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PFAS

EPA's Hazardous Chemical Designation

Presenter



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Agenda



1. What is PFAS?
2. U.S. EPA's PFAS Roadmap
3. U.S. EPA Proposed CERCLA Rules
4. Court Actions and Updates on PFAS
5. Q&A

What is PFAS?

What is PFAS?

Per- and Polyfluoroalkyl



PFAS are synthetic,
manufactured chemicals

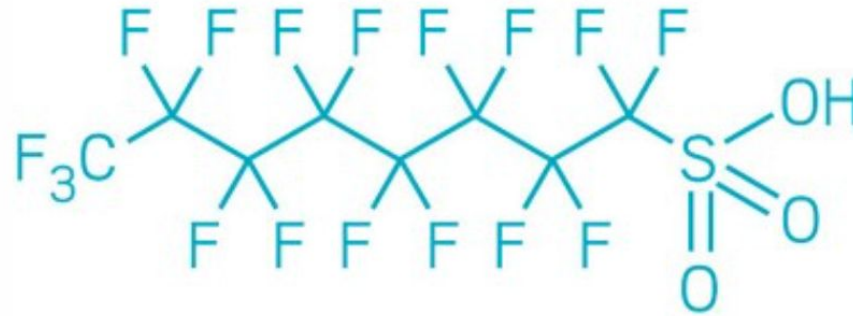
There are over 5,000
different chains of PFAS

PFAS have been used in
products for consumers
and industry since the
1940s

The synthetic nature of
PFAS make the nature of
the chemical difficult to
breakdown and can build
up in people, animals, and
the environment over time

Despite no longer being
developed in the U.S.,
PFAS is still imported in
products and in
manufacturing processes

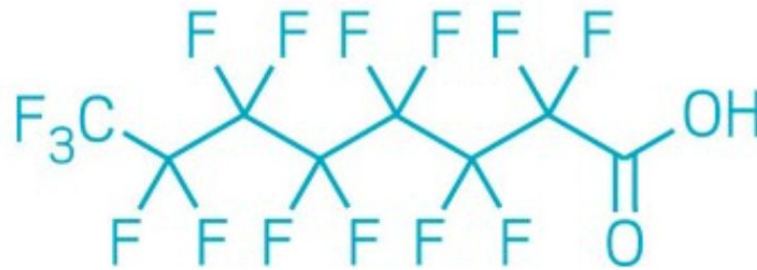
The Most Common(/Known) PFAS



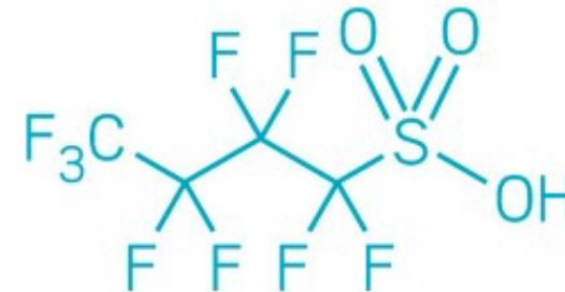
PFOS



HFPO-DA



PFOA



PFBS

U.S. EPA's PFAS Roadmap

U.S. EPA's PFAS Roadmap



EPA's PFAS Strategic Roadmap: A Year of Progress

November 2022



Consider the lifecycle of PFAS

Get upstream of the problem

Hold polluters accountable

Ensure science-based decision-making

Prioritize protection of disadvantaged communities

U.S. EPA's Proposed CERCLA Rules

Comprehensive Environmental Response, Compensation, and Liability Act – CERCLA



CERCLA aka Superfund

§ 102(a) – Permits the EPA Administrator to designate new hazardous substances

§ 107 – Defines the four categories for liability

- Current Owners/Operators
- Former Owners/Operators
- Arrangers or Generators
- Transporters

Liability = Strict, Joint and Several Liability

CERCLA – Proposed Rule 1: Fall 2022



First time the agency is designating a new hazardous substance with rulemaking process under CERCLA

Proposes to add PFOA and PFOS including their salts and structural isomers as Hazardous Substances under CERCLA

EPA Identifies Five Broad Categories of Entities Potentially Affected by this Action

- PFOA and/or PFOS manufacturers (including importers and importers of articles);
- PFOA and/or PFOS processors;
- Manufacturers of products containing PFOA and/or PFOS;
- Waste management and wastewater treatment facilities.

EPA proposes setting a one (1) pound Reporting Quantity or more in a 24-hour period

EPA states throughout the Proposed Rule that they want to ensure the taxpayers are not the ones who bare the cost of the cleanup

In the economic assessment, EPA finds the direct costs are low and state that the indirect costs are "impractical...to quantitatively assess...because of the uncertainty of such costs at this early stage in the process."

CERCLA – Advanced Proposed Rule 2: Spring/Summer 2023



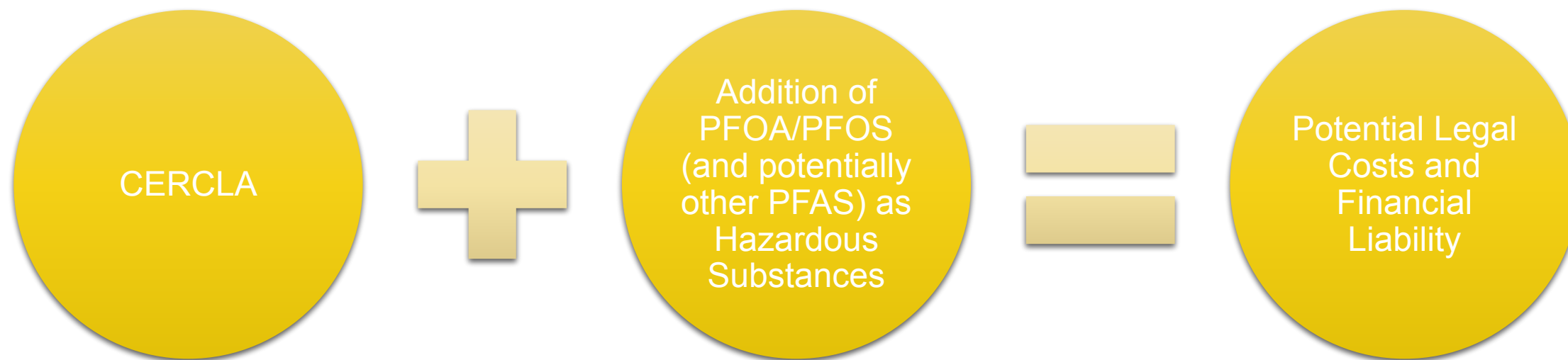
Proposes to designate seven (7) PFAS chains and their salts and structural isomers as hazardous substances under CERCLA

- PFBS
- PFHxS
- PFNA
- HFPO-DA (aka GenX))
- PFBA
- PFHxA
- PFDA

Proposes to designate the precursors to PFOA, PFOS, and the above listed PFAS chains as hazardous substances under CERCLA

Proposes to designate PFAS as a class as hazardous substances under CERCLA

What does all of this mean?



Questions and Concerns About the Proposed Rules



These proposals are coming before the science and cleanup technology are fully developed



Water and Wastewater Agencies and Municipalities are doing what they are required to do under their responsibilities and permits



This proposal is coming before the full financial ramifications are understood/acknowledged



CERCLA needs to remain a “polluter pays” law and the burden should not be shifted to taxpayers or ratepayers

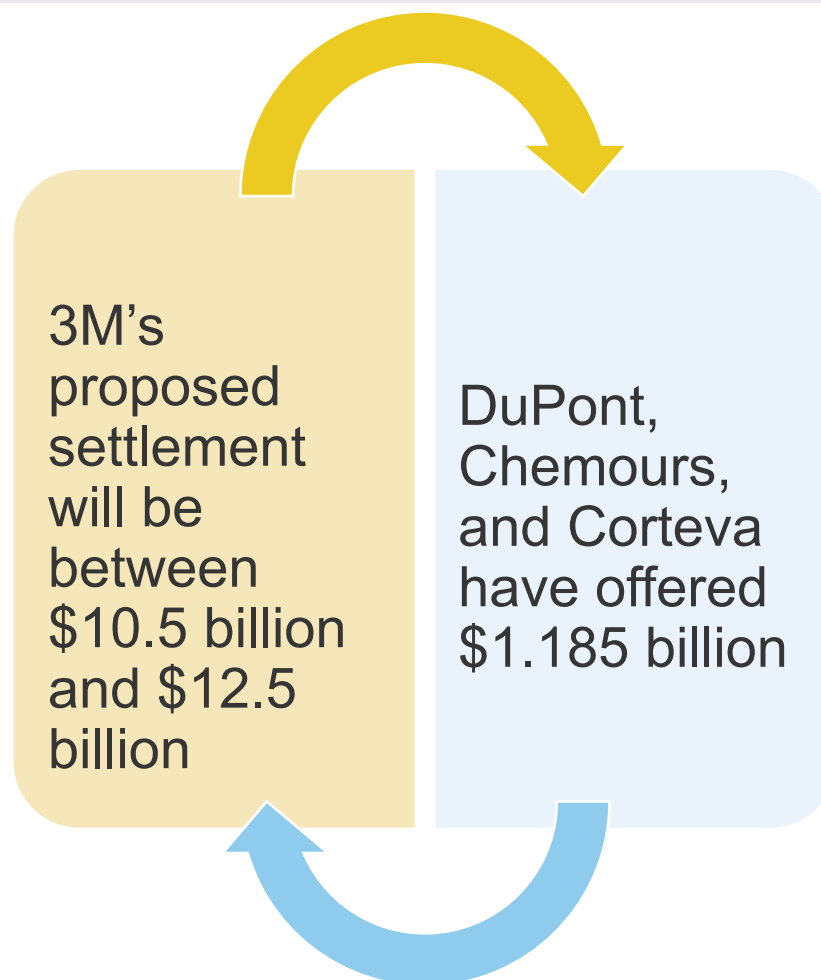


The levels and methods of cleanup are not yet existing or determined



Court Actions and Updates on PFAS

3M, DuPont and Future PFAS Liability





Questions?

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