

PFAS: The Latest on an Ever Evolving Regulatory Landscape

Federal Regulatory & Legislative Information & Updates

Mary Baker, Executive Director,
Mid-Atlantic Biosolids Association



PFAS - Feeling “Verklemt”?

What EPA Has Learned So Far

<https://www.epa.gov/pfas/pfas-explained>

- PFAS are widely used, long lasting chemicals, components of which break down very slowly over time.
- Because of their widespread use and their persistence in the environment, many PFAS are found in the blood of people and animals all over the world and are present at low levels in a variety of food products and in the environment.
- PFAS are found in water, air, fish, and soil at locations across the nation and the globe.
- Scientific studies have shown that exposure to some PFAS in the environment may be linked to harmful health effects in humans and animals.
- There are thousands of PFAS chemicals, and they are found in many different consumer, commercial, and industrial products. This makes it challenging to study and assess the potential human health and environmental risks.



Mid-Atlantic
Biosolids
Association

PFAS - Let's "Discuss"

- **EPA PFAS Strategic Roadmap:** Finalize risk assessment for PFOA and PFOS in biosolids. *Expected Winter 2024*
- **EPA Designation** of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as **CERCLA Hazardous Substances** - *Proposed April 2023, comments closed August 2023, Finalized April 2024*
- **Senate EPW Committee** continues development of bipartisan PFAS legislation following stakeholder comment period - *hearing March 2024*
- **National Collaborative PFAS Study** - led by Dr. Ian Pepper at the University of Arizona, *entering second year and phase in 2024*



EPA PFAS Strategic Roadmap

PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024

PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024

- April 10, 2024, EPA announced the final National Primary Drinking Water Regulation (NPDWR) for six PFAS

The final rule requires:

- Public water systems must monitor for these PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.
- Public water systems have five years (by 2029) to implement solutions to reduce these PFAS if monitoring shows that drinking water levels exceed these MCLs.
- Beginning in five years (2029), public water systems that have PFAS in drinking water which violates one or more of these MCLs must take action to reduce levels of these PFAS in their drinking water and must provide notification to the public of the violation.

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as pg/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

EPA PFAS Strategic Roadmap

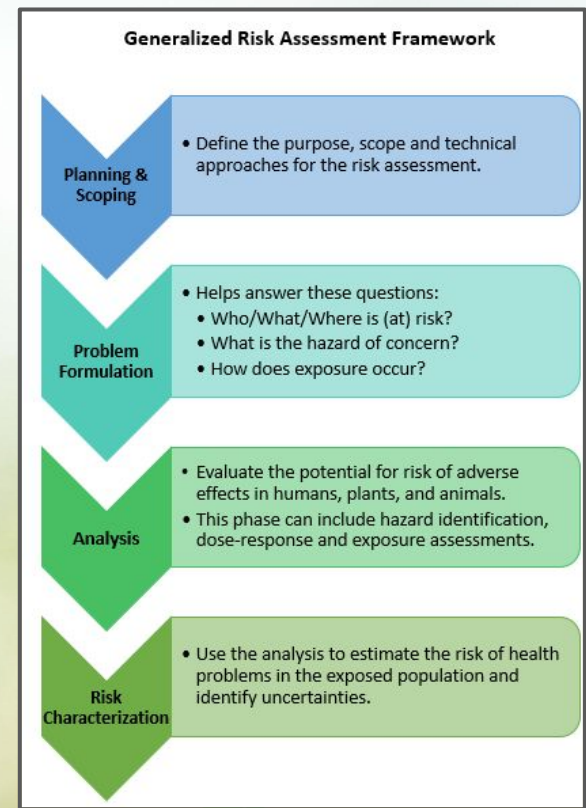
**Finalize risk assessment for PFOA and PFOS in biosolids.
Expected Winter 2024**

- See Risk Assessment of Pollutants in Biosolids - <https://www.epa.gov/biosolids/risk-assessment-pollutants-biosolids>

What does the EPA mean by risk?

The EPA considers risk to be the chance of harmful effects to human health or to ecological systems resulting from exposure to an environmental stressor. A stressor is any physical (e.g., radiation), chemical (e.g., pesticides), or biological entity (e.g., microbes) that can induce an adverse response. EPA uses risk assessments to characterize the nature and magnitude of health risks to humans and ecological receptors (e.g., plants and animals) from chemical contaminants and other stressors.

- See A Guide to the Biosolids Risk Assessments for the EPA Part 503 Rule - <https://www.epa.gov/biosolids/guide-biosolids-risk-assessments-epa-part-503-rule>



EPA PFAS Strategic Roadmap

Important to differentiate between “risk assessment” and “risk management”

- See EPA Risk Management - <https://www.epa.gov/risk/risk-management>

What does the EPA recommend in the interim?

- See EPA Issues Guidance to States to Reduce Harmful PFAS Pollution - <https://www.epa.gov/newsreleases/epa-issues-guidance-states-reduce-harmful-pfas-pollution>
- The memo recommends that states use the most current sampling and analysis methods in their NPDES programs to identify known or suspected sources of PFAS and to take actions using their pretreatment and permitting authorities, such as imposing technology-based limits on sources of PFAS discharges.

Risk Management

Risk Management is a distinctly different process from risk assessment. Risk assessment establishes whether a risk is present and, if so, the range or magnitude of that risk. In the risk management process, the results of the risk assessment are integrated with other considerations, such as economic or legal concerns, to reach decisions regarding the need for and practicability of implementing various risk reduction activities. Risk managers also use risk assessment results as a basis for communicating risks to interested parties and the general public.



Room Check: Are we feeling any less “Verkleempt”?



What is CERCLA (or Superfund)?

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980.

- It allows EPA to clean up contaminated sites.
- It also forces the parties responsible for the contamination to either perform cleanups or reimburse the government for EPA-led cleanup work.



PFAS CERCLA designation - Regulatory Perspective

In April 2024, EPA finalized a critical rule to designate two widely used PFAS – PFOA and PFOS – as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act, also known as Superfund.

In addition to the final rule, EPA issued a separate CERCLA enforcement discretion policy that makes clear that EPA will focus enforcement on parties who significantly contributed to the release of PFAS chemicals into the environment.

- See Key EPA Actions to Address PFAS - <https://www.epa.gov/pfas/key-epa-actions-address-pfas>



PFAS CERCLA designation - Legislative Perspective

Senate EPW Committee:

- See Stakeholder Comment on Draft PFAS Legislation - <https://www.epw.senate.gov/public/index.cfm/2023/6/stakeholder-comment-on-draft-pfas-legislation>
- See September 2023, Senator Capito Opening Statement at Hearing on Implementation of Drinking Water and Wastewater Infrastructure Act - <https://www.epw.senate.gov/public/index.cfm/2023/9/ranking-member-capito-opening-statement-at-hearing-on-implementation-of-drinking-water-and-wastewater-infrastructure-act>
- See March 20, 2024 EPW Hearing - Examining PFAS as Hazardous Substances - <https://www.epw.senate.gov/public/index.cfm/hearings?ID=6E83270F-EF61-4B3E-919C-B1AF5AA601B7>

Other legislation

- HR 7944 - Water Systems PFAS Liability Protection Act <https://www.congress.gov/bill/118th-congress/house-bill/7944/text>



PFAS CERCLA designation - Legislative Perspective

What can be done?

Outreach

- **Passive receiver protection**
 - **US Senate Committee on Environment and Public Works - <https://www.epw.senate.gov/public/>**
 - **Find your Members in the US Congress - <https://www.congress.gov/members/find-your-member>**
- **Protection and prohibition of the use of PFAS in certain products**
 - **PA 2238 - Consumer Product Per- and Polyfluoroalkyl Chemicals (PFAS) Chemical Ban - <https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2023&sind=0&body=H&type=B&bn=2238>**



Another Room Check: Are we feeling any less “Verklemt”?



National Collaborative PFAS Study

What have they determined so far?

Table 2. Median Soil Concentrations of EPA Regulated Compounds Based on Analyses of 14 of the 23 National Sites

Compound	Soil Median Concentration (ppb)			EPA Drinking Water MLC (ppt)
	Control	Low Biosolids	High Biosolids	
PFOA	0.074	0.180	0.274	4.0
PFOS	0.023	0.419	0.470	4.0
PFHxS	0.040	0.072	0.125	10
PFNA	0.027	0.085	0.061	10
HFPO-DA (GenX)	Not analyzed	Not analyzed	Not analyzed	10

Examination of Table 2 shows that the median concentrations of PFAS analytes in the Low and High Biosolids Plots are remarkably low, and all less than 0.5ppb. Values for corresponding Control Plots are even lower. However, it is notable that these compounds are detected in Control Plots with no biosolids, and no obvious source of PFAS contamination.

Phase 2 - Establish a similar national network of plant uptake data across the country by analyzing PFAS in crops grown on the land application plots already studied.



The Value of Research

Why is it so important? Why should it be supported?

Proactive:

- The Biosolids community is an engaged community seeking to inform and protect the community

Risk Assessment/Risk Management Preparation:

- The National Collaborative PFAS Study will provide a national set of real-world data with identical research methodology at each site



Mid-Atlantic
Biosolids 
FOUNDATION

 Mid-Atlantic
Biosolids
Association

Final Room Check: Less “Verklemp’t”?



Mid-Atlantic
Biosolids
FOUNDATION



PFAS: Federal Reg/Leg Information & Updates

Questions?

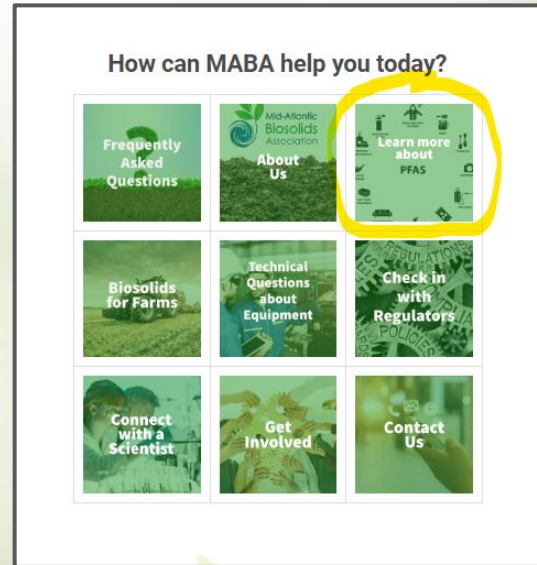
Contact Information:

Mary Baker

845-901-7905

mbaker@mabiosolids.org

www.mabiosolids.org



Mid-Atlantic
Biosolids

FOUNDATION



Mid-Atlantic
Biosolids
Association