

PFAS External Advisory Group

December 17, 2021

Agenda

- Welcome and Introductions
- PFAS as a CERCLA Hazardous Substance
- PFAS as a RCRA Hazardous Constituent
- PFAS, Landfills and Leachate

Break

- DNR PFAS updates
- EAG Member Open Forum
- Public Comment

Welcome



Roll Call

External Advisory Group Members		
Jason Culotta, Midwest Food Products Association	George Klaetsch, Wisconsin State Fire Chiefs Association	Doug Oitzinger, Marinette Citizen
Brian Grefe, Wisconsin Airport Managers Association	Lawrie Kobza, Municipal Environmental Group – Water Division	Laura Olah, Citizens for Safe Water Around Badger
Joe Grande, American Water Works Association – Wisconsin Section and Madison Water Utility	Scott Laeser, Clean Wisconsin	John Osborne, GZA GeoEnvironmental, Inc.
Chris Groh, Wisconsin Rural Water Association	Rob Lee, Midwest Environmental Advocates	John Robinson, Wisconsin’s Green Fire
Toni Herkert, League of Municipalities	Scott Manley, Wisconsin Manufacturers and Commerce	Pat Stevens, Wisconsin Paper Council
David Johnson, North Shore Environmental Construction, Inc.	Sharon Mertens, Milwaukee Metropolitan Sewerage District	Mark Thimke, Foley & Lardner LLP
Meleesa Johnson, Marathon County Solid Waste Department and Wisconsin Solid Waste PFAS Group	Lynn Morgan, Waste Management	Ned Witte, Godfrey & Kahn S.C.
Paul Kent, Stafford Rosenbaum LLP		

Real World Implications of Listing PFAS as a CERCLA Hazardous Substance

Darsi Foss, DNR

Mark Thimke, Foley and Lardner LLP

EPA's Proposal to List 4 PFAS Substances as RCRA Hazardous Constituents

Andrea Keller, DNR

James Bridges, DNR

PFAS as a Hazardous Constituent

- Definitions
- Recent federal actions
- Implications (impacts)

Definitions

There are several **similar sounding terms that** refer to substances that are subject to regulation under one or more state and federal environmental laws.

Hazardous materials are transported intrastate, interstate, and internationally through commerce.

Hazardous chemicals are found in the workplace.

Imminently hazardous chemical substance or mixture is subject to regulation under TSCA.

Extremely hazardous substances are certain CERCLA hazardous substances.

Hazardous substance is any substance that when released to the environment in an uncontrolled or unpermitted fashion becomes subject to the reporting and possibly response provisions of the CWA and CERCLA

Hazardous air pollutant release to the air is regulated under the CAA.

Acute hazardous wastes are certain RCRA hazardous wastes that are subject to stringent quantity standards for accumulation and generation.

Hazardous waste constituent is the specific substance in a hazardous waste that makes it hazardous and, therefore, subject to regulation under Subtitle C of RCRA.

Hazardous waste is a solid waste that must be treated, stored, transported, and disposed of in accordance with applicable requirements under Subtitle C of RCRA.

Recent federal actions

On October 26, 2021, the U.S. EPA outlined plans to initiate two rulemakings in response to a petition from New Mexico requesting that PFAS be identified as a hazardous waste under the Resource Conservation & Recovery Act (RCRA).

- Initiate process to add four PFAS compounds as RCRA Hazardous Constituents under Appendix VIII
- Evaluate data for PFOA, PFOS, PFBS and GenX

Recent federal actions

Regulating PFAS chemicals as hazardous constituents

- It is the first step toward potential federal designation as federal RCRA hazardous wastes.
- EPA would have to determine:
 - PFAS or group of PFAS for regulation
 - Certified test methods and lab criteria for aqueous and non-aqueous wastes
 - Toxicity criteria and numerical standards
 - Land disposal restrictions and treatment methods

Implications

Regulating PFAS chemicals as hazardous constituents in Wisconsin would require rulemaking at a state level.

Listing PFAS as hazardous constituents:

- Would require RCRA-licensed treatment, storage, and disposal facilities (TSDFs) to analyze, assess, and monitor to GW protection standards (site, assessment, releases)
- Could limit exemptions for HW incineration (none currently in WI)
- Would solidify and expand authority to set specific conditions within the TSDF license
- Could require corrective action for the release of a hazardous constituent
- Can be the first step (typically) toward “listing” a contaminant as a HW

Listing PFAS as hazardous constituents:

- Would NOT require testing of incoming waste to TSDFs
- Would NOT require PFAS-containing materials to be manifested
- Would NOT have to identify the hazards of the waste (HW, DOT, etc.)
- Would NOT require PFAS waste determinations HW generators

Landfills, Leachate and PFAS

Brad Wolbert, DNR

Discussion

What considerations are critical to gathering more information about PFAS related to landfills?

BREAK
Resume at 1.15pm

DNR Updates



Open Forum External Advisory Group Members

Wrap-up and Next Steps



Public Comment

- Submit questions or comments via the chat function in Zoom (please indicate if you'd like to read aloud)

OR

- “Raise Hand” and you’ll be unmuted to provide your comment
- We will attempt to address comments and requests to speak in the order that they are received
- Please keep comments to 3 minutes

CONNECT WITH US

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OFF THE RECORD"