

ASTSWMO Joint Hazardous Waste and Materials Management Training
August 2022

PFAS: Regulatory Overview

Contaminants of Emerging Concern Steering Committee

CEC Steering Committee

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*Each ASTSWMO program Subcommittee has a CEC Steering Committee liaison for the purpose of sharing information between the Steering Committee and Steering Committees and recommending and planning projects and other activities related to CECs.

Board Liaison:
Millie Garcia-Serrano, MA

First Call -March 19th 2020

- Membership webinars – updates and feedback
- Position Paper: Addressing Per- and Polyfluoroalkyl Substances
- Conversations with EPA and DOD
- Guidance on Developing a State-led Contaminants of Emerging Concern Program

Regulatory Overview: Current State

- No federal maximum contaminant levels (MCLs) or groundwater standards for PFAS contaminants
- Many states are promulgating their own standards
 - State MCLs for drinking water
 - Listing specific PFAS as RCRA hazardous constituents
- Enforcement success is mixed

NEW

EPA Lifetime Drinking Water Health Advisories

(released June 15, 2022)

- Interim drinking water health advisories for PFOA and PFOS that replace the 2016 EPA LHAs
- Final health advisories for PFBS and HFPO-DA (i.e. “GenX”).

Health Advisories are not enforceable criteria and do not create requirements for cleanup actions under CERCLA & RCRA.

EPA Regional Screening Levels (RSLs) and Regional Removal Management Levels (RMLs) for 6 PFAS chemicals:

- PFBS (released 2014, updated 2021)
- PFOA, PFOS, PFNA, PFHxS, GenX (released May 18, 2022)

RSLs: Used as screening tools to identify sites that may be of potential concern. In the Superfund program, at sites where contaminant concentrations equal or exceed screening levels, further study or investigation may be warranted, but not necessarily cleanup.

RMLs: Used to help define sites that warrant a removal action (i.e. cleanup). Generic RMLs are generally higher than those selected as final cleanup levels, so they are not de facto cleanup standards.

RCRA vs. CERCLA

Congress passed both RCRA and CERCLA to deal with cleanup of hazardous waste facilities:

- Resource Conservation and Recovery Act (RCRA) of 1976 was implemented primarily for waste treatment facilities that are currently in-use; RCRA also regulates hazardous waste transport and has a “cradle to grave” regulatory scheme.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/Superfund) of 1980 was passed to cleanup uncontrolled or abandoned contaminated waste sites, as well as addressing accidents, spills and other emergency releases of pollutants into the environment.

RCRA vs. CERCLA

- The two legislative acts use different terminology, but implement similar cleanup processes
- CERCLA authority to address “*hazardous substances*” is broader than RCRA’s focus on “*hazardous wastes*”

RCRA vs. CERCLA Designations

- A CERCLA *hazardous substance* designation would not provide authority under RCRA as RCRA Hazardous Waste; a CERCLA Hazardous Substance listing will have little/no effect on sites/facilities regulated under RCRA.
- A RCRA *hazardous waste* designation would provide authority under RCRA and CERCLA, as CERCLA hazardous substance. However, a RCRA hazardous waste designation could make PFAS-containing carpets, mattresses, cookware, etc. "hazardous wastes" at time of disposal (unless they are coming from households).

A RCRA hazardous constituents listing :

- would provide authority only under RCRA, and the types of items listed prior would not be brought under full regulation at the site of generation (since they are not "wastes").
- Would give authority to require sampling for PFAS at sites otherwise subject to cleanup under RCRA due to a hazardous waste release to the environment.



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



Summary

- Currently there are no federal regulatory drivers to compel cleanup actions for PFAS compounds
- ASTSWMO position paper recommends:
 - CERCLA hazardous substance designation to provide authority at sites/facilities regulated under CERCLA
 - RCRA hazardous waste listing to provide authority at sites/facilities regulated under RCRA
- ASTSWMO CEC SC continues focused collaboration with our federal partners to encourage coordination and information-sharing