PFAS Litigation: What Counties Need to Know

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TODAY’S SPEAKERS

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AGENDA

Technical:
- What is PFAS?
- Where is it found?
- Toxicity/studies.
- How is PFAS removed from water and soil?
- What are the evolving government standards?

Legal:
- Who are the Defendants and Plaintiffs?
- What types of litigation?
- What are the recent settlements?
- Claims submission and opt-outs.
- Litigation trajectory.
- What should counties be doing?
WHAT IS PFAS?

- Man-made chemicals with strong carbon-fluorine bonds and surfactant-like properties.
- Resistant to degradation and have properties that are useful for many industries, including stain resistance and flame retardants.
- Initially used for valving on Manhattan project and today they are used for a wide variety of uses.
- Common PFAS include perfluorooctanoic acid (PFOA) and perfluorohexanesulfonic acid (PFHxS).
WHERE ARE PFAS FOUND?

- Considered to be ubiquitous in the environment
- Believed to be present in bloodstream of 95% of all Americans
- Common sources:
  - Industrial facilities
  - Landfills
  - Airports
  - Military Bases
PFAS-POTENTIAL HEALTH EFFECTS

- Cancer
- Immune System Effects
- Cardiovascular Disease
- Developmental Effects
- Thyroid and Liver Effects
PFAS - FEDERAL REGULATORY OUTLOOK

- National Drinking Water Standards
- Regulation of Biosolids
- Clean-Up Liability under Superfund
- Disposal Requirements as Hazardous Waste
**DRINKING WATER STANDARDS FOR PFAS**

- Proposed March 2023
- Final rule imminent
- Nearly 9,000 communities anticipated to be impacted
- $40 billion initial investment with ongoing operating costs
- Annual Household Costs:
  - Range from $120 - $3,600

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| HFPO-DA    |      |      | Hazard Index of 1.0
TREATMENT TECHNOLOGIES FOR PFAS IN WATER
# PFAS - LITIGATION TYPES

- **Aqueous Film-Forming Foam ("AFFF") MDL**
- **Direct Discharge Cases**
- **Public Entities Torts**
- **State Attorneys General**
- **Personal Injury**

*Formation and evolution of case types*
PFAS - DEFENDANTS AND PLAINTIFFS

- AFFF MDL
  - Foam makers (2 types), surfactant/component part manufacturers, toll processors
- Direct Discharge and Site-Specific Cases
  - Manufacturers v. Users
- Public Entitles and State Attorneys General
- Private Plaintiffs/Individuals
  - Property Damage
  - Exposure, Plaintiff Type (i.e., Turnout Gear)
- Broader PFAS Defendants
PFAS - SETTLEMENT SNAP SHOTS

- 3M and DuPont Entities
  - $1.185 billion (DuPont)
  - $10.5-12.5 billion (3M)
- Rule 23(b) Class Structure
- Water Providers
  - Drinking water claims
  - Excluded claims and class members
- General Timelines
PFAS - SETTLEMENT CLAIMS SUBMISSIONS, OPT-OUTS, & TRAJECTORY

- Claims submission deadline not yet set
- Opt-out submissions
- Opt-out withdrawal deadlines:
  - February 2, 2024 (3M)
  - March 1, 2024 (DuPont)
- Litigation Trajectory
  - Bellwethers (water providers and personal injury)
  - Other Defendants and case types
QUESTIONS?

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