

Addressing PFAS Water Pollution

Chesapeake Bay Commission
Virginia Delegation Retreat
AUGUST 8, 2024



Carroll Courtenay
Staff Attorney

Removing the Obstacles

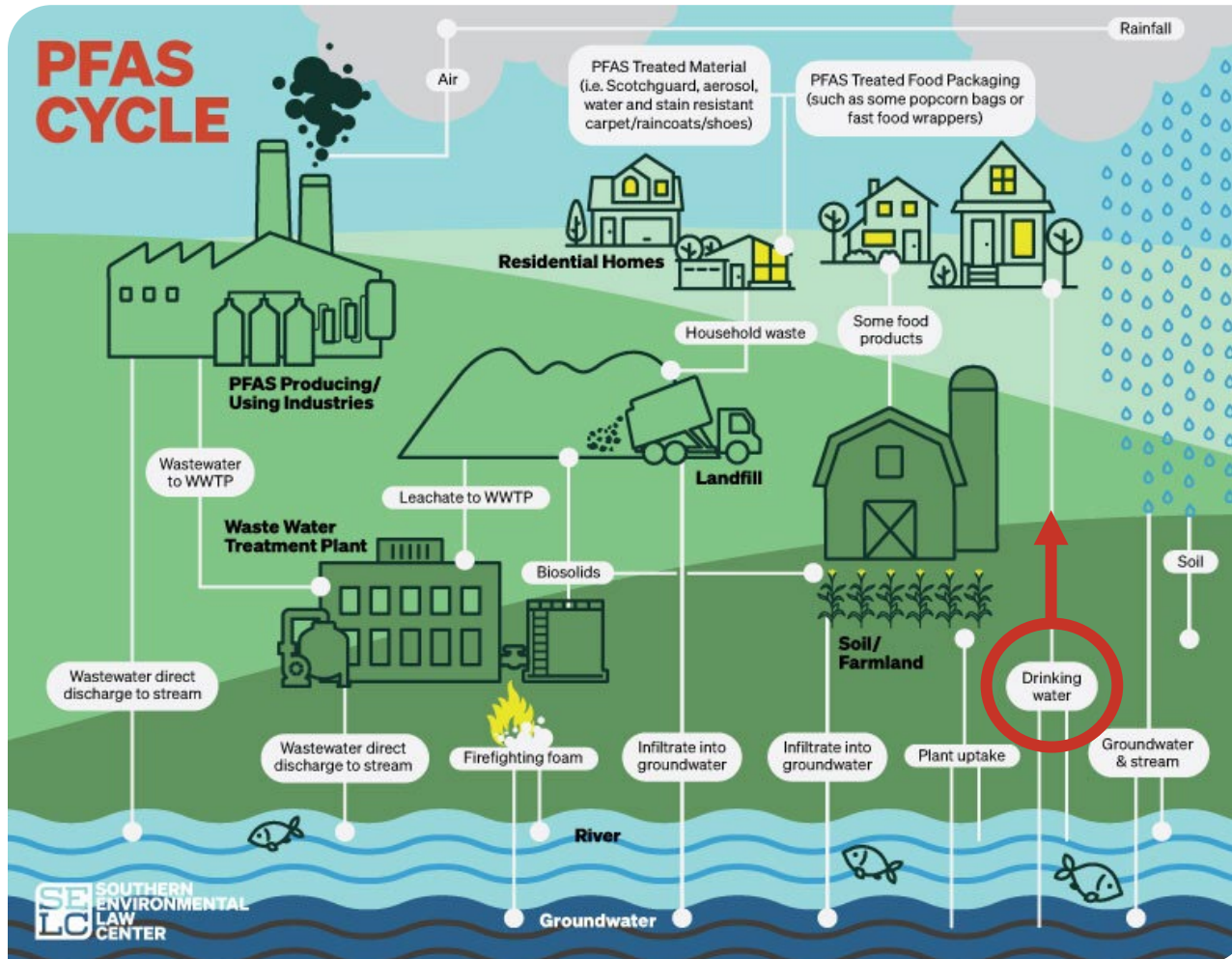
Support drinking water monitoring and installation of treatment technology

Ensure implementation of EPA guidance and recommendations

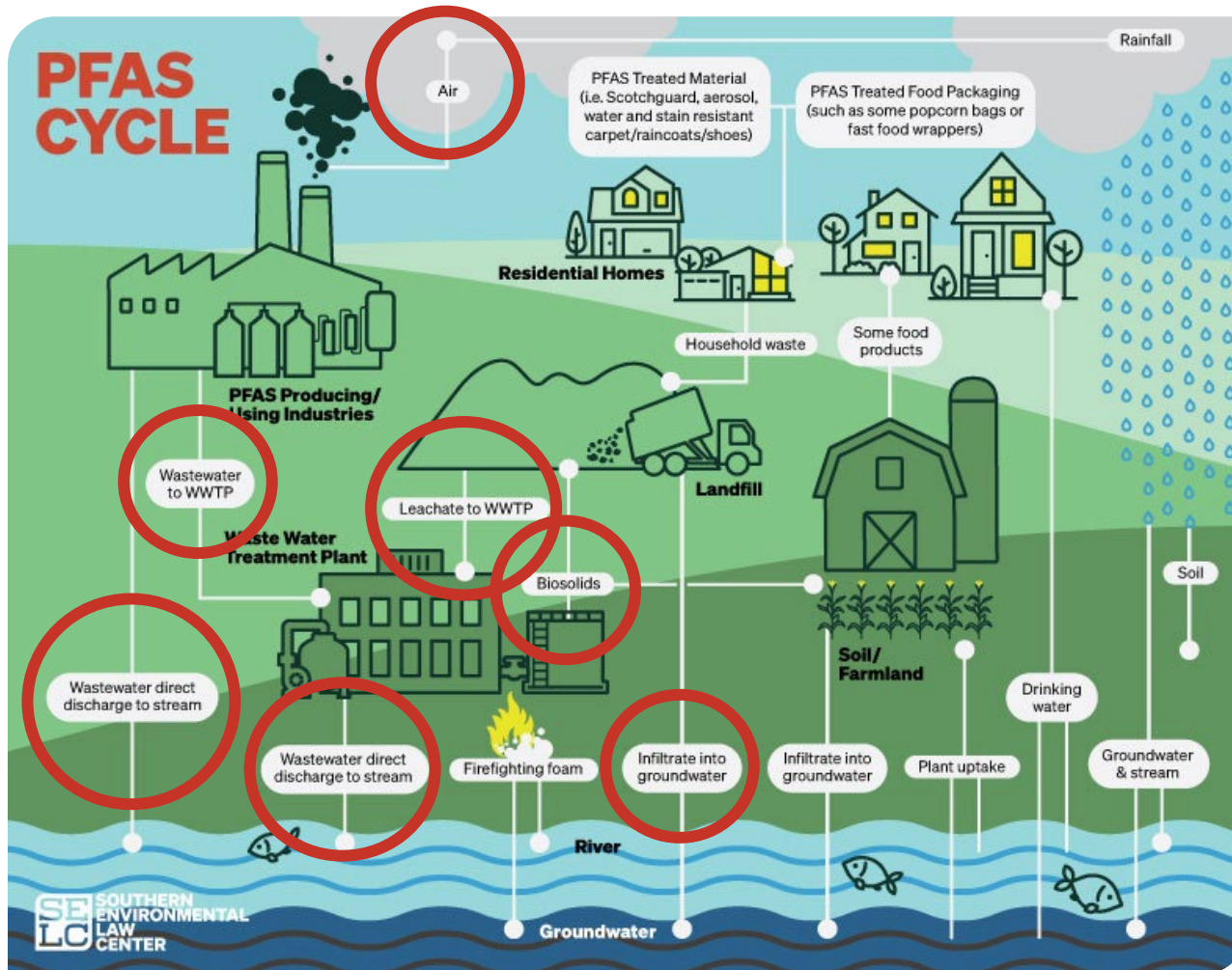
Provide funding to help DEQ enforce PFAS disclosure and develop more stringent permits

Increase PFAS testing capacity at laboratories in Virginia

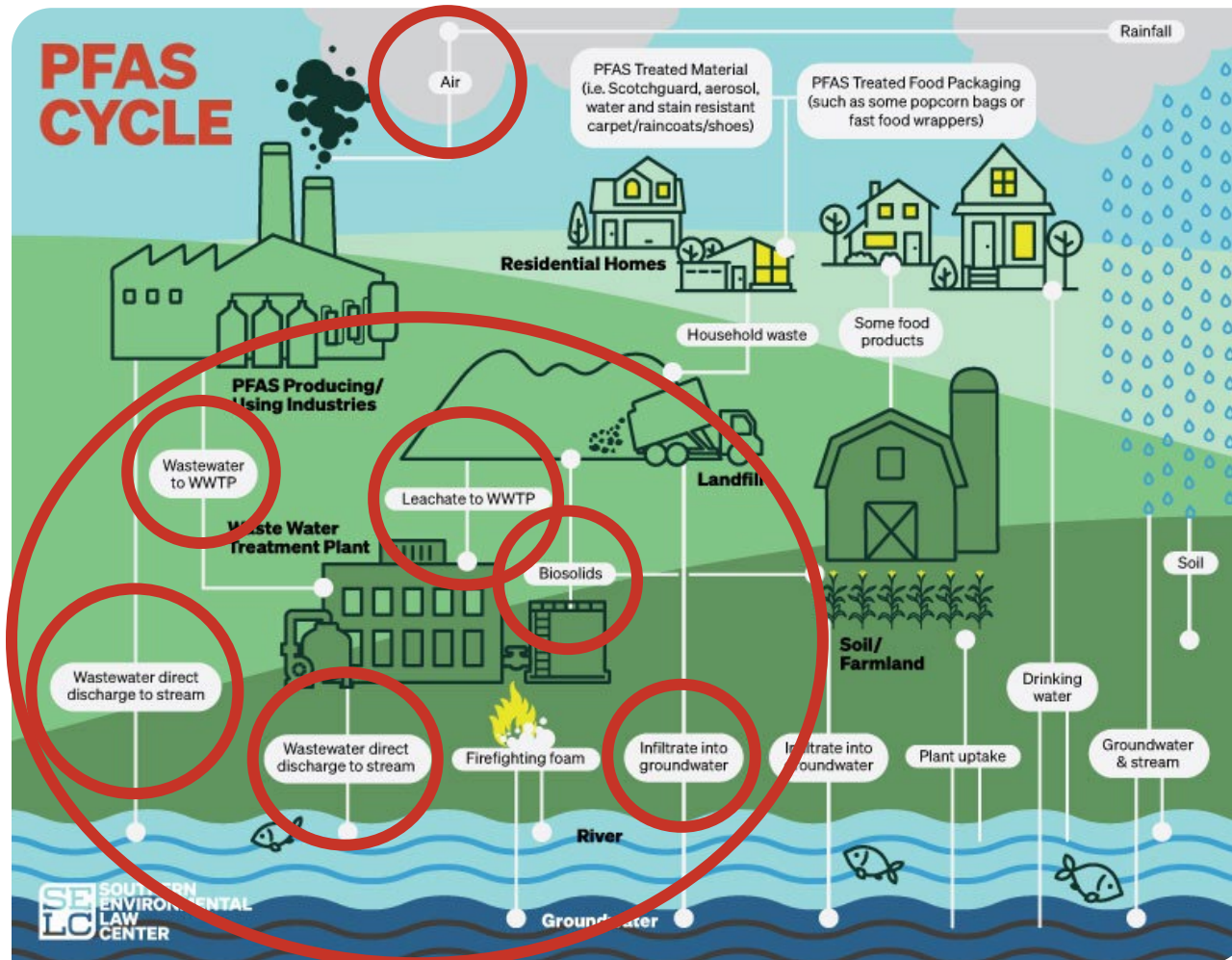
VDH's Realm



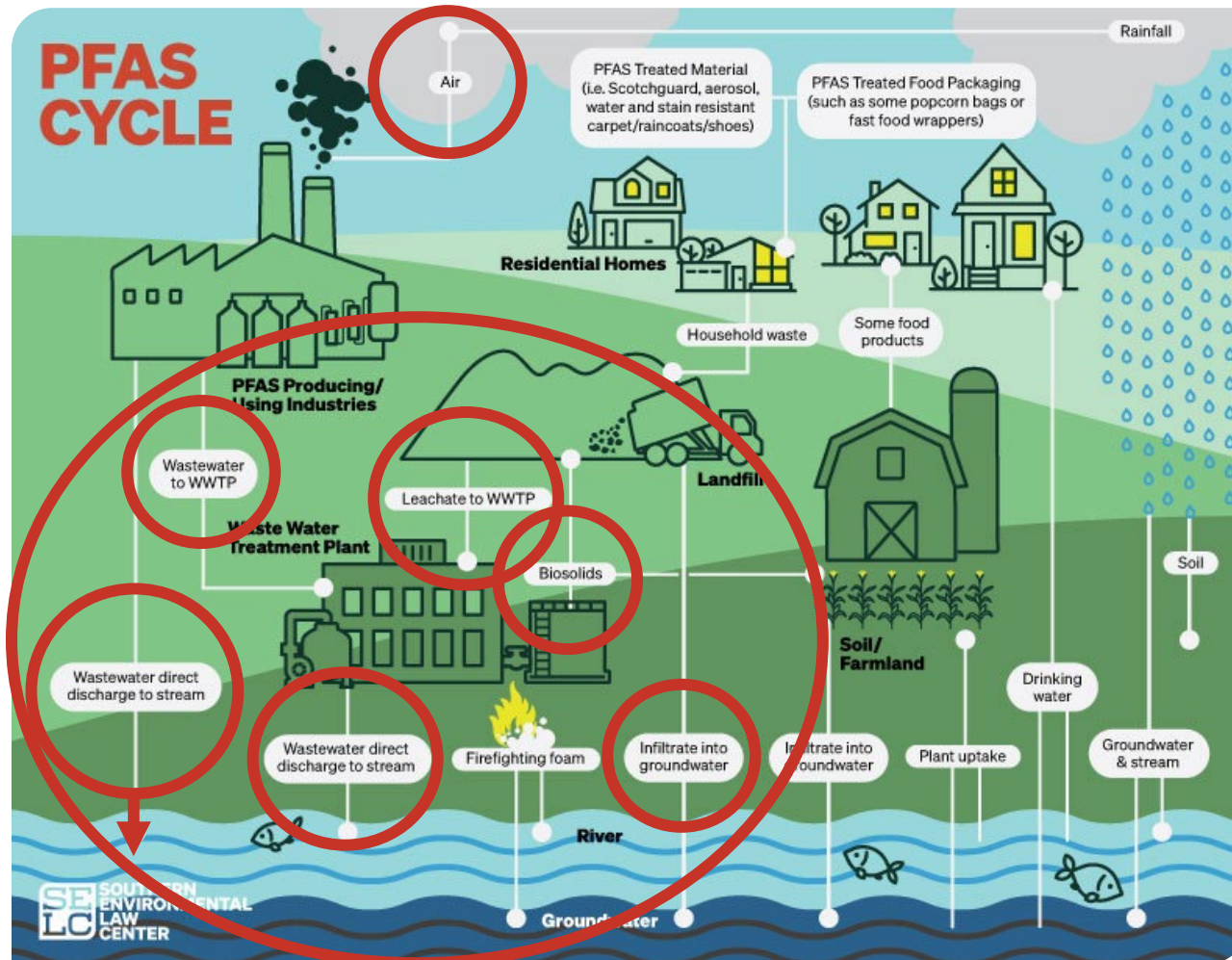
DEQ's Realm



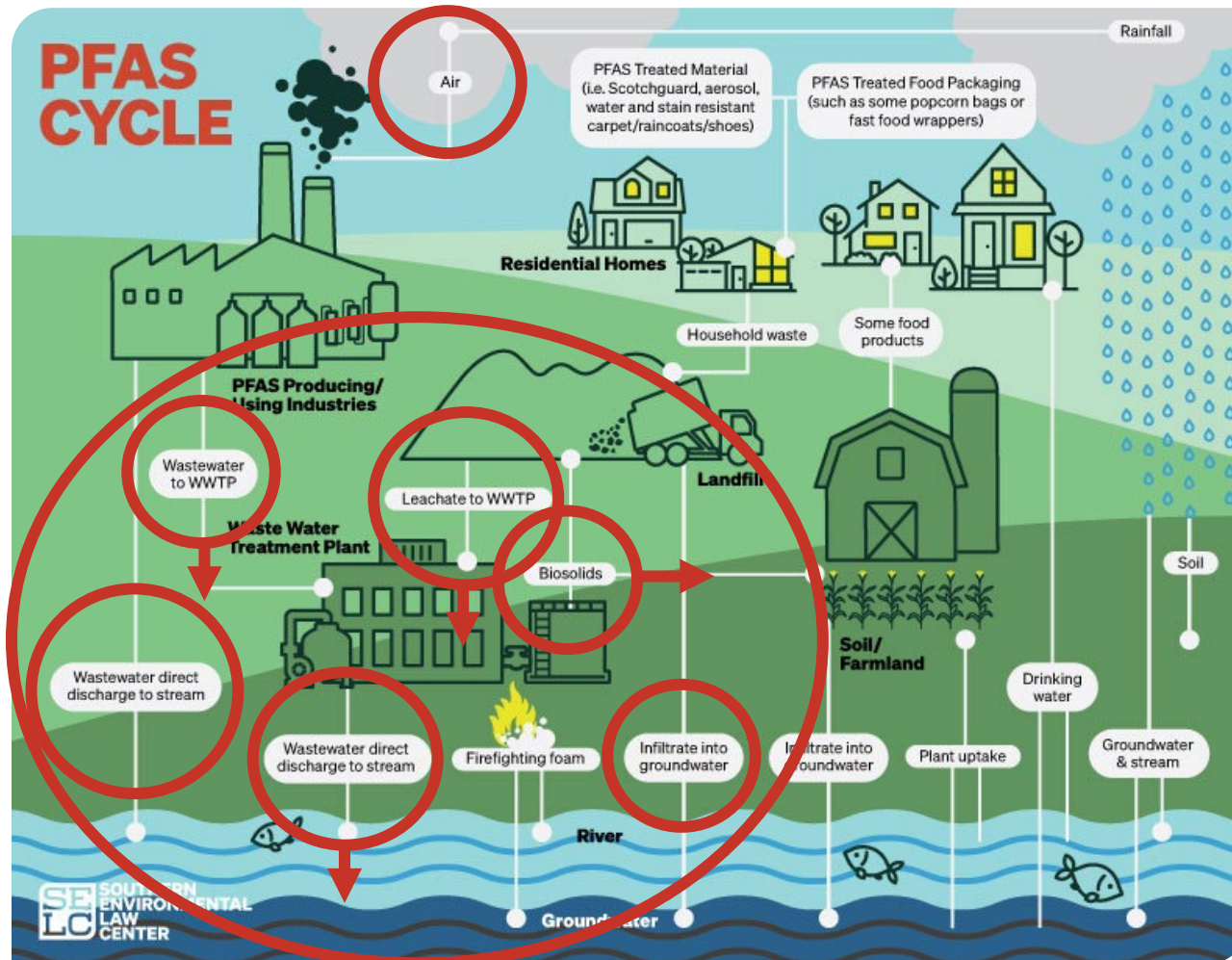
DEQ's Realm



DEQ's Realm



DEQ's Realm



Existing laws can prevent PFAS water pollution.

The Clean Water Act already prohibits direct discharges of pollutants without a permit.

PFAS in effluent fall squarely within the statutory definition of “pollutant.”



Addressing PFAS at the source is effective, efficient, and equitable.



Addressing PFAS at the source is effective, efficient, and equitable.

Chemours, Fayetteville, NC

- Process wastewater = $\sim 10,500,000$ ppt
- Process wastewater flow = 0.028 MGD
- Total discharge = 23 MGD

POTW, Burlington, NC

- POTW wastewater = over 33,000 ppt
- Suspected PFAS source flow = 0.4 MGD
- Total POTW design flow = 12 MGD

Obstacles to Effective Prevention of PFAS Water Pollution

Lack of disclosure during permitting process

Resistance to evaluating widely available treatment technology

Failure to implement EPA guidance and recommendations

Disclosure

“Part of the permit applicant’s burden ... is to disclose all relevant information, such as the presence of known constituents in a discharge that pose a potential risk to human health.”

- *State of North Carolina v. The Chemours Company*, Amended
Complaint at 6 (Apr. 6, 2018)

“To the extent that a permit holder discharges a pollutant that it did not disclose, it violates that NPDES permit and the Clean Water Act.”

- *Piney Run Pres Ass’n v. Cnty. Comm’rs of Carroll Cnty., MD*, 268
F.3d 255, 268 (4th Cir. 2001)

EPA-Approved Methods for Analyzing PFAS

Method 1633 for 40 PFAS compounds in 8 media

1. Wastewater
2. Surface water
3. Groundwater
4. Soil
5. Biosolids
6. Sediment
7. Landfill leachate
8. Fish tissue

Method 1621 for Adsorbable Organic Fluorine

Technology-Based Effluent Limits

“Technology-based treatment requirements ..represent the minimum level of control that must be imposed under section 402 of the Act.”

-40 C.F.R. § 125.3



EPA Guidance and Recommendations



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

December 5, 2022

MEMORANDUM

SUBJECT: Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs

FROM: Radhika Fox
Assistant Administrator

A handwritten signature in black ink, appearing to be "Radhika Fox".

TO: EPA Regional Water Division Directors, Regions 1-10

The National Pollutant Discharge Elimination System (NPDES) program is an important tool established by the Clean Water Act (CWA) to help address water pollution by regulating point sources that discharge pollutants to waters of the United States. Collectively, the U.S. Environmental Protection Agency (EPA) and states issue thousands of permits annually, establishing important monitoring and pollution reduction requirements for Publicly Owned Treatment Works (POTWs), industrial facilities, and stormwater discharges nationwide. The NPDES program interfaces with many pathways by which per- and polyfluoroalkyl substances (PFAS) travel and are released into the environment, and ultimately impact water quality and the health of people and ecosystems. Consistent with the Agency's commitments in the October 2021 [PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024 \(PFAS Strategic Roadmap\)](#), EPA will work in cooperation with our state-authorized permitting authorities to leverage the NPDES program to restrict the discharge of PFAS at their sources. In addition to reducing PFAS discharges, this program will enable EPA and the states to obtain comprehensive information on the sources and quantities of PFAS discharges, which can be used to inform appropriate next steps to limit the discharges of PFAS.

This memorandum provides EPA's guidance to states and updates the April 28, 2022 guidance¹ to EPA Regions for addressing PFAS discharges when they are authorized to administer the NPDES permitting program and/or pretreatment program. These recommendations reflect the Agency's commitments in the PFAS Strategic Roadmap, which directs the Office of Water to leverage NPDES permits to reduce PFAS discharges to waterways "at the source and obtain more comprehensive information through monitoring on the sources of PFAS and quantity of PFAS discharged by these sources." While the Office of Water works to revise Effluent Limitation Guidelines (ELGs) and develop water quality criteria to support technology-based and water quality-based effluent limits for PFAS in NPDES permits, this memorandum describes steps permit writers can implement under existing authorities to reduce the discharge of PFAS.

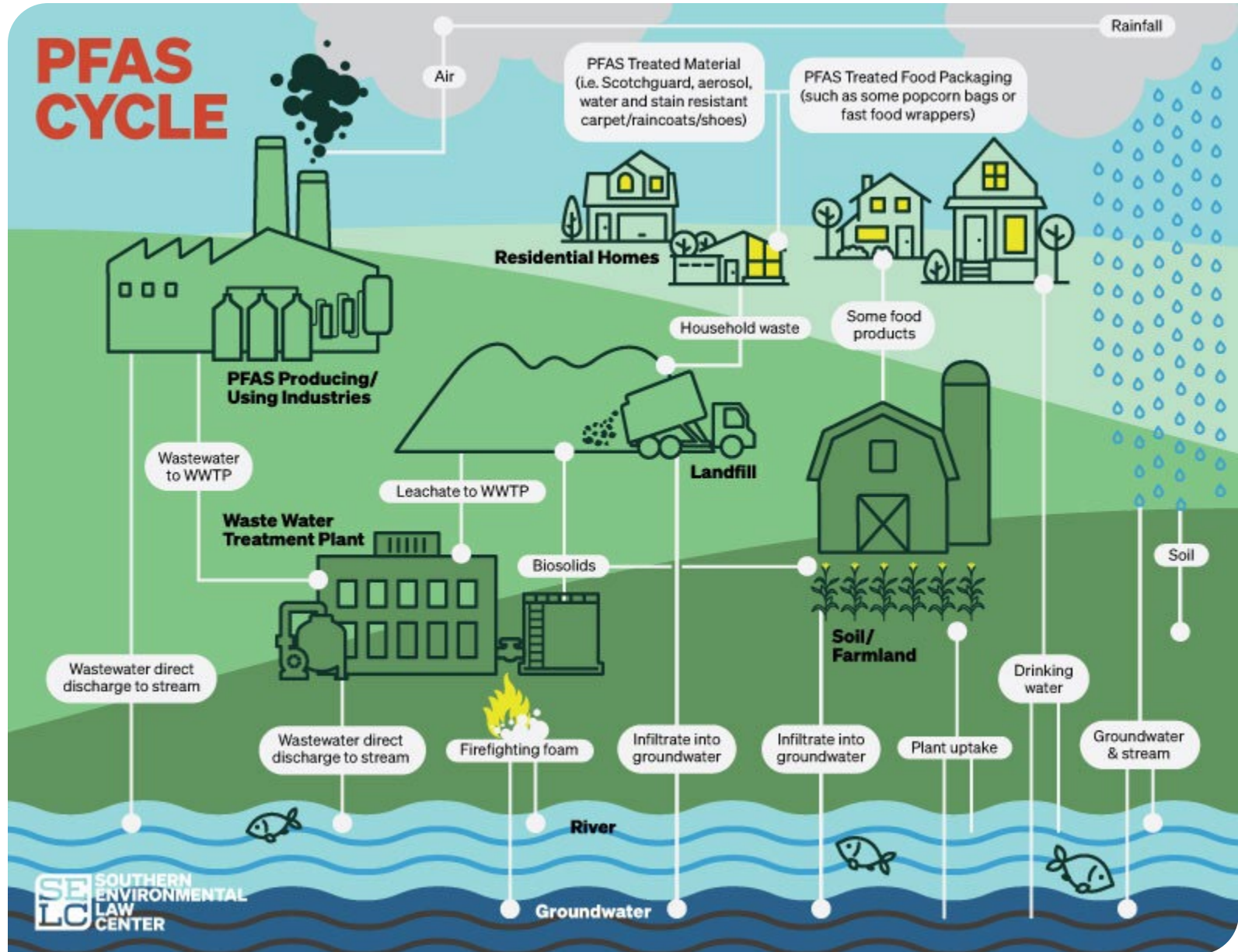
¹ Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority, https://www.epa.gov/system/files/documents/2022-04/npdes_pf-as-memo.pdf.

Guidance for:

- Industrial direct dischargers
- Treatment works
- Biosolids assessment
- Public notice

Specific recommendations for some draft VPDES permits

PFAS CYCLE



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