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MLG Quick Hitter — AI Governance & PFAS Tracking

Presenters: Kathryn Rattigan and Megan Baroni

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Of Note

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Preliminary Considerations

- This platform should not be used for activities prohibited by antitrust law.
- Avoid discussions leading to a restriction, or coordination, of competition between or among attendees.
- Attendees should not share information, have discussions, and/or make arrangements on, among other things, pricing, market conduct, terms of sale, individual manufacturing costs and costs of sale, output, or supplier or customer relations/allocation.

Agenda

1. Building an AI Governance Program for Manufacturers
2. PFAS Update
    - Regulatory, Transactional, and Litigation Developments
3. Questions/Open Discussion

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Building an AI Governance Program for Manufacturers

Kathryn Rattigan

AI in Manufacturing: Opportunities & Risks

AI is revolutionizing the manufacturing industry

- Maintenance
- Robotics
- Process optimization

Potential risks

- Data privacy concerns
- AI biases and hallucinations
- System failures

What is AI Governance?

"The framework and processes for managing AI's lifecycle, ensuring ethical, legal, and effective use of AI technologies, and promoting transparency, accountability, and fairness."

Key Principles of AI Governance

- Ethical Use: Ensuring AI is used responsibly, avoiding harm, and promoting fairness.
- Transparency: Clear documentation and explainability of AI models and decisions.
- Accountability: Clear ownership of AI-related decisions and outcomes.
- Security: Safeguarding against AI-driven risks, such as cybersecurity threats or system manipulation.
- Compliance: Adhering to relevant regulations and standards

The Need for AI Governance in Manufacturing

- Efficiency & Safety: improving operational efficiency, safety, and supply chain management.
- Mitigating Risks: address biases in AI models, AI-driven system failures, and ensuring data privacy.
- Regulatory Compliance: meeting legal requirements in data handling, automation, and workplace safety.
- Reputation & Trust: building trust among customers, employees, and stakeholders by demonstrating responsible AI use.

AI Risks in Manufacturing

Case Study 1: A manufacturing facility using AI for predictive maintenance encounters issues with biased data causing inaccurate predictions and operational disruptions.

Case Study 2: AI-driven robotic systems malfunctioning due to poor governance, leading to safety incidents.

Stakeholder Roles and Collaboration: Building a Team to for AI Governance

Executive Leadership: Board members and top executives should lead the AI governance strategy and provide resources.

Data Scientists and Engineers: Responsible for creating and monitoring AI models and ensuring compliance with governance frameworks.

Legal and Compliance Teams: Ensuring adherence to laws and regulations, and mitigating risks related to privacy, intellectual property, and liability.

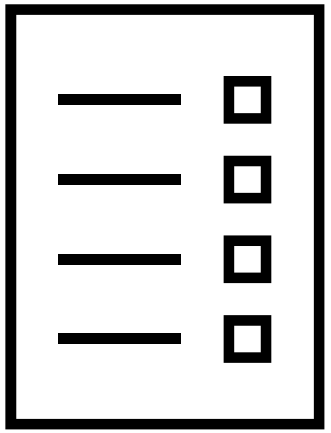
IT and Security Teams: Focusing on cybersecurity, protecting data integrity, and ensuring AI systems are secure and resilient to external threats.

Creating an Effective AI Governance Program

- Develop and clearly define policies for the ***entire*** organization related to the use and implementation of AI
  - The policies should consider safety and ethical concerns for implementing AI
  - The policy should make various stakeholders accountable and include ways to enforce the policy
- Decide where/when/who for AI usage within the organization
- Clearly document the chosen policies and make the policy available to relevant organizational stakeholders

Elements of AI Governance Program

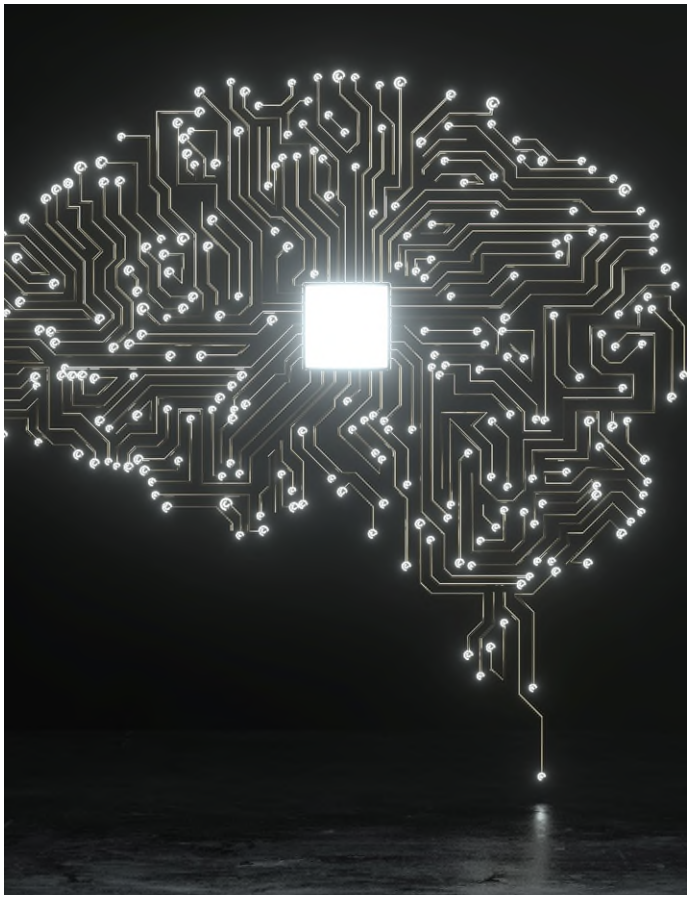
- Mapping of AI Use
- Guiding Principles, Policies, and Procedures
- Code of Conduct
- Creation of a Cross-Functional Governance Committee
- Risk Assessments and Vendor Management
- Training
- Incident Response



Mapping of AI Use

- Determine which kinds of models, algorithms, big data systems, and AI applications will be covered by the AI governance program, what tools are not covered, and an explanation of why
- Document details about each AI application that is governed by the program, which may include:
    - its purpose;
    - the problem it is intended to solve;
    - the inputs and outputs;
    - the training set;
    - the anticipated benefits to the company and its customers;
    - potential risks, e.g., who may be harmed, the risk rating, etc.;
    - any necessary safeguards;
    - whether the model involves automated decision-making; and
    - who is responsible for the application.

Guiding Principles, Policies, and Procedures



- Preparation of guiding principles, policies, and procedures for **design** (as applicable), **development** (as applicable), and **use** of AI
- These may include commitments to accountability, fairness, privacy, reliability, and transparency

Code of Conduct

- An employee-facing code of conduct to operationalize the principles, policies and procedures (this may be updates to the employee handbook and/or an Acceptable Use of Gen AI Policy –or add provisions to existing AUP of technology)
- Provide clear expectations and objectives
    - Articulate acceptable and unacceptable uses
    - Describe methods for reporting improper uses
    - Communicate consequences for non-compliance
- Require continued training to use AI tools
- Establish principles related to the fair and ethical use of AI
- Require compliance with privacy and security procedures

Creation of a Cross-Functional Governance Committee

- Establish a cross-functional committee that oversees the program or other means for establishing overall accountability, including vetting new high-risk uses and identifying mitigations that will allow for their continued use;
- Overseeing policies, procedures, and guidelines for responsible AI use;
- Reporting to senior management or the board; and
- Managing incidents and business continuity risks related to AI applications.

Risk Assessments

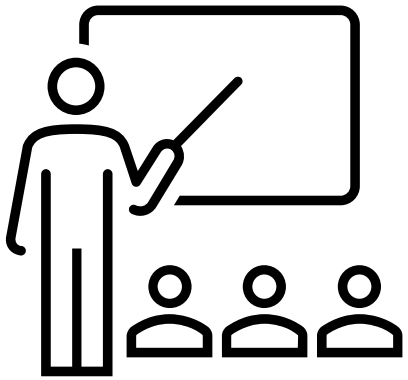
- Before approving the use of an AI platform:
  - Conduct assessment of the risk factors and classify AI applications as a low risk, a high risk, or an unacceptable risk;
  - Identify the likelihood of harm;
  - Document the analysis include the risks identified, potential steps to mitigate the risk, and whether this mitigation would make the AI platform acceptable for the organization to use
- Risk assessments should be conducted periodically while the organization continues to implement the AI platform
  - Continue to evaluate new risks and new mitigation methods to continue to determine whether the use of the AI platform is appropriate

Vendor Management

- Review vendor policies to ensure that AI applications that are provided by third parties have been subjected to appropriate diligence and contractual provisions
    - Check AI governance policies at the third party
    - Ensure vendor has appropriate security procedures

Training

- Provide training for individuals involved in developing, monitoring, overseeing, testing, or using high-risk AI applications on the associated legal and reputational risks
- Should be conducted regularly
- Training may include:
  - Instruction on how to appropriately use AI tools;
  - How to recognize and remedy biases;
  - Proper procedures for reporting errors or other harms;
  - Proper procedure for requesting a new use case



Incident Response Plan and Tabletop Exercises

Prepare and implement a plan for responding to an allegation of bias or other deficiency in an AI application and conduct an AI incident tabletop exercise to test the plan.

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PFAS Update:

Regulatory, Transactional, and Litigation Developments

Megan Baroni

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"The only places we're not finding PFAS are places we're not looking."

Heidi Grether, Director Michigan Department of Environmental Quality

PFAS Overview

- **PFAS (per- and polyfluoroalkyl substances)**
- **Widespread usage over time in a number of products and processes**
- **Fate and Transport Challenges:**
  - No known natural sources
  - Chemically complex mixtures
  - Stable; resistant to degradation
  - Mobile in groundwater
  - Bioaccumulating

PFAS Regulation: Federal

- **Drinking Water Developments**
  - Numeric standards for PFAS
  - Health advisory lowered
- **CERCLA Developments Drinking Water**
  - PFOA and PFOS are CERCLA hazardous substances
- **RCRA (Hazardous Waste Management)**
  - Proposal to name certain PFAS as hazardous constituents
- **Reporting Requirements**
  - Reporting requirements for PFAS in products
  - Look-back to January 1, 2011
  - Reports due January 11, 2026

PFAS Regulation: Federal

PFAS Regulation: States

- **Information Gathering**
  - Many states are conducting/requiring investigation of a variety of sources
    - Water supply, wastewater treatment plants
  - Industry surveys
- **Cleanup Standards**
  - Many states have adopted strict soil and groundwater cleanup standards for PFAS
- **Discharge Limitations**
  - Regulations, permits, guidance?
  - Strict limitations and background levels

PFAS Regulation: States

- **State Bans on PFAS in Products**
  - Trend to ban the distribution and sale of products that contain PFAS
  - Is PFAS in the product?
  - Is it "intentionally added?"
  - Reporting requirements
  - Phase out of products
  - Exemptions

PFAS Regulation: States

- **States with broad product bans and reporting laws:**
  - Maine
  - Minnesota
  - California?
- **States with more targeted product bans and reporting:**
  - Colorado
  - Connecticut
  - New Jersey
  - New York
  - Maryland
  - Rhode Island
  - Vermont
  - Washington

PFAS in Transactions

- **Corporate and Real Estate Transactions**
- **Due Diligence Considerations**
  - To sample or not to sample?
    - Environmental media
    - Products (SDS concerns)
    - Reporting obligations?
  - Investigation of potential nearby concerns?
- **Definitions**
  - Need to separately consider PFAS based on regulatory flux

PFAS in Transactions

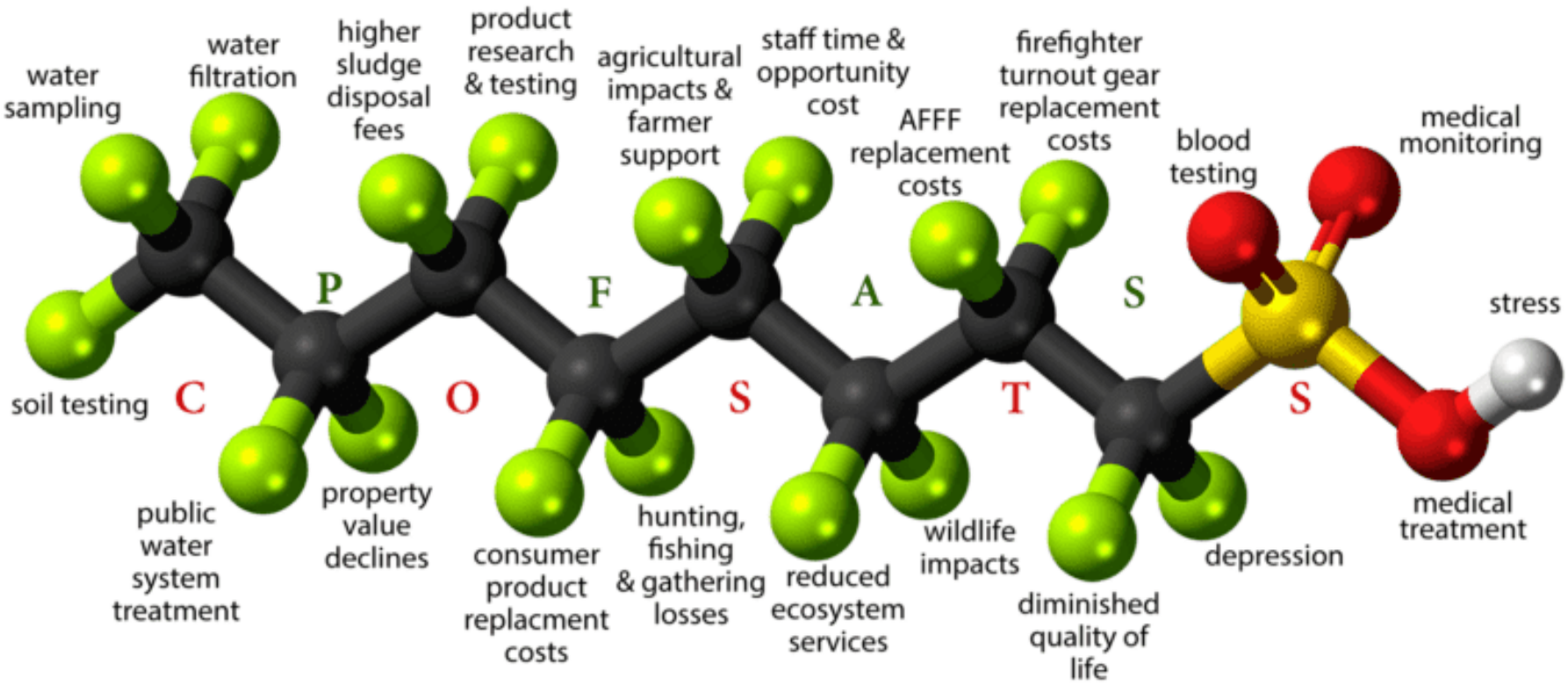
- **Reps and Warranties**
  - Knowledge qualifiers
  - Incomplete information in documentation
- **Potential Liability**
  - Regulatory obligations
  - Third party liability
- **Protection from Changing Legal Standards**
  - Indemnification
  - Releases from liability

PFAS in Litigation

- **AFFF MDL**
  - All cases brought against manufacturers of AFFF
  - Currently around 10,000 cases
- **Non-MDL Cases Pending in Other Courts**
  - Other PFAS manufacturers/users (non-AFFF)
  - Contamination claims
  - Toxic torts
    - Personal injury
    - Medical monitoring
  - Product liability

PFAS: Liability Assessment and Strategy

- **Evaluate business operations to determine PFAS-related risks**
  - Products manufactured and processes
  - Supply chain
  - Real estate holdings
- **Evaluate relevant jurisdictional developments**
  - Determine policy in the event of different jurisdictional requirements
- **Evaluate litigation landscape**
  - How are similar liabilities being addressed in the courts?
- **Develop risk management strategy**


water sampling
water filtration
higher sludge disposal fees
product research & testing
agricultural impacts & farmer support
staff time & opportunity cost
AFFF replacement costs
firefighter turnout gear replacement costs
blood testing
medical monitoring
stress
soil testing
C
P
O
F
S
A
T
S
S
public water system treatment
property value declines
consumer product replacment costs
hunting, fishing & gathering losses
reduced ecosystem services
wildlife impacts
diminished quality of life
depression
medical treatment

Questions?

Kathryn Rattigan, Partner

Business Litigation, Data Privacy + Cybersecurity, and Artificial Intelligence

(401) 709-3357 | krattigan@rc.com

Megan Baroni, Partner

Robinson + Cole | Environmental, Energy + Telecommunications

(203) 462-7528 | mbaroni@rc.com

Blogs: **manufacturinglawblog.com**
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