



# ENVIRONMENTAL RISK & PFAS LITIGATION CONFERENCE

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Microplastics 2.0: The Looming Challenges, Pitfalls, and Uncertainties  
Facing the Regulated Community, and Beyond



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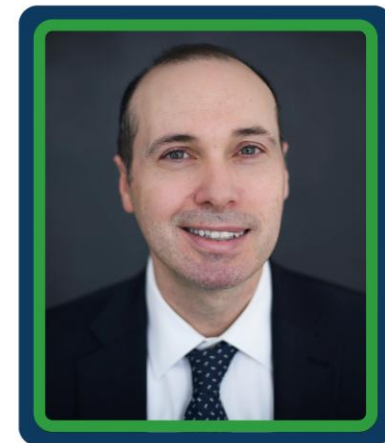
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# Microplastics 2.0:

## The Looming Challenges, Pitfalls, and Uncertainties Facing the Regulated Community, and Beyond

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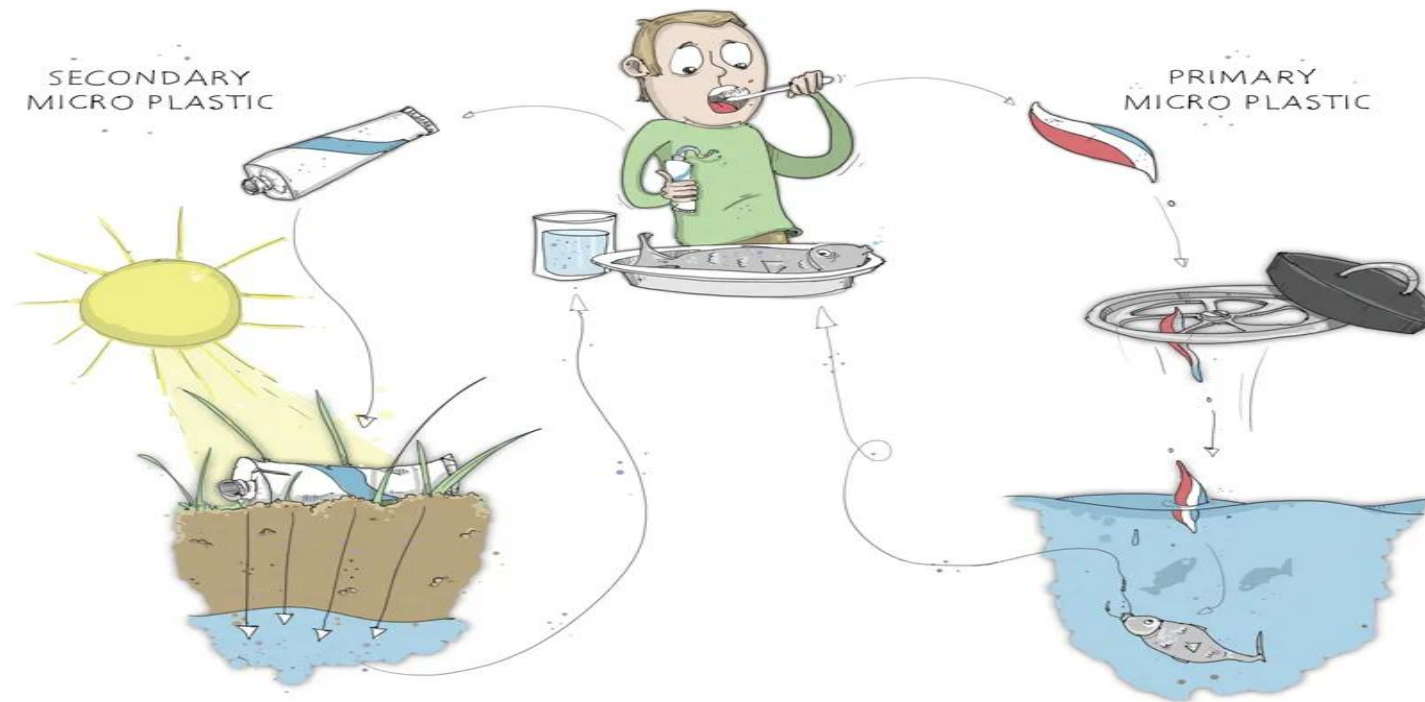


# -Microplastics- A Brief Background

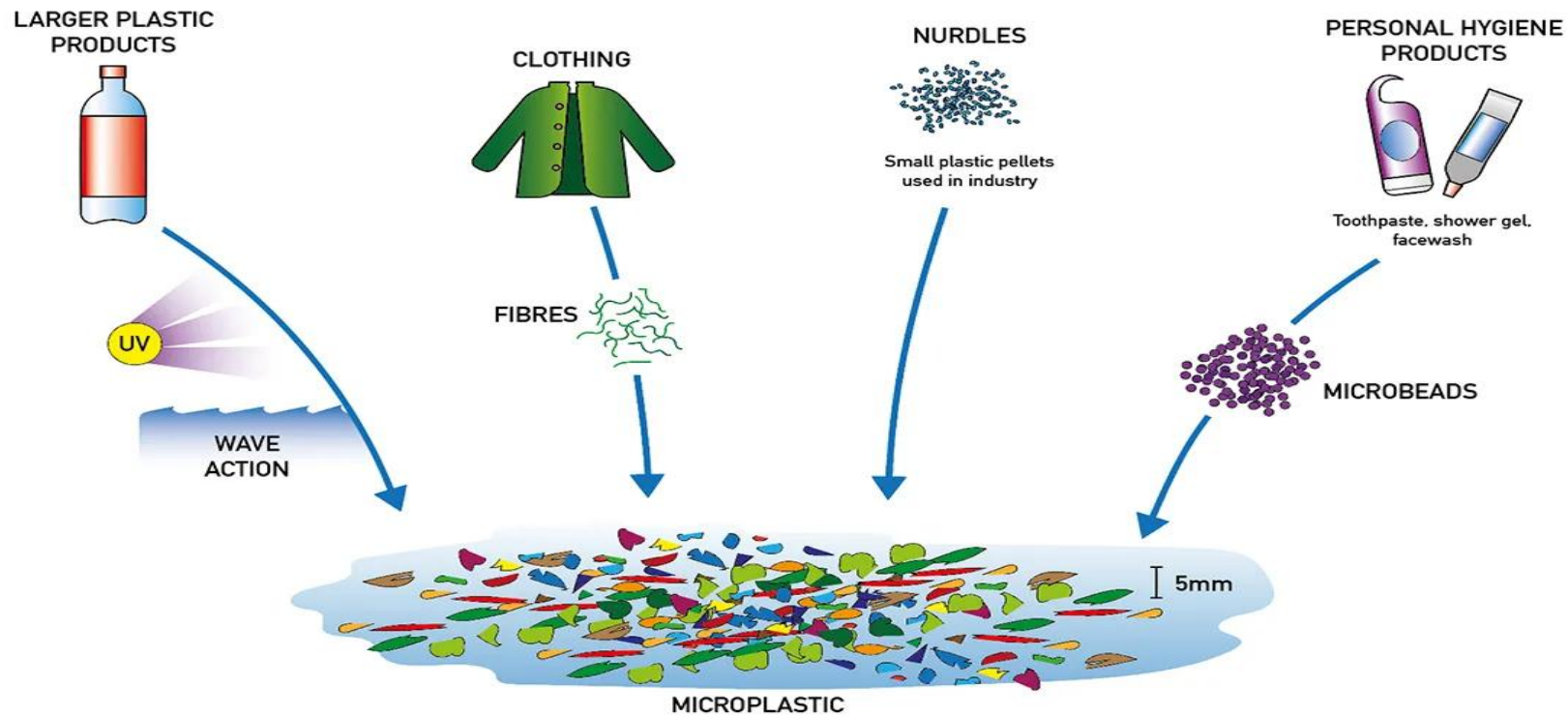




# Potential Triple Threat – Environmental, Toxic Tort, and Consumer Claims

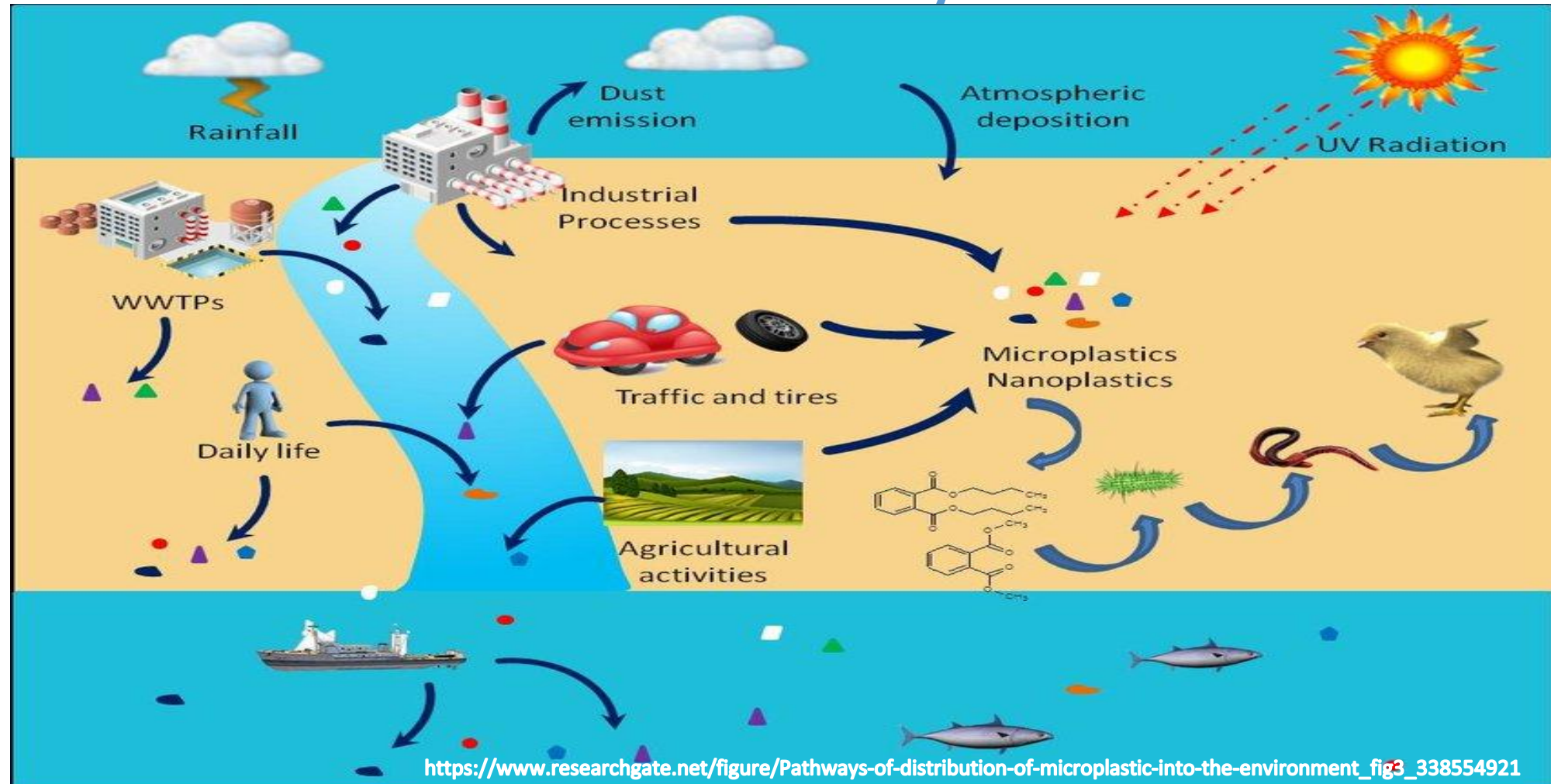


# Sources

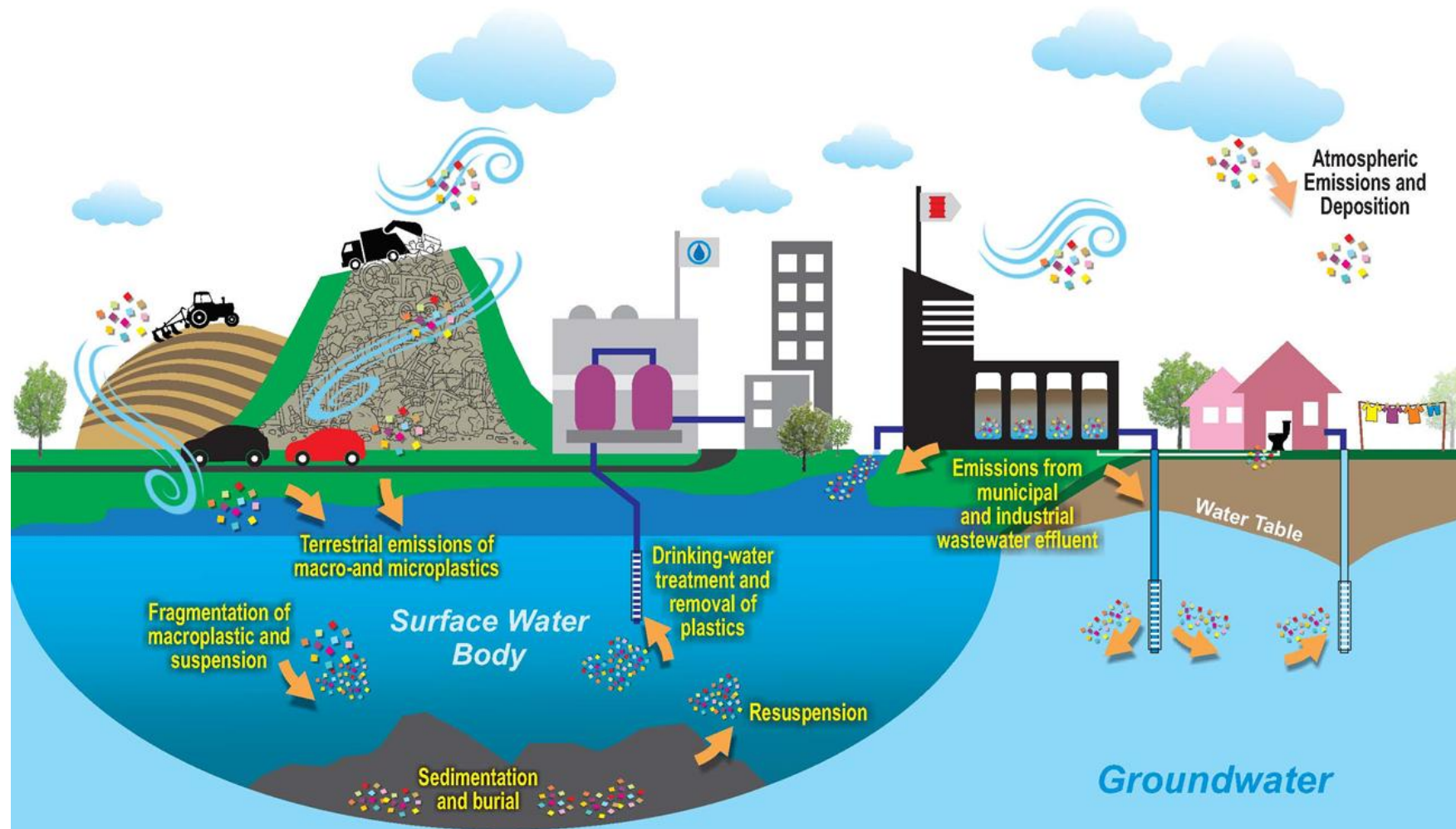


<https://encounteredu.com/multimedia/images/sources-of-microplastics>

# Pathways



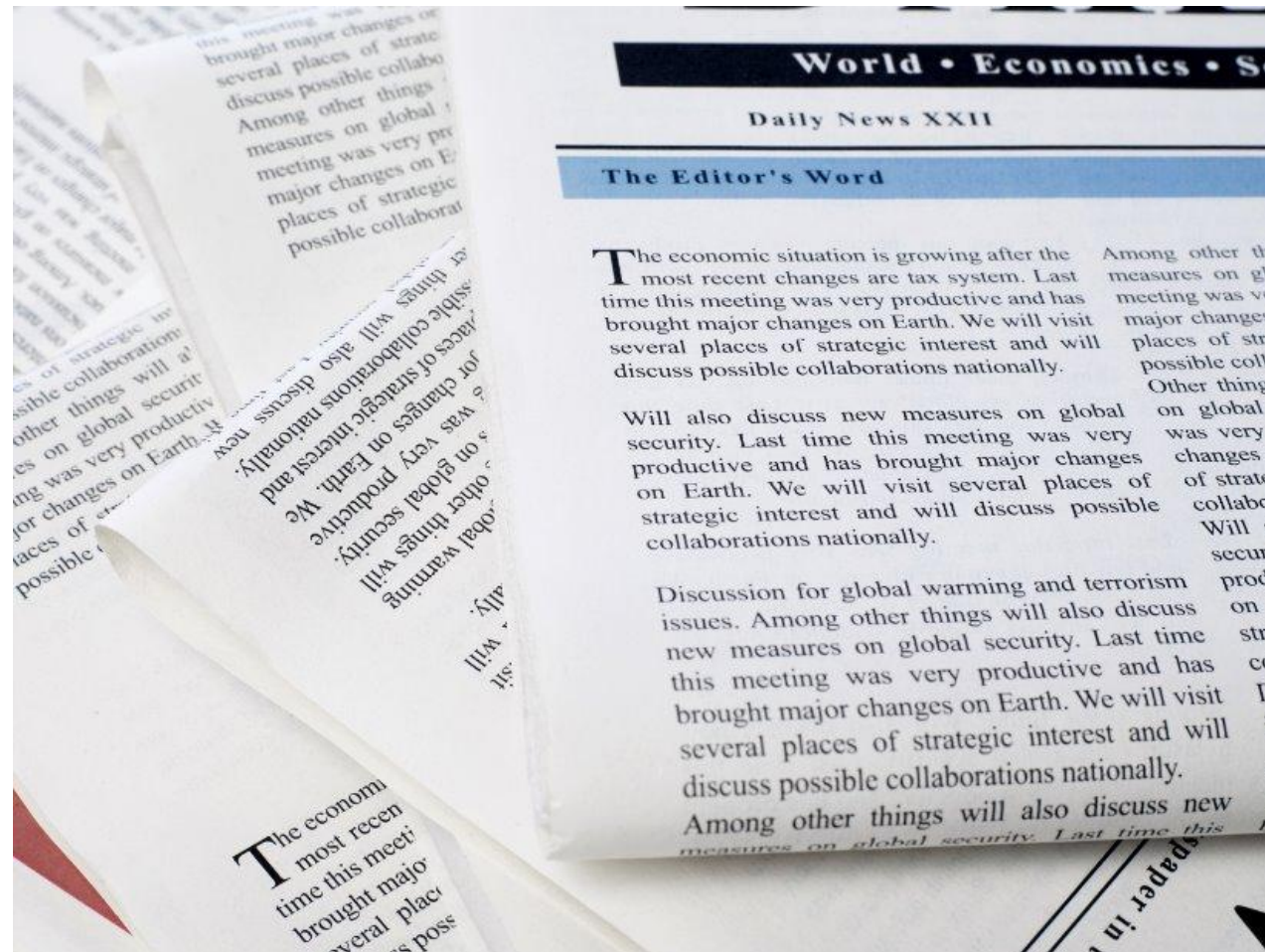
# Lifecycle







# In the News (2025)





# Federal Overview – Legislation And Studies



## Microbead-Free Waters Act (2015)

- FFD&C prohibits rinse off cosmetics re: added microbeads

## Save Our Seas 2.0 ACT (2020)

- Domestic efforts to address marine debris including infrastructure
- International coordination

## Agency Efforts

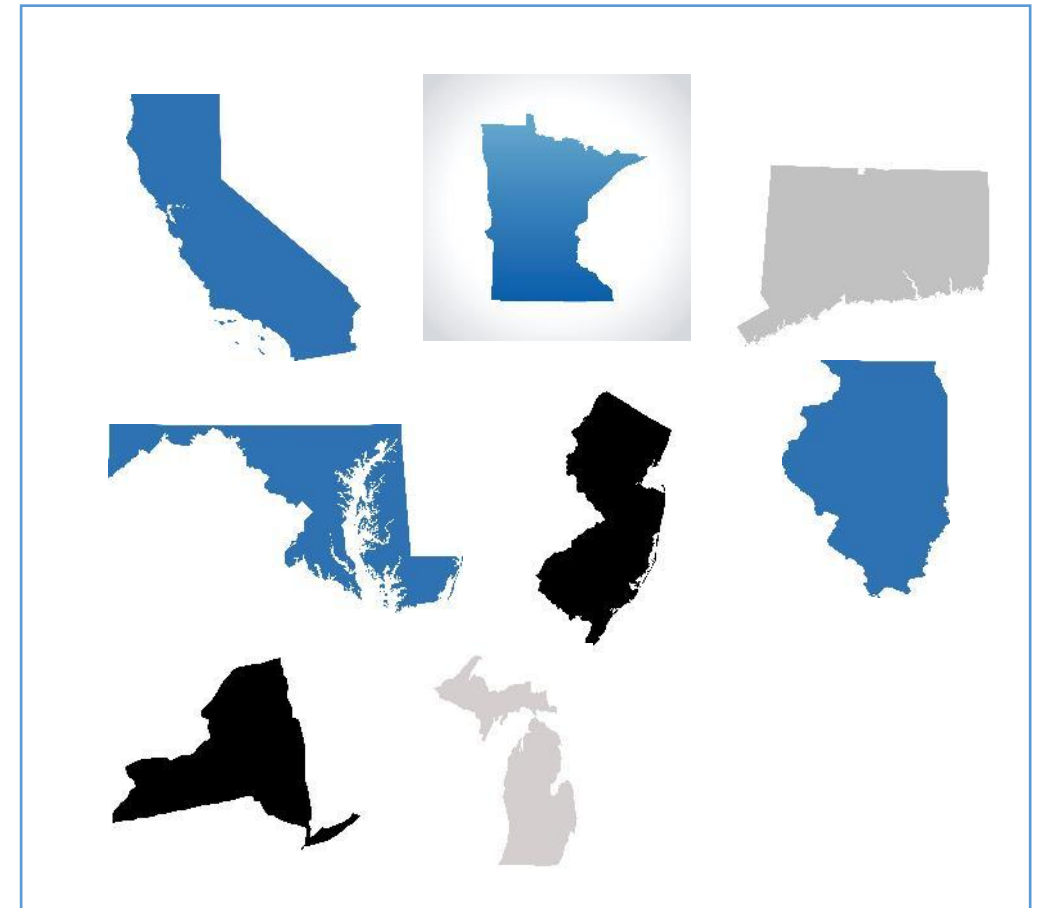
- EPA, CDC, ASDR, FDA

# State Laws and Regulations: Direct and Indirect Efforts



## States - Direct and Indirect Efforts

- More than half of states started legislative process to study or address plastics in the environment either directly or indirectly
- Issues focused on
  - Drinking water studies and recommendations
  - Recycling
  - Extended producer responsibility (EPR)
  - Microbead bans
  - Plastic bags (single use)
  - Textiles
  - Washing machines



# Microplastics Litigation





# Environmental Litigation: Overview



- *Center for Biological Diversity v. U.S. EPA*, Docket No. 1:20-cv-0056 (D. Hawaii)
- *Coalition Project Puget Sounds v. Taylor Shelfish Co.* (9<sup>th</sup> Cir. 2021)
- *Center for Biological Diversity v. U.S. Army Corps of Engineers*, Docket No. 1:20-cv-00103
- *San Antonio Bay Estuary Waterkeeper v. Formoco Plastics Corp.*, Civil Action No. 6:17-cv-0047 (S.D. Texas)
- *Waterkeeper v. Frontier Logistics*, 488 F. Supp.3d 240
- *Mayor and City Council of Baltimore v. Pepsico, Inc.*, No. C-24-CV-240 001003
- *Sierra Club, Inc. v. Exxon Mobil Corp.*, No. 3:24-cv-07288 (N.D. CA)

# Recommended Proactive Mitigation Measures



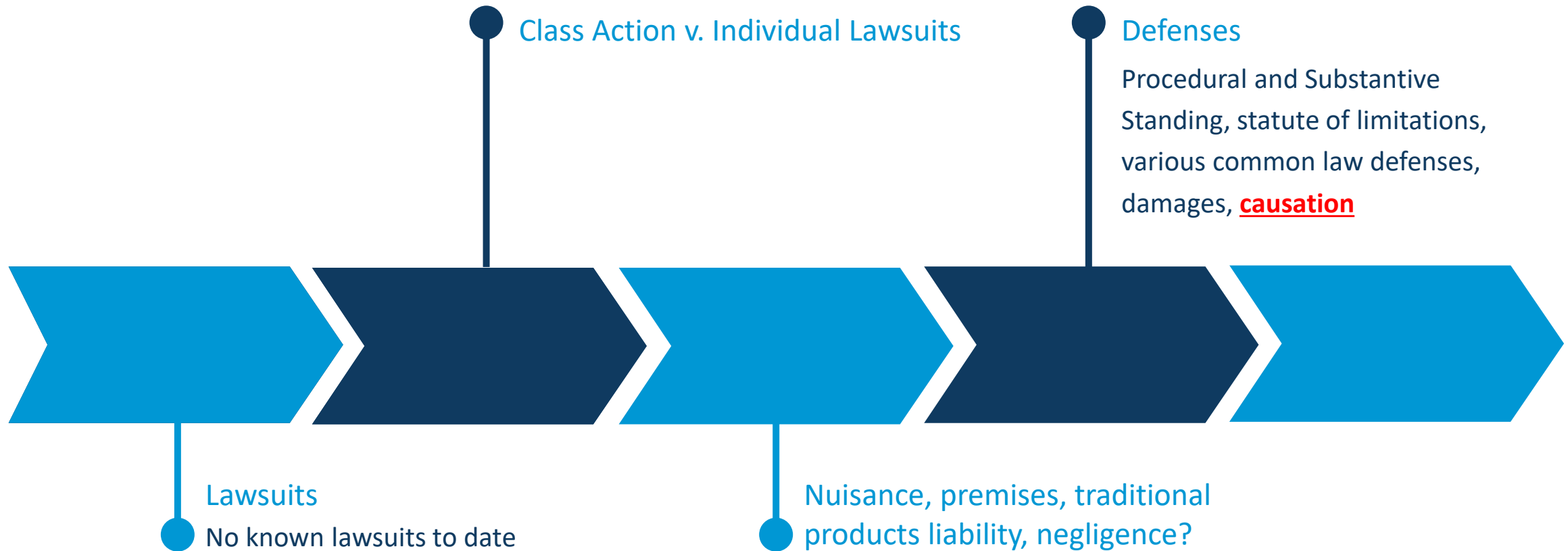
# Litigation: Consumer Class Action Claims



- Consumer class actions
  - Jurisdictions - NY, IL, CA, NJ, MO
  - Defendant types (bottled spring water, containers/bottles, textiles, plastics manufacturers)
  - Primary theories (antitrust, consumer protection laws)
  - Primary defenses (standing, no injury, preemption, no class certification, statute of limitations)



# Toxic Tort: Issues, Questions and Obstacles



# MP: Sampling and Analysis



## Sampling

- Academic-driven
- ITRC Guidance document
- ASTM method
- CA – sampling protocols for drinking water
- QA/QC issues (plastics are everywhere)
- Volume and method can affect results

## Analysis

- SOPs/lab accreditation only for drinking water
- Particle count vs polymer identification
- Common analytical methods
  - Raman and FTIR (spectroscopy)
  - Microscopy
- QA/QC issues (plastics are everywhere)
- Detection limit/size range
  - Raman: 1-20  $\mu\text{m}$
  - FTIR: 20  $\mu\text{m}$

## Data

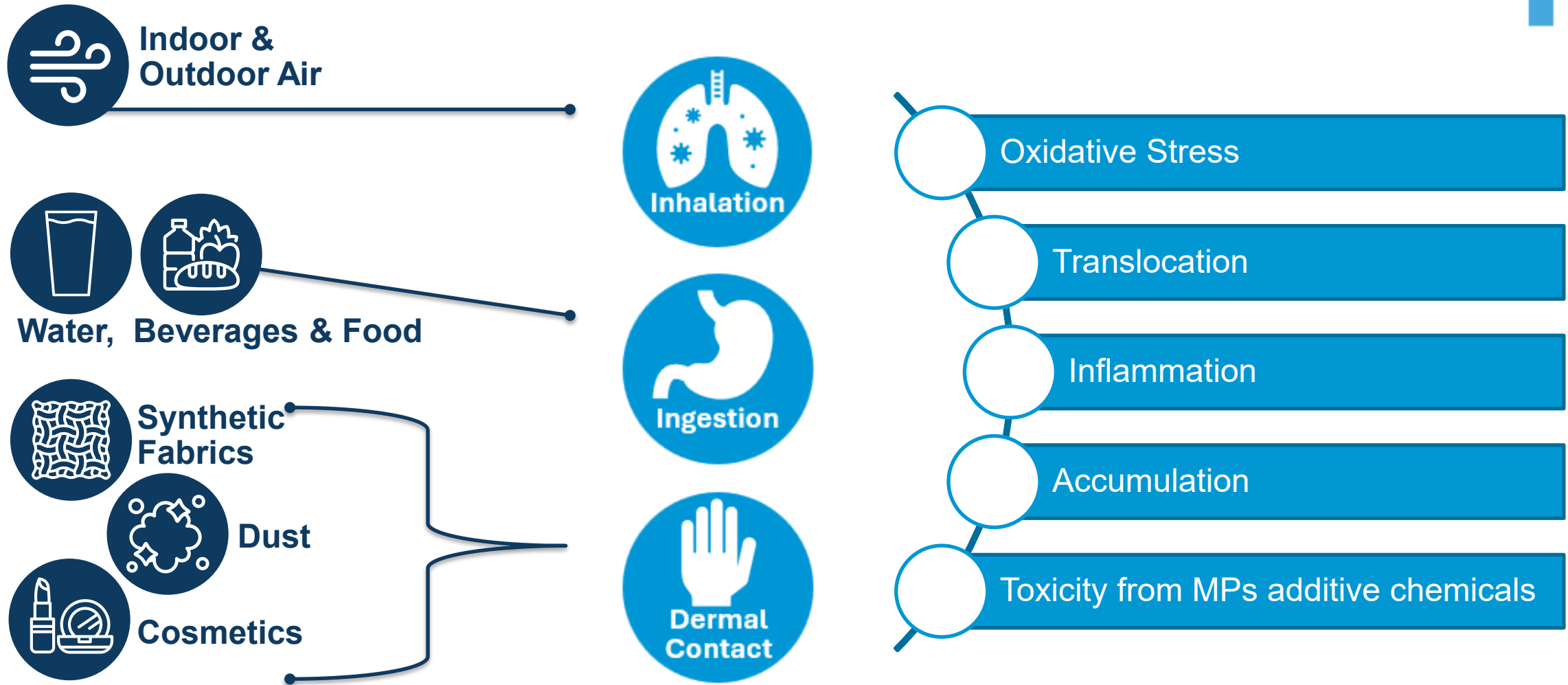
It's a mess!

Inconsistent units

- Particle count
- Mass

Morphology and mass require different methods

# Human Health





# Microplastics and Insurance Coverage Considerations



# Microplastics as an Emerging Insurance Risk



- Environmental contamination (water, soil, air) *as well as* products that we consume and use on a daily basis
- Health risks and bioaccumulation
- Industries at risk: manufacturing, construction, waste management
- Challenges for Insurers

# Types of Potential Insurance Claims Involving Microplastics



- Types of insurance claims:
  - Bodily injury
  - Property damage
  - Public Nuisance
  - Regulatory cleanup
  - Financial loss (business interruption, product recall)
  - Professional Liability



# In Conclusion

## Be prepared!

- ✓ Stay abreast of regulatory and legal developments
- ✓ More environmental claims
- ✓ More research into toxicological and epidemiological issues
- ✓ Assess potential sources
- ✓ Challenge causative links
- ✓ Scrutiny by regulators & activists
- ✓ Increased detection in environment
- ✓ Science and standards constantly evolving