enough to meet human consumption standards.

If the EPA proposes that wastewater treatment centers can clean toilet water effectively so humans can drink it without health concerns, why has the municipal water supply had pollutants and contaminants for more than five decades?

And, when there are home filtration systems that can provide clean water, what motivates the EPA to suddenly want to place a "pesticide" label on filters that have been

used for more than 25 years without incident? Could something else be going on here?

## **Damages After Decades of PFAS Proliferation**

One reason to focus on PFAS chemicals is that they are “forever chemicals,” since they do not break down easily in the environment and they bioaccumulate in people and wildlife. These chemicals are widely used in industry and consumer products because they help repel oil, dirt and water.

Widespread exposure is likely responsible for the chemical being found in at least 97% of Americans tested in 2015.<sup>24</sup> Roughly nine years later, and without any further control of the release of PFAS into the environment and water supply, it's highly likely that the percentage of Americans with PFAS has not gone down. The chemicals are linked to significant negative human health effects,<sup>25</sup> which raises the concern that the EPA is putting the health of future generations at risk.

August 30, 2023,<sup>26</sup> Reuters announced that the 3M \$10.3 billion PFAS settlement received preliminary approval. This deal resolved claims that the company polluted drinking water with toxic chemicals. The court will give final approval in February 2024 for monies that are earmarked to fund public water providers over 13 years to test for and treat PFAS contamination.

There are an additional 3,000 claims that are still unsettled and Michael London of the New York law firm Douglas & London, representing plaintiffs in the Stuart, Florida, case, told Time, "There are also 5,000, perhaps 6,000 individuals who have brought personal injury cases [nationwide]."<sup>27</sup>

It's estimated that DuPont and 3M will not be the only defendants as companies that knowingly used PFAS in manufactured products could also be liable. London implied he believes, ultimately, each of these companies would settle rather than risk a court judgment.

As EWG testing has suggested, widespread exposure to PFAS could be significantly limited with home water filtration systems that can remove detectable PFAS

contaminants in the water supply. However, the EPA does not appear to be focused on protecting human health.

The underlying reason for attacking water filtration systems that have used silver for over 25 years without incident has not yet been identified. But it is apparent that while the EPA has known about the damage PFAS has on human health, they have done little to nothing for over five decades to protect your drinking water from this ubiquitous chemical.

## Sources and References

---

- <sup>1, 8, 10, 11</sup> [Washington Examiner, October 16, 2023](#)
- <sup>2</sup> [EPA, June 22, 2023](#)
- <sup>3</sup> [Journal of Exposure Science & Environmental Epidemiology, 2023; doi: 10.1038/s41370-023-00597-z](#)
- <sup>4</sup> [EWG Tapwater Database](#)
- <sup>5, 6, 7, 25</sup> [The Guardian, February 25, 2022](#)
- <sup>9, 12, 15, 16</sup> [Congressman Matt Gaetz, October 16, 2023](#)
- <sup>13, 14</sup> [Norred Law, August 10, 2023](#)
- <sup>17</sup> [EWG, July 11, 2023](#)
- <sup>18, 19</sup> [Big Berkey Water Filters, August 12, 2023](#)
- <sup>20, 21</sup> [EWG, March 14, 2023](#)
- <sup>22</sup> [World Bank, August 23, 2021](#)
- <sup>23</sup> [The Los Angeles Times, July 17, 2022](#)
- <sup>24</sup> [International Journal of Environmental Research and Public Health, 2015;12\(6\)](#)
- <sup>26</sup> [Reuters, August 30, 2023](#)
- <sup>27</sup> [Time, June 23, 2023](#)