

# The Regulation of 'Forever Chemicals'

## Being Prepared for Future Project Implications

Federal and state regulations governing the presence of per- and polyfluoroalkyl substances (PFAS) are already impacting the timelines, costs and scopes of some design and construction projects in the U.S. Depending upon the regulatory climate in which a project resides, investments are being delayed and designs re-worked to accommodate new guidelines for drinking water, ambient stormwater and soils, often at considerable expense.

PFAS – aka “forever chemicals” – consist of about 5,000 chemicals used in industry and consumer products worldwide since the 1940s, most commonly in nonstick cookware, water-repellent clothing, stain resistant fabrics and carpets, cosmetics, firefighting foams and products that resist grease, water and oil. PFAS don't break down in the environment and often migrate into the soil, water and air.

The Biden Administration is advancing regulatory strategy to address and remediate PFAS. In March 2023, the Environmental Protection Agency proposed new levels for six PFAS known to occur in drinking water, setting Maximum Contaminant Levels (MCLs) at 4 parts per trillion. The agency plans to propose a rule addressing PFAS discharges from the facilities that make the chemicals in spring 2024.

### **How You Can Prepare**

While states in the Midwest and South are impacted by PFAS regulations to lesser degrees, it's reasonable to assume that most, if not all, states will follow suit over the next decade. New projects will feel the most significant impact, as they'll need to plan for the possibility of addressing PFAS contamination.

Still, every site is unique, and the level of regulatory impact will vary due a variety of factors. There are a few steps that a project team can take to avoid unnecessary delays and cost overruns due to the presence of PFAS:

- Include appropriate contractual language to protect the various project team members and allow for changes in project scope. Any contractual clauses should address and assign risk to party best positioned to handle it should new or existing PFAS regulations impact the project while it's under way.
- Research any current and pending municipal and state PFAS regulations that have jurisdiction over the project.
- Locate the nearest drinking water supply and determine if the site is near a sole-source aquifer.
- If PFAS are located, the team should ensure that the project's design will not impact or worsen PFAS exposure (sandy soils or downslope locations are particularly vulnerable). A soil management plan also will need to be developed. Determine if the state has existing soil or water sample data for the project's location. Maine, for example, has created a database of known PFAS sites, providing invaluable information to a project team.

- Review historic land uses of the project site and surroundings to identify potential concerns.

Should PFAS be detected, state and federal grant money can sometimes provide assistance with the cost of remediation, particularly for public projects. A state grant fund in Massachusetts, for example, is available to assist public entities needing to remediate a PFAS issue.

### **How HNTB Can Help**

HNTB's engineers understand the latest PFAS guidance from the EPA and other regulatory bodies and can help resolve whatever PFAS issues might arise. Our team of professionals has experience helping clients understand and mitigate emerging contaminants, including PFAS, to deliver their projects on time and on budget.

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Robert Page, water services group director, HNTB, has more than 17 years of experience providing hydraulic modeling, sewer transmission, water transmission and stormwater sewer design across the U.S. Over the past decade, Robert's focus has been on providing resilient solutions to clients' problems and working to incorporate green infrastructure across the country. Robert also has helped clients successfully mitigate sites with emerging contaminants across the U.S.