



# Clean Water SoCal Regulatory & Legislative Updates

May 15, 2024

**SYNAGRO**

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## House of Representatives Legislative Initiatives

- Water Systems PFAS Liability Protection Act H.R. 1267
  - Bipartisan Sponsorship:
    - Rep. Marie Perez (D-WA)
    - Rep. Celeste Maloy (R-UT)
    - 12 Cosponsors
  - Addresses liability concerns:
    - **A contractor performing the management or disposal activities described in subsection (c) for an entity described in any of subparagraphs (A) through (D)**
- Other Legislation
  - Protect Our Clothes from PFAS Act H.R. 960
  - Department of Defense PFAS Discharge Prevention Act H.R. 1938
  - No Senate Legislation

# Federal Regulatory Update

- U.S. Environmental Protection Agency officials indicate that science must drive decisions (April 28 Memo)
  - Risk Assessment Model - Public comment period extended 120 days (August 14, 2025)
  - U.S. EPA Administrator states PFAS science unsettled
    - Revise USEPA strategy
    - Potential delay in compliance date to review underlying MCL science (AWWA)
  - U.S. EPA Administrator issues PFAS priorities
  - Assistant Administrator, Office of Water, pledged transparency
  - **Executive Orders and Memorandum for federal agencies to comply with Supreme Court Decisions on regulatory reach**
- Other factors influencing rulemaking decision making
  - 10 rules out for every new rule
  - Reductions In force/voluntary separations
  - Hiring freeze
  - Office of Management and Budget
  - Media



Creates broad liability and authorizes government cleanup actions for hazardous substances that have been released to the environment

- Primary purposes:
  - Promote timely cleanups,
  - Ensure that responsible parties pay
- Sweeping liability; limited defenses
- Cleanup triggered by site discovery or notification to EPA of a possible release of a hazardous substance, plus the practical need for a cleanup
- Can take upwards of 5-8 years between first step (preliminary assessment/site investigation) and actual implementation of cleanup, if cleanup occurs at all

- 5/8/2024: EPA publishes final rule designating PFOS and PFOA as hazardous substances pursuant to 42 U.S.C. § 9602(a):
  - *The Administrator shall promulgate and revise as may be appropriate, regulations designating as hazardous substances . . . substances which, when released into the environment, may present substantial danger to the public health or welfare or the environment . . .*
- Designation alone does not trigger cleanup
- EPA, other federal agencies, and private parties now have broad authority to clean up “releases” of PFOA and PFOS, to seek to compel others to do so, and recover corresponding costs
- Final rule requires entities to immediately report releases of PFOA and PFOS that meet or exceed the reportable quantity of one pound

## **Chamber of Commerce v. EPA**

- Challenges EPA's hazardous substance designation of PFOA and PFOS under the Administrative Procedure Act pending in the U.S. Court of Appeals for the D.C. Circuit
- Industry coalition of Plaintiffs include the National Waste & Recycling Association; amici include WEF, NACWA, American Farm Bureau
- Seeks vacatur of the final rule designating PFOA and PFOS as hazardous substances
- Key arguments:
  - EPA misinterprets the term “may present substantial danger” to contain no meaningful limits
  - EPA failed to properly consider costs
  - EPA's decision to designate PFOA and PFOS without assessing the widespread consequences was arbitrary and capricious
- EPA's second unopposed motion to continue the abeyance is currently pending

## Background

- Plaintiffs' allegations concern a routine land application in late 2022 – early 2023 near Grandview, TX
- Claim that PFAS somehow moved to Plaintiffs' land and caused impacts on property, livestock, and human health
- Class A EQ City of Fort Worth biosolids pellets

## Current Status

Nov. 18, 2024: Plaintiffs refiled in Texas following dismissal in Maryland

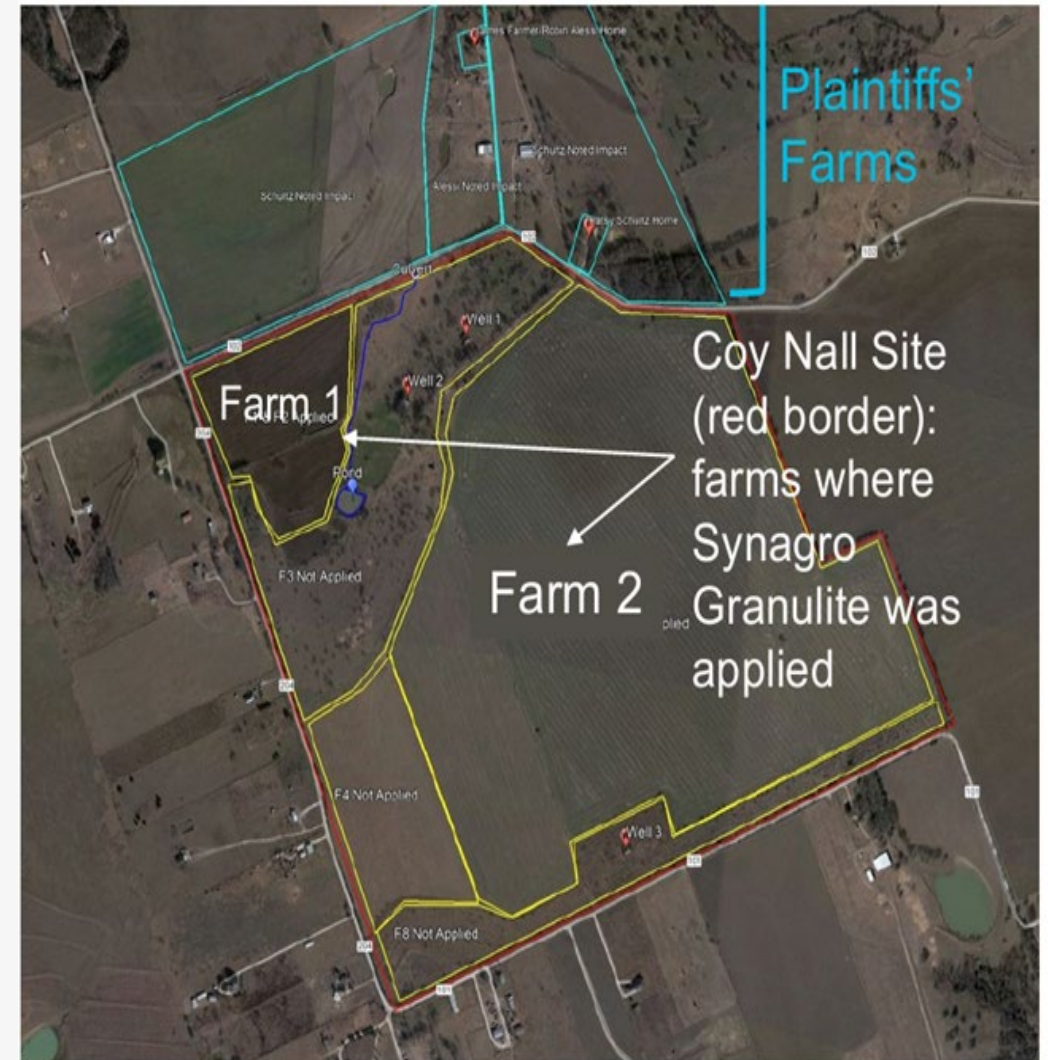
Jan. 23, 2025: Plaintiffs amended lawsuit to encompass property owners near land application sites in ten counties – class action

Feb. 21, 2025: Synagro removed to federal court

March 14, 2025: Synagro moves to dismiss under Texas Right to Farm Act

## Claims are Implausible

- Foremost: Little evidence of health or environmental risk from PFAS at typical low exposure levels
- PFAS in land applied biosolids move slowly to groundwater and in minute amounts
- Plant uptake and animal exposure to PFAS in biosolids are minute; little evidence that PFAS kills cattle
- Synagro recently released study results undermining claims; different PFAS on Pls' property and very low amounts on land applied fields





- *Public Employees for Environmental Responsibility v. U.S. EPA*, No. 24-01654
  - EPA and NACWA motions to dismiss pending
- Draft Sewage Sludge Risk Assessment for PFOA and PFOS
- Drinking Water Maximum Contaminant Level (MCL) for PFAS set at very low levels under the Safe Drinking Water Act
- *American Water Works Association, et al. v. U.S. EPA*, No. 24-1188

## Summary of Activity in 2025

- 35 Bills/Resolutions in 15 states addressing PFAS in wastewater or biosolids
- 2 Bills still active in Texas (HB 1674 & SB 1726)
- 3 Bills/Resolutions likely to become law
  - WA HB5033 - PFAS testing in biosolids
  - AZ SB1212 – Adds air pollution rules to “State Lands”
  - HI SCR103 – Request PFAS working group
- 12 States regulating or developing regulations for PFAS in biosolids
  - CO, MA, MD, MI, MN, NH, NY, PA, TN, WI, WA
- 3 States with current bans or effective bans
  - CT, MN, VT

## High Impact Legislation

- Bills that would have banned or effectively banned biosolids land application that have been defeated
  - Arizona HB2646
  - Maryland SB732/HB909
  - Mississippi SB2004
  - Oklahoma SB268/HB1726
  - Hawaii SB738
- Bills that continue to be advocated against that could result in a ban on biosolids land application
  - Oklahoma SB 3 – Currently held in House Agriculture Committee. 11 municipalities collectively lobbying against the bill
  - Texas HB1674/SB1726 – HB Author concedes that it is late in the session and will work on the bill next session.

### *Clear & concise messaging is needed*

- We provide an essential service to our community
  - We exist because there is a need for sustainable biosolids solutions
  - What if we didn't exist....
- We are passive receivers of PFAS
  - We don't add or want PFAS in our biosolids
  - It is important to address PFAS at the source
- We support regulation that is rooted in science
  - We are aligned with EPA's recent PFAS announcement
  - Regulation should protect passive receivers hold polluters responsible

We recycle nutrients, mitigate climate change & develop new technology

- We do a lot of good -