

PFAS Sewer Sludge Risks Exist Says EPA...But Will It Matter After Today?

Article By:

John Gardella

Last week, there was significant news in the PFAS realm when the EPA announced its long-awaited draft [risk assessment](#) with respect to PFOA and PFOS in sewer sludge from two popular methods of disposing of such sludge – landfilling and land application. Although the draft risk assessment is now set for public comment, the new EPA under the Trump administration will have to determine what to do with the risk assessment findings after the comment period ends. Options of course range from utilizing the risk assessment to create enforceable regulations to.....nothing at all. Given the push already for renewed efforts to create CERCLA exemptions for certain industries, including wastewater treatment facilities, my view is that while neither option on the ends of the possibility spectrum will be the resulting action of the new EPA, the EPA's actions will not favor a rush to create regulations.

PFAS Sewer Sludge Risks

The EPA's draft risk assessment finds that PFOA and PFOS from landfilling or land application of sewer sludge "...exceed the agency's acceptable human health risk thresholds for some pasture farm, food crop farm, and reclamation scenarios when assuming that the land-applied sewage sludge contains 1 part per billion (ppb) of PFOA or PFOS." EPA also found that "there may be human health risks associated with drinking contaminated groundwater sourced near a surface disposal site when sewage sludge containing 1 ppb of PFOA or sewage sludge containing 4 to 5 ppb of PFOS is disposed in an unlined or clay-lined surface disposal unit." The EPA did caution that its findings were less conservative than it wished due in part to factoring in non-sludge exposures to PFOA / PFOS, and that its risk assessment did not take into consideration transformation of other PFAS chemicals into PFOA or PFOS.

Once published in the Federal Register, public comment will be open for 60 days.

Likely Action Stemming From Risk Assessment

The timing of the publication of the draft risk assessment is both critical and entirely deliberate. The new EPA will have to allow the public comment period to take its course, and at some point, may have to finalize the risk assessment. However, it is possible that the new EPA will seek ways to either stall doing so or release a statement that after considering public comment, it has decided that a less

conservative PFOA / PFOS risk number is appropriate. The latter would in effect allow the EPA to go back to the drawing board in terms of conducting further assessment and comment periods.

I believe that this is precisely what the new administration will seek to do, primarily because of the likely related push to work out a CERCLA exemption carve out for the wastewater treatment industry. It makes little sense, after all, to finalize a risk assessment for sewer sludge, which would then have Clean Water Act and RCRA impacts and obligations for potential enforcement, if enforcement against the industries responsible for managing sewer sludge are to gain CERCLA exemptions.

Further, do not expect the new EPA to be in any rush whatsoever to finalize regulations related to PFOA / PFOS under either the Clean Water Act or RCRA based on the risk assessment, even if finalized in its current form. Even the Biden Administration's EPA indicated that the risk assessment is but a first step in the process, and that is legally correct. EPA would need to undertake a cost/benefit analysis and feasibility assessment before it could successfully implement regulations under RCRA or the Clean Water Act. I would not expect the new EPA to be in any rush to finalize either assessment.

Looking Beyond Four Years

The longer term impact of the PFAS sewer sludge risk assessment, though, may be more impactful, but likely will be determined based on political party shifts. The draft risk assessment lays the foundation for sludge-related regulations. I believe that given the citizen awareness of the sludge land application issues, it will be difficult for the new EPA to simply ignore or entirely reject the risk assessment. It will have to take some action, but such action will not be rapid. Thus, if in 2029, we see another party shift with more interest in accelerating environmental and PFAS regulations, the foundational framework for what is needed will already be accomplished. I therefore believe that the sludge risk assessment's legacy will not be felt prior to 2029, but at some point beyond that, it will become incredibly significant as an enforcement tool for the EPA against alleged polluters, as well as a civil litigation tool for plaintiffs' attorneys seeking to bolster their lawsuits related to sludge contamination.

CMBG3 Law is following judicial, legislative, administrative, and scientific developments relating to PFAS. We represent companies of all sizes on PFAS compliance, litigation, and risk management issues, as well as consult with insurers and financial world firms on PFAS issues. We are recognized thought leaders on the subject of PFAS and are regularly contacted by media – including Bloomberg, Wall Street Journal, Washington Post – for our opinions on PFAS issues.

©2025 CMBG3 Law, LLC. All rights reserved.

National Law Review, Volume XV, Number 20

Source URL: <https://natlawreview.com/article/pfas-sewer-sludge-risks-exist-says-epabut-will-it-matter-after-today>