

# What's Hot in Environmental Law

Presented by  
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to

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Environmental Professionals**

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# Today's Topics

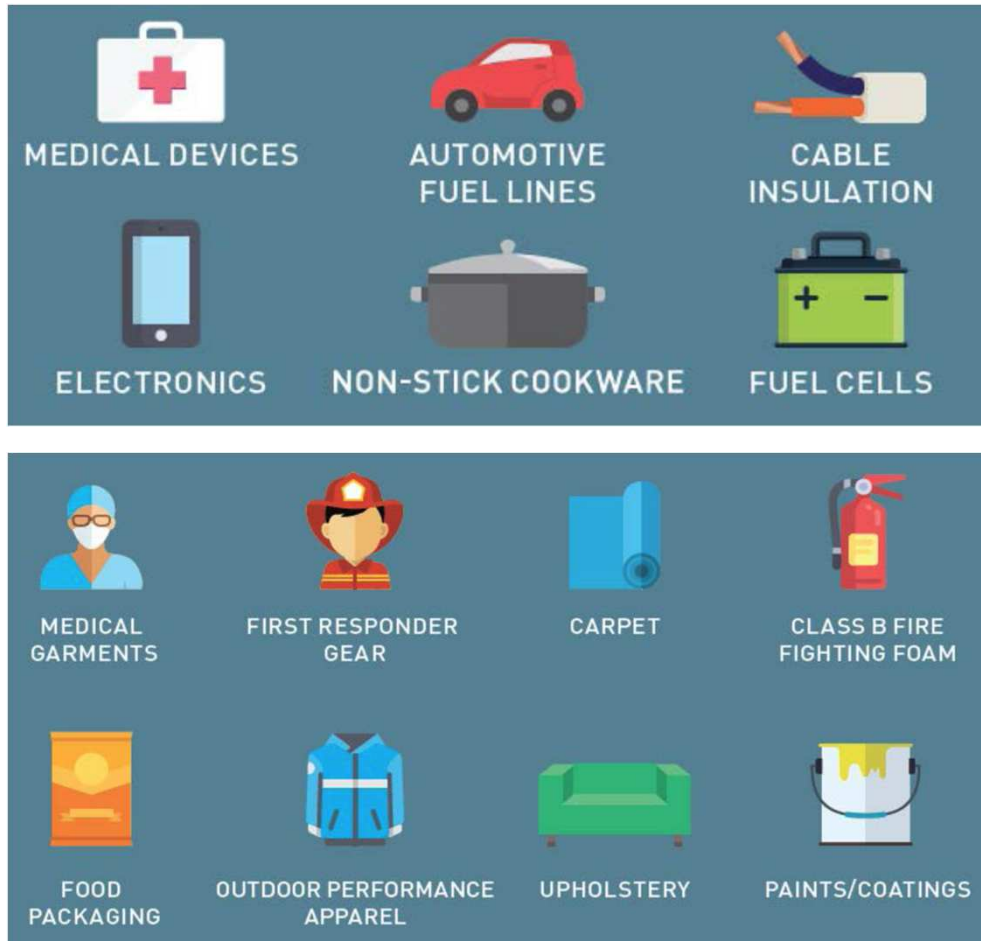
- EPA – PFAs
- Texas RRC – New Inspection Initiative

# PFAS

## ▶ What is PFAS?

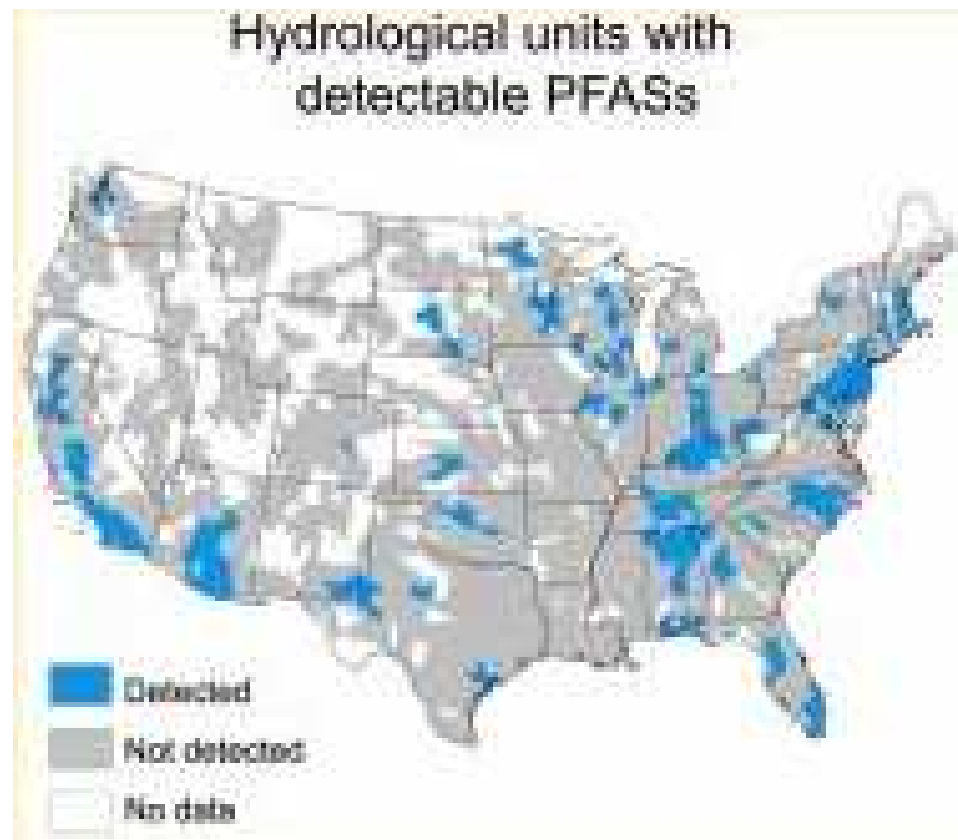
- Polyfluoroalkyl Substances
- Perfluoroalkyl Substances
- Present in many products to resist heat, resist stains, resist water, reduce friction, and as surfactants
- Not volatile, resistant to degradation, and soluble in water

# Where are PFAS used?



Source - American Chemistry Council

# Where Have PFAS Been Detected?



Source: Xindi Hu et al., *Envtl. Sci. & Tech. Letters* 2016

# Terminology Confusion

- ▶ Organics sometimes referred to as PFOA or PFOS
- ▶ But PFOS also stands for perfluorooctanesulfonic acid and PFOA stands for perfluorooctanoic acid
- ▶ Keep in mind – it's a large group



# What has EPA been doing?

## ▶ Studying

- 3M stopped manufacturing PFAS between 2000 and 2002
- 2010/2015 Stewardship Program
  - 8 Global Companies Agreed to Phase Out PFOA & PFOS by 2015
- 2015 SNUR requiring EPA to review use of PFAS in US
- November 2016: 70 ppt for PFOA and PFOS



# What has EPA been doing?

- ▶ May 2018 National Leadership Summit
  - Objective – Discuss how to regulate and remove PFAS in the soil and groundwater from historical releases
  - EPA announced a 4–step action plan:

# What has EPA been doing?

1. Evaluate the need for a maximum contaminant level for various PFAS in drinking water;
2. Propose designating PFAS as “hazardous substances” under CERCLA
3. Develop groundwater cleanup recommendations; and
4. Work with state and federal agencies to develop toxicity values for specific PFAS.

# When?

1. Evaluate the need for a maximum contaminant level (MCL) for various PFAS in drinking water
  - Proposed rule
  - Comments
  - Final Rule
  - ?Years?

# When?

2. Propose designating PFAS as “hazardous substances” under CERCLA
  - Great support than MCL
  - 1 Year?

# When?

3. Develop groundwater cleanup recommendations;  
and

- Draft fall 2018
- “Soon” – maybe draft in coming weeks

# When?

4. Work with state and federal agencies to develop toxicity values for specific PFAS.
  - Draft summer 2018
  - “Soon” – maybe draft in coming weeks

GenX and PFBS

# Texas – TCEQ & PFAS

- ▶ GW PCLs for various PFOS
  - PFOA PCL = 0.29 (ug/L)
  - PFOS PCL = 0.56 (ug/L)

# How do you test for PFAS?

- ▶ EPA Method 537 (modified) for environmental samples
- ▶ Cost – estimated \$200–\$300/sample



# What's Up at the RRC?

- ▶ June 2018 – Released 2019 Oil & Gas Monitoring and Enforcement Plan
  - Maintain 158 Inspectors
  - Increase Inspections
    - Inland wells – inspect at least once every five years
    - Offshore wells – inspect once every two years
  - 155,880 wells inspected in 2017 (733/inspector)
  - 176,000 to be inspected in 2019 (829/inspector)

# What's Up at the RRC?

- ▶ What can we do to serve our O&G clients?
  - Texas Audit Privilege Program
    - Tex. Health & Safety Code Ch. 1101
  - Immunity!!

# Conclusions

- ▶ PFAS – regulation may be on the horizon
  - Be familiar with terminology
  - Be familiar with test method
- ▶ RRC – increased enforcement
  - Upstream entities will get inspected
  - Get ahead of the curve
  - Be familiar with Texas Audit Privilege Act

Questions??

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