PFAS Topics

- What are they?
- Where are they?
- Why now?
- What’s EPA doing?
- What’s Congress doing?
- What are the Colorado River Basin states doing?
- What are other states doing?
- Who’s suing?
- What’s the worry?
- What can we do?
PFAS: What are they?

- PFAS = perfluoroalkyl & polyfluoroalkyl substances
  - Class of >5000 Substances

- PFOA & PFOS:
  - used to make Teflon, nonstick cookware
  - Scotchgard, carpet stain protection
  - firefighting foams (i.e. military bases, fire training sites, refineries, wildfires?)
  - Food packaging
  - Ski wax
  - Plumbing thread seal tape & valves
  - Dust suppressant in chrome plating

- Others:
  - PFBS, PFHxA, PFHxS, PFNA, PFDA, GenX

- Short Chain vs. Long Chain

PFOA. Source: NIH
PFAS: Where are they?

Source: Environmental Working Group
PFAS: Why now?

1940’s & 50’s: Manufacturing begins
2001: health problems discovered at PFOA disposal site (WV)
2002: 3M agrees to phase out PFOS
2006: 8 major companies agree to phase out PFOA production in U.S. by 2015
2013-2015: EPA UCMR-3, monitoring for 6 PFAS
2016: EPA issues Drinking Water Health Advisory for PFOA & PFOS (70 ppt combined)
2018: CDC ATSDR draft: 21 ppt PFOA, 14 ppt PFOS
PFAS: Why now?

Limited Release: November 22
Broader Release: December 6
PFAS: What’s EPA Doing?

• “Regulatory determination” for PFOA, PFOS in drinking water by end of year (at OMB)

• 2020:
  • Developing Maximum Contaminant Level for PFOA, PFOS
  • Monitoring: UCMR 5
  • PFOA and PFOS under CWA, Superfund, RCRA?
  • Other PFAS? PFBS, PFHxA, PFHxS, PFNA, PFDA, GenX
PFAS: What’s Congress Doing?

• This week: Defense Authorization Act
  • Senate: Drinking Water Regulation
  • House: CWA & Superfund
  • Final: dropped both

• House: January floor vote on PFAS package (H.R. 535)

• Senate:
  • Drinking Water MCL out of Committee (S. 1570)
  • Resistance to requiring Superfund regulation
PFAS: What’s California Doing?

- Notification levels = detection levels:
  - 5.1 ppt PFOA
  - 6.5 ppt PFOS

- Detection maps

- Response levels?
  - 10-20 ppt PFOA?
  - 40 ppt PFOS?

- Required public notices & water supplies?
PFAS: AZ, CO, NM?

Arizona:
- Restrictions on surpassing Federal environmental standards (70 ppt combined PFOA & PFOS)
- SB 1526 (2019): Prohibits training with PFAS firefighting foam
- Detections near military bases; some local communities have sued Federal government

Colorado:
  - Not drinking water standards. Will guide cleanup goals and groundwater discharge permitting.
  - May 2020: Will propose Narrative Policy to Water Quality Commission
- HB 19-1279: Prohibits training with & some sales of PFAS firefighting foam

New Mexico:
- PFAS discovered near two Air Force bases
PFAS: NV, UT, WYO?

• Nevada
  • 2017: “Basic Comparison Levels” of 667 ppt for PFOA and PFOS
    • Not a basis for action, but a risk screening tool

• Utah
  • 2018: DEQ launched PFAS workgroup to develop a monitoring & reporting strategy
  • 2020: plans for sampling and testing

• Wyoming
  • PFAS detected near two Air Bases
  • Sen. Barrasso has pressed Defense Department for more testing in Wyoming
PFAS: NH, NJ, NY?

• New Hampshire: MCLs October 1
  • 12 ppt PFOA, 15 ppt PFOS, 18 ppt PFHxS, 11 ppt PFNA
  • November 26: *Temporary injunction issued* in legal challenge by 3M, Plymouth Village Water & Sewer, farmer, biosolid company

• New Jersey:
  • 2018: 13 ppt MCL for PFNA (*1st PFAS MCL*)
  • April 2019: Proposed MCLs of 14 ppt PFOA, 13 ppt PFOS
  • One year process before can finalize MCLs

• New York:
  • July 2019: Proposed MCLs of 10 ppt PFOA, 10 ppt PFOS
  • Comment period ended September 23
PFAS: Who’s Suing?

- *Minnesota v. 3M Corp.* (Minn. District Court)
  - Filed 2010
  - Settled in 2018 for $850 million

- Firefighting Foam Multi-District Litigation (S.C. District Court)
  - Hundreds of states, local governments, other entities

- Nationwide class action: *Hardwick v. 3M Co.* (S.D. Ohio filed Oct. 4, 2018)
  - September 30: court denied challenges to jurisdiction

- Strategy for impacted agencies?
  - Join multidistrict litigation?
  - Individual claims?
  - State Attorneys General?
  - Legislative remedy?
PFAS: What’s the worry?

• Response levels or drinking water regulations that take water offline & harm public confidence

• Treatment will be expensive and take time to implement

• Listing PFAS as hazardous substances under CERCLA
  • May be difficult or expensive to dispose of biosolids with PFAS
  • Potential liability for past wastewater or biosolids

• How to make those responsible pay, not water agencies or ratepayers?
PFAS: What can we do?

- Prepare a *communications plan* for PFAS detections and inquiries
- Assess likely sources nearby
  - compile existing data
  - determine *whether & how* to investigate
- Partner with water voices and other affected agencies
  - Science & experts
  - Consistent message to regulators and legislators
  - Engage and educate broader delegation in Congress
PFAS: What can we do?

**Key Messages:**

- Water providers did not cause PFAS problem. Those responsible should fund response.
- Regulations should consider impacts to water affordability & reliability.
- Water agencies need time and financial assistance to meet any new drinking water standards.
- Don’t lump very different PFAS substances together.
- Fund and follow the science.
Conclusions and Questions?