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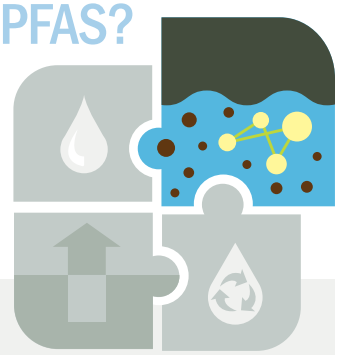
PFAS Regulatory Update

New USEPA Announcement

What are PFAS?



Per- and polyfluoroalkyl substances (PFAS) are man-made chemicals that includes Perfluorooctanoic acid (PFOA), Perfluorooctanesulfonic acid (PFOS) and GenX chemicals. PFAS chemicals are used in some fast food packaging, waterproofing and stain resistant sprays, fire fighting foams, and in a variety of manufacturing practices. Because PFAS do not readily break down over time, they may build up in the environment and possibly our bodies.

PFAS are a leading category of emerging contaminants, so named because they pose perceived or real threats to human health or the environment and because health standards either don't exist or are rapidly evolving.

On February 14, 2019 the United States Environmental Protection Agency (USEPA) released the agency's action plan which is summarized below. You can view the entire plan here.

PFAS can have extensive presence that touches drinking water, remediation, and potable reuse. Changes in regulations could affect monitoring, risk assessment, and treatment.

1. Federal Maximum Contaminant Levels (MCLs) are expected for PFOA/PFOS but timing is uncertain. Regulatory determination (the first step in rule making) will be completed by the end of 2019. MCLs will follow a public comment period in mid-late 2020 at the earliest. The USEPA is also looking at other related compounds in the PFAS family and/or regulating PFAS as a class rather than as individual compounds.
2. USEPA is continuing to move forward with enforcement actions using the 70 nanograms per litre (ng/L) health advisory. They have taken eight actions so far and assisted with dozens of state-led enforcement actions. PFOA/PFOS will likely be listed as hazardous substances under CERCLA by the end of 2019.
3. There will be an expanded focus on monitoring. The next round of Unregulated Contaminants Monitoring Rule (UCMR) monitoring will again include PFAS (specific constituents and monitoring levels are to be determined). Water quality criteria (e.g., for protection of surface waters) are not anticipated until 2022.
4. USEPA is looking to validate new analytical methods in 2019, particularly for complex matrices such as wastewater.
5. USEPA is considering including PFOA/PFOS as part of Toxics Release Inventory (TRI) reporting. Timing is undefined.
6. USEPA is expanding research efforts with respect to GenX and Perfluorobutanesulfonic acid (PFBS), human health and ecological affects, sources of PFAS (including air emissions) along with their fate and transport, analytical methods, and effectiveness of treatment and remediation. They are developing a stack test protocol expected in 2020.
7. USEPA is looking at risks associated with fish consumption. Information is anticipated in 2019. This would likely manifest as part of the basis for water quality criteria.
8. USEPA will develop a PFAS risk communication toolbox to ensure clear and consistent messages to the public and address concerns related to PFAS.

The action plan provides a deliberate path forward for USEPA. There are thousands of compounds in the PFAS group and USEPA is aware of the importance of other compounds beyond PFOA/PFOS, so anticipate regulations to continue incorporating additional compounds. Because of USEPA's structure, states will continue to move more aggressively and ahead of USEPA in establishing regulatory levels, as we have already seen.