



# NASF Washington Update

Industry Advisory Council

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2019

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# Impeachment



“The President, Vice President and Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and misdemeanors.”

**U.S. Constitution, Article II, section 4**

# Impeachment – Historical Context



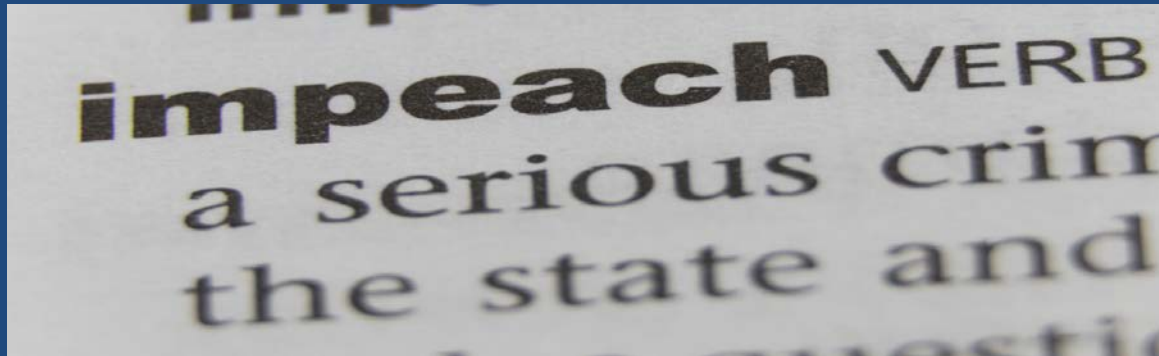
Stems from British constitutional history as a way for parliament to hold the king's ministers accountable for their public actions

## Federal Constitutional Convention

- Legislative branch passing judgment on Executive would violate separation of powers – better to let elections punish a President
- Impeachment was a way to keep the executive in check

Impeachment varies from civil or criminal courts in that it strictly involves the misconduct of public men, or in other words from the abuse or violation of some public trust. -- Alexander Hamilton

# Impeachment Process by the Constitution



- The House of Representatives has “the sole power of impeachment,” and prepares articles of impeachment against the President. A majority vote is needed to impeach.
- The Senate “the sole power to try all impeachments.” A two thirds vote of the members present is needed to convict.
- The Chief Justice of the U.S. Supreme Court presides over the trial in the Senate.

# High Crimes and Misdemeanors



- The charge of **high crimes and misdemeanors** covers allegations of misconduct by officials, such as perjury of oath, abuse of authority, bribery, intimidation, misuse of assets, failure to supervise, dereliction of duty, unbecoming conduct, refusal to obey a lawful order, chronic intoxication, and tax evasion.
- The terms “high crimes and misdemeanors,” in their natural sense, embrace a very large field of actions. They are broad enough to cover all criminal misconduct of the President, — all acts of commission or omission forbidden by the Constitution and the laws.
- To the word “misdemeanor,” indeed, is naturally attached a yet broader signification, which would embrace personal character and behavior as well as the proprieties of official conduct.

## High Crimes and Misdemeanors



- The common law punished whatever acts were productive of disturbance to the public peace, or tended to incite to the commission of crime, or to injure the health or morals of the people, — such as profanity, drunkenness, challenging to fight, soliciting to the commission of crime, carrying infection through the streets, — an endless variety of offences.
- The Federalist, in treating of this jurisdiction of the Senate, regarded it as extending over “those offences which proceed from the misconduct of public men” and termed “political, as they relate chiefly to injuries done immediately to society itself.”
- The people of America meant to rest their government on executive responsibility, and to apply to the President the principles which had been established as applicable only to the ministers, servants, and advisers of the king.

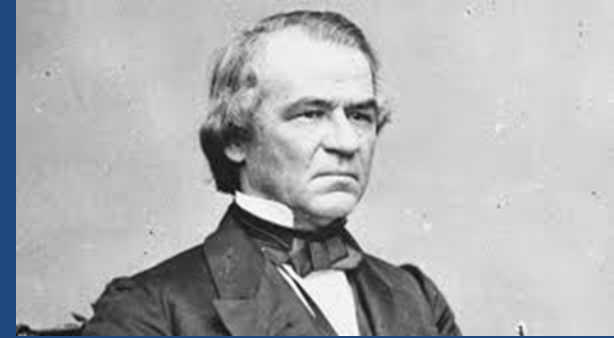
# Grounds for Impeachment



- Representative Gerald Ford declared: "that an impeachable offense is whatever a majority of the House of Representatives considers [it] to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office." (April 15, 1970)
- This constitutional phrase remains a subject of continuing debate, pitting those who view impeachment as a response to an official's perceived violation of the public trust against those who regard impeachment as being limited to indictable offenses.



# President Andrew Johnson



- First President to be impeached
- House brought 11 articles of impeachment against Johnson, and voted for impeachment on March 2, 1868
  - Primarily focused on his removal of Secretary of War Edwin Stanton
  - Accused of making speeches “with a loud voice, certain intemperate, inflammatory and scandalous harangues” with the intent to disgrace Congress
- Senate updated articles of impeachment to 25, but acquitted Johnson by one vote

# President Richard Nixon

- Resigned on August 8, 1974 before impeachment proceedings could be brought against him



# President Bill Clinton

- Second President to be impeached
- House voted for impeachment on December 1998
  - Perjury to grand jury and obstruction of justice
  - Regarding sexual harassment suit brought against Clinton by Paula Jones
- Senate acquitted on both counts with all 45 Democrats in the Senate voting “not guilty”



# President Donald Trump









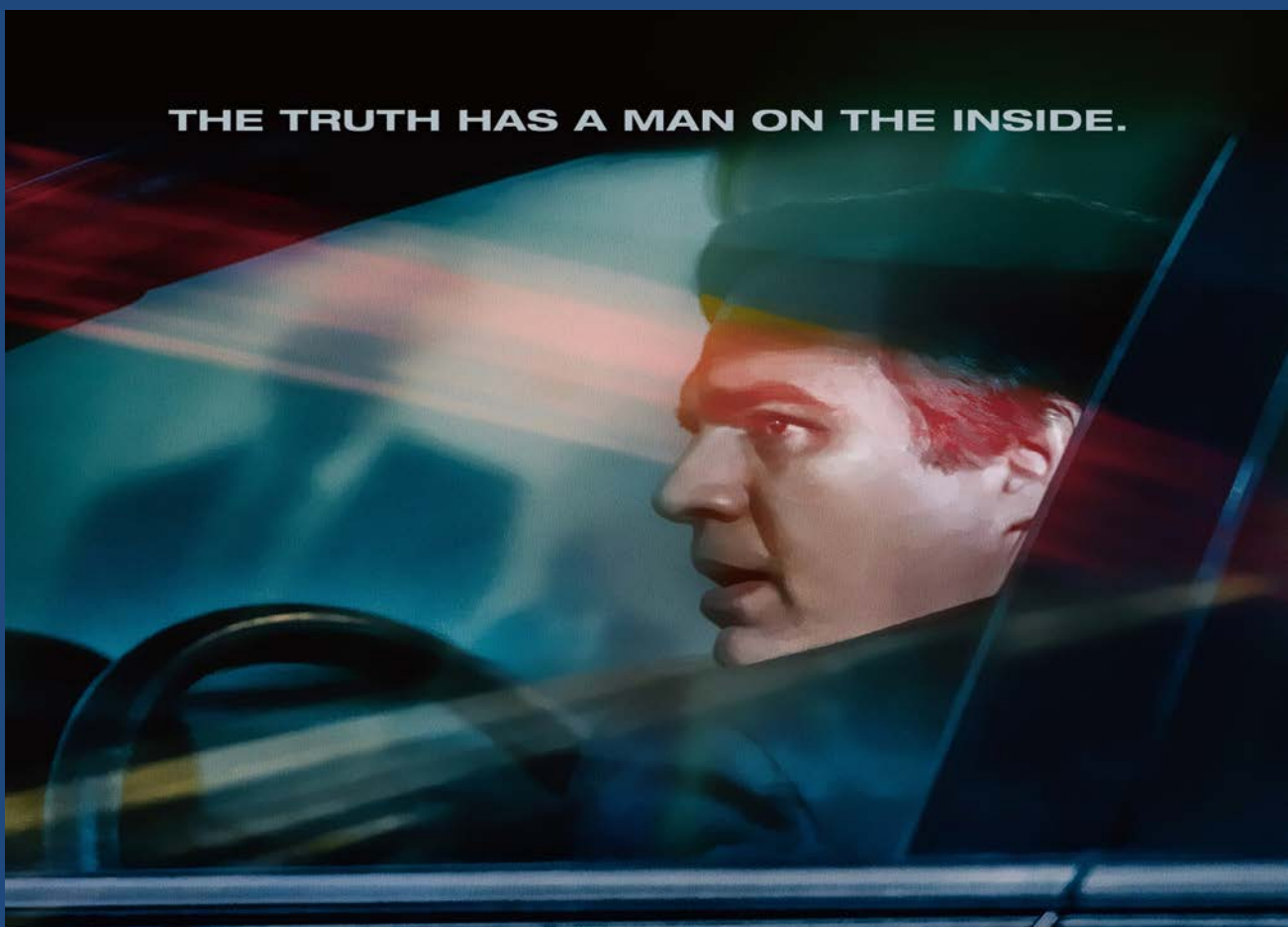
# The Lawyer Who Became DuPont's Worst Nightmare



- Rob Bilott was a corporate defense attorney for eight years. Then he took on an environmental suit that would upend his entire career — and expose a brazen, decades-long history of chemical pollution.
- <https://www.nytimes.com/2016/01/10/magazine/the-lawyer-who-became-duponts-worst-nightmare.html>



THE TRUTH HAS A MAN ON THE INSIDE.



A TODD HAYNES FILM

# DARK WATERS

MARK RUFFALO ANNE HATHAWAY TIM ROBBINS BILL CAMP VICTOR GARBER AND BILL PULLMAN

FROM PARTICIPANT, WHO BROUGHT YOU *SPOTLIGHT* AND *THE POST*

PARTICIPANT PRESENTS A WILLI HILL / KILLER CONTENT PRODUCTION

A TODD HAYNES FILM "DARK WATERS" MARK RUFFALO ANNE HATHAWAY TIM ROBBINS BILL CAMP VICTOR GARBER MARE WINNINGHAM AND BILL PULLMAN  
CASTING BY LAURA ROSENTHAL, CSA. COSTUME DESIGNER MARCELO ZARVOS. EXECUTIVE PRODUCERS CHRISTOPHER PETERSON, LEMMY AFFONSO, GONCALVES, AIC. PRODUCED BY HANNAH BEACHLER  
DIRECTOR OF PHOTOGRAPHY EDWARD LACHMAN, ASC. EXECUTIVE PRODUCERS JEFF SKOLL, JONATHAN KING, ROBERT KESSEL, MICHAEL SLEDD. PRODUCED BY MARK RUFFALO, CHRISTINE VACHON, PAMELA KOFFLER

NOVEMBER  SCREENPLAY BY MARIO CORREA AND MATTHEW MICHAEL CARNAHAN DIRECTED BY TODD HAYNES  

SCREENPLAY BY MARIO CORREA AND MATTHEW MICHAEL CARNAHAN DIRECTED BY TODD HAYNES

POISONED WATER, CORPORATE GREED,  
*and* ONE LAWYER'S TWENTY-YEAR  
BATTLE AGAINST DUPONT

The Story  
Behind the Major  
Motion Picture  
*Dark Waters*



EXPOSURE

ROBERT BILOTT

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# THE DEVIL WE KNOW

## The Devil We Know

2018 | TV-14 | 1h 28m | Documentaries

This documentary details DuPont's alleged decades-long cover-up of the potential harm caused by chemicals used to make popular Teflon products.



# What are PFAS Compounds?

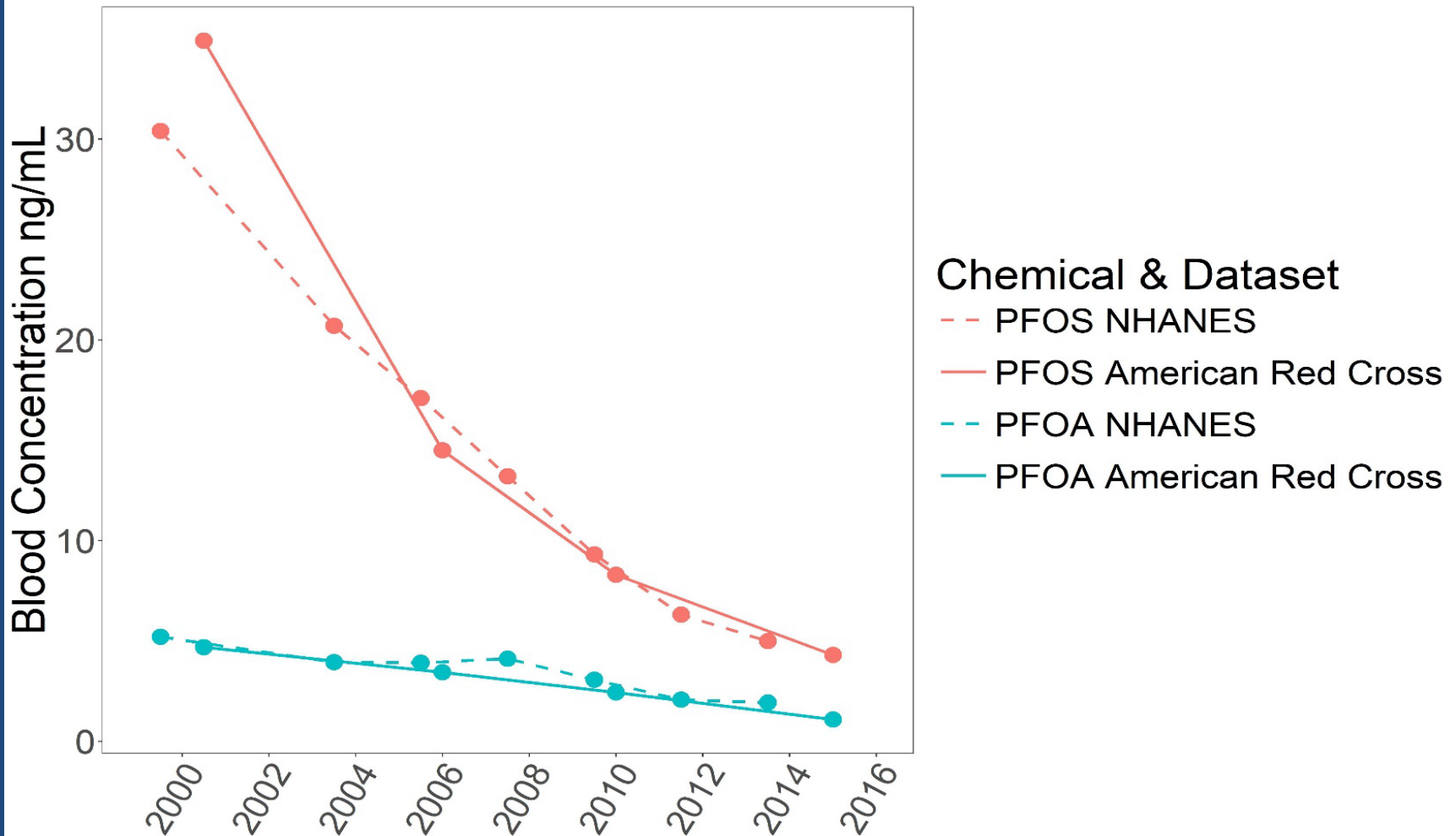
- Per- and polyfluoroalkyl substances are collectively referred to as **PFAS** and are terms used to describe a large group of organic fluorinated chemicals
- PFAS are anthropogenic chemicals and do not occur naturally in the environment
- PFAS are a group of chemicals that are comprised of a carbon backbone containing many carbon-fluorine (C-F) bonds
- The C-F bond is the shortest and strongest in nature
- Due to their unique chemical structure, PFAS are very stable in the environment and are relatively resistant to biodegradation
  
- The 2 most studied PFAS are
  - Perfluorooctanoic Acid (PFOA)
  - Perfluorooctane Sulfonate (PFOS)
- PFAS family = thousands of diverse compounds
- 24 PFAS compounds typically tested

# Industrial & Commercial Uses of PFAS

- Fire fighting foam
- Textiles and leather – stain and water repellent
- Fume suppressant for chromium electroplating processes
- Paper and packaging
- Wire coating and insulation
- Surfactants, resins, molds and plastics
- Food surfaces – Teflon, fast food containers, microwave popcorn bags
- Household cleaning products
- Cross country ski wax

# ~99% of U.S. General Population Have Detectable Levels of PFOS & PFOA in Serum

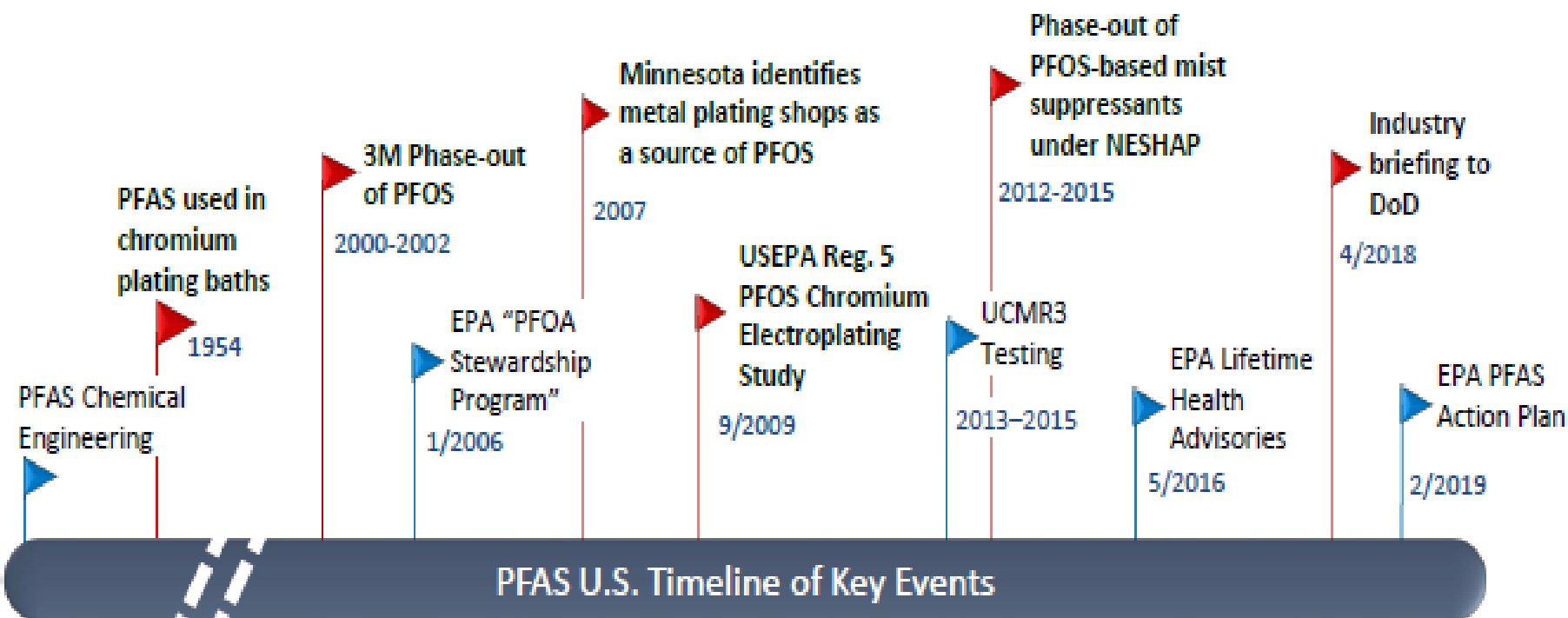
*Levels Have Been Decreasing*



# PFOS: Long History of NASF Involvement

*Per- and Polyfluoroalkyl Substances*

## PFAS – REGULATORY LANDSCAPE



# Key Industry Concerns for Mist Suppressants

Legacy  
Environmental  
Liability

Replacements,  
Product  
Stewardship, Best  
Practices

PRIMARY CONCERN - PFOS

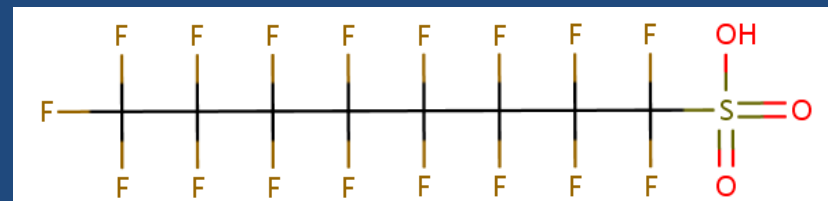
EMERGING ALTERNATIVES



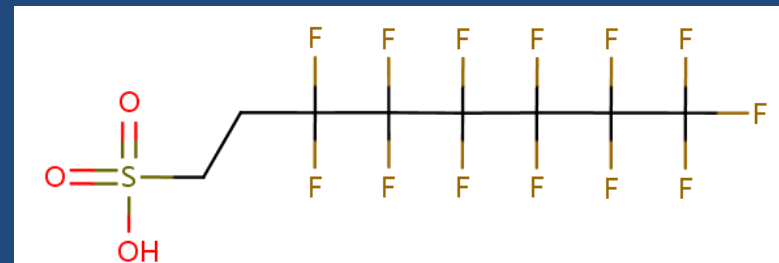
# Transition to 6:2 FTS Improves Risk Profile of Fume Suppressants

- Generally accepted that polyfluorinated compounds are:
  - Less persistent
  - Less bioaccumulative
  - Less toxic
- Non-PFAS formulations aren't effective hexavalent chromium mist suppressants
- Other fluorinated surfactants tested without success

PFOS

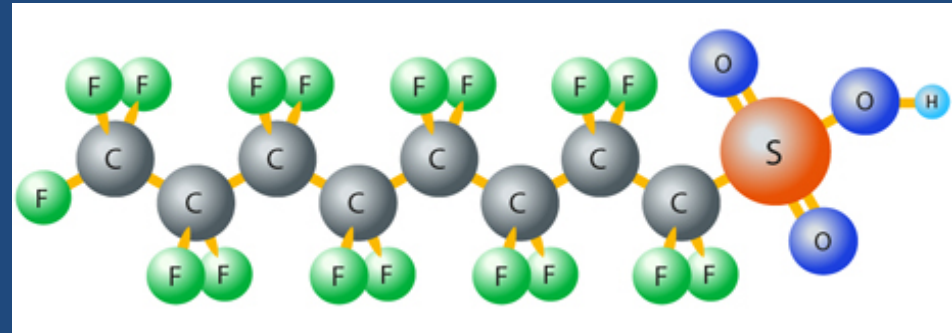


6:2 FTS



# Perfluorooctanesulfonate (PFOS)

## Emerging Issues



- Michigan DEQ found PFOS in Flint River and traced source to chromium etch facility
- PFOS in wastewater discharge despite being phased out since September 2015
- Michigan DEQ set surface water quality standard of 12 ppt
- EPA drinking water advisory level of 70 ppt for PFOS
- DEQ asking POTWs to start screening for PFOS
- Testing methodology an issue
- Focus on legacy issues and new non-PFOS (but PFAS) products
- EPA established Working Group
- More states are expressing concerns and Impatience with EPA

# Future Outlook—Continued Public Outcry

**PIZZA, POPCORN AND PFCS:  
THE SICKENING TRUTH**

**PFAS found in drinking water wells in unexpected places**

**Bipartisan Outrage as EPA, White House Try to Cover Up Chemical Health Assessment (May 16, 2018)**

**WATER POLLUTION IN HOOSICK FALLS PROMPTS ACTION BY NY STATE**

**How Your Waterproof Jacket Might Be Making You Fat**

**Oscoda toxic PFC groundwater plumes approaching Lake Huron**

**FLINT RESIDENTS MAY HAVE BEEN DRINKING PFCs IN ADDITION TO LEAD**

**THE U.S. MILITARY IS SPENDING MILLIONS TO REPLACE TOXIC FIREFIGHTING FOAM WITH TOXIC FIREFIGHTING FOAM**

SECTIONS HOME SEARCH

The New York Times

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**Will Environmental Fear Stick to DuPont's Teflon?**

# Man with no injury allowed to sue over PFAS in bloodstream, but judge doesn't create national class action - yet

HOT TOPICS

By [Daniel Fisher](#) | Oct 1, 2019



Thurlow

COLUMBUS, Ohio (Legal Newsline) - A federal judge in Ohio on Monday allowed a firefighter to proceed with his lawsuit against 3M, DuPont and other manufacturers of a class of chemicals known as PFAS, although the judge stopped short of transforming the case into a class action on behalf of virtually every person in the U.S., as plaintiff lawyers want.

In his **35-page decision**, Judge Edmund Sargus said plaintiff Kevin Hardwick can sue PFAS producers even though Hardwick suffers from no present illness due to the chemicals. Hardwick is seeking medical monitoring and a judicial order creating a “science panel” to study the effects of PFAS on the human body, in what defendant companies say is a transparent effort to obtain evidence for future litigation.

Nearly everyone has PFAS molecules in their bloodstream because the highly persistent chemicals were used in everything from firefighting foam to nonstick coatings on cookware. Hardwick’s lawyers are seeking to establish a class action on behalf of anyone exposed to PFAS. But Judge Sargus wrote in his opinion that he only reviewed “the plausibility of Mr. Hardwick’s individual claims” and made “no determination as to whether they are appropriate for class certification.”



# FDA's First Tests For "Forever Chemicals" In Food Found Them In Meat And Chocolate Cake

Researchers said the results are preliminary, but indicate it's important to track the chemicals in food.



**Nidhi Subbaraman**  
BuzzFeed News Reporter

Posted on June 11, 2019, at 6:31 p.m. ET

## 'Forever Chemicals' Are in Your Popcorn—and Your Blood

Food packaging can contain a group of chemicals called PFAS, which have been linked to immune, thyroid, kidney, and reproductive health problems.

Next time you pick up a pizza from your favorite pizzeria and toss the box in your front seat, think about why the grease doesn't saturate through the cardboard onto your upholstery. Or when you hear popcorn bursting in a bag in your microwave, consider why the oil doesn't ooze out and the paper doesn't burst into flames, even when some kernels turn black.

The answer is likely to be PFAS. Per- and polyfluoroalkyl substances are a group of about 4,700 chemicals that make carpets and upholstery stain-resistant and help firefighters douse burning oil and gas. Some PFAS versions keep your burger from sticking to its fast-food wrapper and your salad from turning its fiber-based bowl into a soggy mess.

October 24, 2019

# PFAS Are Here: First Round of Results Show PFAS in California Drinking Water Supply Wells

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Results from the first phase of sampling drinking water supply wells for per- and polyfluoroalkyl substances (PFAS) were recently published by the California State Water Resources Control Board (State Water Board) and show reportable levels at approximately 190 or 35% of the 570 wells tested. The State Water Board's initial testing program focused on wells near commercial airports and municipal solid waste landfills. Of the 570 drinking water supply wells sampled, only four percent were above the response level (RL) of 70 parts per trillion (ppt) for perfluorooctane sulfonic (PFOS) and perfluorooctanoic acid (PFOA), the two most common PFAS compounds tested. Sixty-five percent of the wells sampled were below the notification levels set for PFOS and PFOA, 6.5 ppt and 5.1 ppt respectively. The results thus far are good news for many public water systems, as they show more than half of the wells tested are largely free of PFOA and PFOS. For those public water systems with supply wells impacted above the RL, and for the neighboring airports, the State Water Board will be requiring additional sampling to identify sources contributing to PFAS in the impacted wells.

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# Applicable Regulations for PFAS

- **Federal -- no enforceable regulations**
  - **70 ppt lifetime drinking water health advisory**
- New Jersey drinking water standard
  - PFOS 13 ppt & PFOA 14 ppt
- New York recommended drinking water standard of 10 ppt for PFOS and PFOA
- Michigan DEQ surface water quality standard
  - PFOS 12 ppt (11ppt for sources of drinking water)
  - PFOA 12,000 ppt (420 ppt for sources of drinking water)
  - Prompting action by POTWs
- California Water Boards issued order to over 250 chrome platers
  - Sampling effluent discharge, stormwater, ground water and soil samples

# Patchwork of Divergent Standards and Actions

Examples of *some* US GW/DW PFAS values (in µg/L)

	Agency / Dept	Year	Type	Promulgated Rule (Y/N/O)	PFOA	PFOS	PFNA	PFBA	PFBS	PFHxS
USEPA	Office of Water	2016	DW	N	0.07	0.07				
	Regions	2018	GW	N	0.4	0.4			400	
Alaska (AK)	DEC	2016	GW	Y	0.40	0.40				
Connecticut (CT)	DPH	2016	DW/GW	N	0.07	0.07	0.07			
Maine (ME)	CDC	2016	DW	N	0.07	0.07				
	DEP	2016	GW	N	0.13	0.56				
Massachusetts (MA)	DEP	2018	DW	O	0.07	0.07	0.07		2	
Michigan (MI)	DEQ	2015	SW	Y	0.42	0.011				
	DEQ	2018	GW	Y	0.07	0.07				
Minnesota (MN)	MDH	2017	DW/GW	O/N	0.035	0.027		7	3	0.027
		2017	DW/GW	O/N	0.035	0.027		7	3	0.027
		2017	DW/GW	O/N	0.035	0.027		7	2	0.027
New Jersey (NJ)	DEP	2018	GW	Y			0.010			
	DEP	2017	DW	O			0.013			
	DWQI	2017	DW	O	0.014					
	DWQI	2018	DW	O		0.013				
Texas (TX)	CEQ	2017	GW	Y	0.29	0.56	0.29	71	34	0.093
Vermont (VT)	DEC/DOH	2016	GW/DW	Y	0.02	0.02				

- Increasing list of analytes
- Increasingly divergent priorities
- Increased attention to non-AFFF sources: landfills, POTWs
- Additional exposure routes: surface water, effluent, soil, food
- Increasing use of state legislature: >80 legislative bills related to PFAS issued in FY18

For the full list of up-to-date US and international standards, see <https://pfas-1.itrcweb.org/fact-sheets/>



# California PFAS Efforts

- **October 2019 announced result from 570 drinking water supply wells**
  - **190 or 35% had reportable levels of PFAS**
  - **Only 4% were above Response Level of 70 ppt**
  - **65% were below CA notification levels**
    - 6.5 ppt – PFOS and 5.1 ppt -- PFOA**
- California Water Boards Order to Sample for PFAS
  - Airports
  - Landfills
  - Chrome Platers
    - Sampling effluent discharge, stormwater, ground water and soil samples
  - Manufacturing facilities
  - Bulk terminals
  - Wastewater treatment facilities

# Federal Legislation



- No Enforceable Federal Regulations
- Bipartisan Congressional PFAS Task Group
- Senate EPW Hearing May 22, 2019
- National Defense Authorization Act
  - House Bill
    - CERCLA Hazardous Substance Listing for All PFAS
    - Drinking Water MCL
    - Toxics Release Inventory (TRI) Reporting
  - Senate Bill
    - TRI Reporting
  - Conference for Compromise Bill
    - “Skinny” NDAA Introduced last week of October without PFAS provisions
- Separate Stand Alone Bills in the House
  - House Energy and Commerce Markup of 11 Bills -- November 19, 2019
- **2020 Elections Could Be Key for Future Legislation**

# Federal Regulatory Actions



- EPA proposal to list PFOS and PFOA as hazardous substances under CERCLA (October 2019)
- ELG Limits for PFAS (stormwater too)
- Drinking Water Standard Evaluation
  - Non-enforceable 70 ppt lifetime health advisory
- EPA has proposed a cleanup level of 70 ppt for groundwater that is used or has the potential to be used as drinking water – with a screening level of 40 ppt.
- Toxicity profiles on some PFAS compounds

# EPA Draft SW-846 Update, Method 8327 for PFAS

- Issued June 19, 2019
- NASF Comments August 16, 2019
  - EPA should withdraw and reconsider Method 8327
  - Difficulties with reproducibility – 6:2 FTS
  - Lower level of detection limits not low enough to demonstrate compliance with state standards
  - Filtering of samples not recommended due to adsorption of PFAS in filter
  - Use of external standard quantification does not allow correction for variation of samples
  - Procedure for quantification of branched isomers allows too much flexibility among different labs thereby impacting reproducibility
- Could Use Method 8327 for Screening Only



## Information on PFAS for finishers, government officials, the public and other interested stakeholders

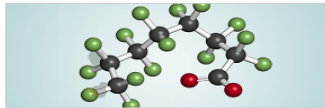


The National Association for Surface Finishing (NASF) represents the interests of businesses, technologists and professionals in the surface coatings industry.

NASF and its member companies have a long history of environmental stewardship. **We are the only industry in the U.S. to have requested a ban from the U.S. Environmental Protection Agency on the use of PFOS nearly ten years ago.**

Due to the association's efforts, the EPA banned the use of perfluorooctane sulfonate (PFOS) in our industry in 2012. NASF and its members have continued to work proactively with the U.S. EPA, the Michigan Department of the Environment, Great Lakes and Energy (MEGLE), and other stakeholders at the national and global levels, to find effective solutions to reduce and eliminate any residual PFOS in wastewater discharges from plating facilities.

As recent concerns of other PFAS in wastewater discharge have come to light, NASF has continued to engage stakeholders across the U.S. and worldwide to better understand and take appropriate steps to address the issues.



### What are PFAS?

What are per- and polyfluoroalkyl substances and their uses



### PFAS in Surface Finishing

Use as a fume suppressant and history of proactive environmental stewardship



### Replacement Chemicals

Safety of EPA-compliant replacement FTS 6:2



### NASF Actions and Priorities

Working with regulators and ongoing industry efforts



### News

NASF engages on PFAS issues



### Additional Resources

Where to find more information about PFAS

# QUESTIONS



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