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Minnesota Environmental Science
and Economic Review Board

PFAS: Legal and Regulatory Trends

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The Push to Regulate

- State and Federal efforts fall into the following categories:
 - Clean-up (military, airport, industrial sites)
 - Drinking water limits
 - Production bans and limitations
 - Hazardous substance designation
 - Superfund/CERCLA
 - Effluent monitoring/WQS development
 - Permit limits
 - Biosolids and landfill leachate restrictions



Key Concerns from the Utility Perspective

- WWTPs are not sources of PFAS
- No feasible WWTP treatment for all PFAS
 - Key information gaps on PFAS as class (4,000+ compounds)
 - Have some info on older “legacy” PFAS (PFOS, PFOA)
 - New chemical structures being produced to “replace” older ones
 - Lack of uniform monitoring/sampling methods
 - Makes treatment and regulation very difficult
- Misinformation about PFAS and the roles of WWTPs
- **What will treatment and potential liability look like if PFAS are regulated - either individually or as a class?**



EPA PFAS Action Plan



- PFOS/PFOA focused
- New TSCA Regulations
 - Limits some import/production
 - Reporting requirements
- Planning to develop national WQS for PFOS/PFOA
 - Human health/aquatic life standards
- SDWA Regulation for PFOS/PFOA
- CERCLA designation for PFOS/PFOA



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Federal Legislation

- PFAS Bills:
 - Enhanced Detection and Research
 - Proposed Regulatory Mandates
 - Cleanup Assistance
 - Response to Military Use of PFAS
- PFAS Action Act
 - House Version much more expansive
 - Includes various water, air, testing, and notification provisions
 - **Common theme: Superfund designation**



Federal Legislation – 2021 NDAA

- House:
 - Passed in July
 - \$1.5B to clean up PFAS
 - \$150M for development of PFAS remediation, PFAS disposal technologies and firefighting agent replacement
 - \$15M for a CDC study of the health implications of PFAS contamination in drinking water
 - Requires DOD to meet or exceed the most stringent cleanup standards for PFOS or PFOA contamination
- Senate:
 - Passed in July
 - \$15 million to support a CDC study of the health implications of contaminated sources of drinking water from PFAS
 - \$2M in funding for the DOD to address PFAS
 - DOD phase out of PFAS in firefighting foams by 2024



States Stepping In

- “Inaction” at the federal level; many states are passing their own laws
 - Strict drinking water regulations
 - Biosolids restrictions
 - Product restrictions
 - Food packaging, firefighting foams, etc.
 - WQS for PFAS or a subset of PFAS
 - PFOS/PFOA
 - “Hazardous” substance classifications (state CERCLA)



PFAS Legislation in MN

- Microcosm of federal efforts
- 2020 Session:
 - Superfund Liability (MERLA)
 - Effort to get at manufacturers
 - Water Quality Standards for PFOA/PFOS
 - Deadlines not realistic for a substance that can't be removed from wastewater
 - Study on Biosolids and PFAS uptake
 - PFAS Source Reduction Initiative
- 2021 Session:
 - Requires money, state in deficit due to pandemic
 - Anticipate these bills will be reintroduced



Lawsuits



- Many centered around groundwater/drinking water contamination
- Directed at companies (3M, DuPont, Chemours, etc.)
- Citizen suits and CERCLA

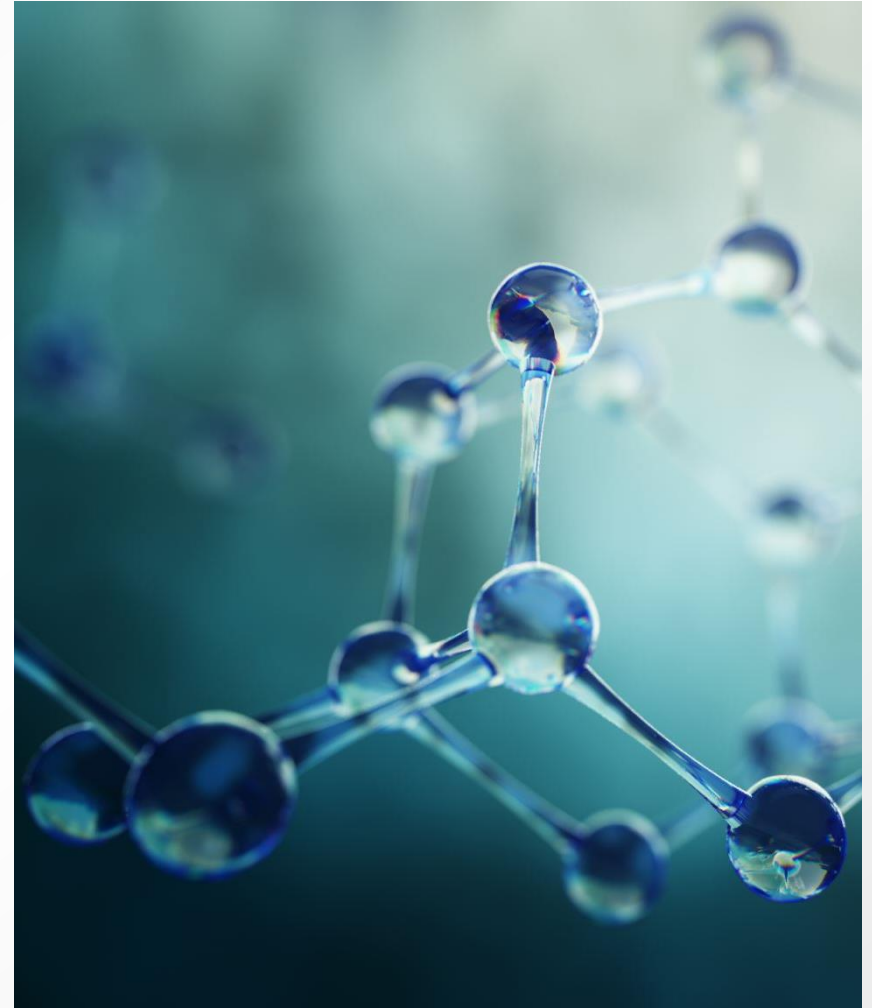


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Moving Forward

- Wide presence of PFAS:
Attention of the public
 - People want action and answers
- Good intentions \neq Good law and policy
 - Risk: Liability, costs borne by ratepayers
- Long-term solutions = source reduction
 - Technology implementation will take time, info, and money
 - MESERB working with partners and members
 - Monitoring, acting, and setting the record straight



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Thank you!

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