

EMERGING ISSUE: Per- and Poly-fluoroalkyl Substances (PFAS)

PFAS are a class of chemical compounds that do not occur naturally in the environment. They are contained in numerous common products including cookware, clothing, packaging, and firefighting foams. They are also found in the dust we breathe and believed to be in the bloodstream of 95% of all Americans.

Evolving regulatory environment. In 2016, the Environmental Protection Agency (EPA) issued, under the Safe Drinking Water Act (SDWA), a non-regulatory lifetime health advisory level of 70 parts per trillion (ppt) for two PFAS, perfluorooctanoic acid (PFOA) and perfluorosulfonic acid (PFOS), individually or combined. According to EPA, if a drinking water supply exceeds this level, a utility should undertake certain activities, including notifying the state drinking water safety agency. In 2019, EPA adopted a [PFAS Action Plan](#) with a detailed timeline for various regulatory activities. Congress also adopted the National Defense Authorization Act 2020, which includes significant provisions for PFAS. Most recently (March 10, 2020), EPA published a preliminary regulatory determination for PFOA and PFOS, which could ultimately lead to regulations, including maximum contaminant levels. Finally, the U.S. House of Representatives and several individual states are now moving towards developing stricter standards for consumption of water supplies containing PFAS and remediation of these compounds.

Knowledge gaps could create unforeseen liabilities. The challenge is that PFAS includes thousands of individual compounds, and not enough is known about most of them at this time for reliable enforcement, except that PFAS are ubiquitous in the environment and can now be detected in the low parts per trillion range. In addition, regulations have the potential to pass unforeseen liability and pose risk to utilities, as follows:

1) EPA has approved laboratory methods for use under the SDWA. However, no approved method has been issued for measurement in wastewater discharges or sludges.

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2) Wastewater biosolids treatment technologies have not been the focus of research compared to drinking water treatment technologies for PFAS removal, although they are gaining attention. Therefore, waste classifications under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA, or Superfund) could lead to unforeseen impacts to utilities and their customers.

REQUESTS:

Develop PFAS regulations through a stakeholder process based on sound science. TWCA requests that Congress defer to EPA for a thorough stakeholder process to develop regulations that are based on sound science, including:

- Development of solid waste classifications under CERCLA and the Resource Conservation and Recovery Act (RCRA)
- Creation of protective environmental standards, in addition to those established under SWDA.

Avoid retroactive application of regulations. TWCA also requests that Congress consider an exemption from liability for utilities who provided proper management of the waste under the regulations in effect at the time of the waste disposal.