



The Looming Threat of PFAS Litigation: **Unveiling the Hidden Risks**

With PFAS litigation spreading like wildfire across various industries, and with companies facing intense regulatory scrutiny - PFAS are becoming “priority #1” for environmental risks. This newsletter will brief you on PFAS litigation and the hidden risks it poses to chemical manufacturers.

Fact 1: PFAS Are Everywhere

PFAS compounds have been widely used since the 1940s due to their exceptional resistance to heat, water, and oil. Today, they can be found in an astonishing range of products, including firefighting foam, food packaging, cosmetics, and even dental floss. These substances have become so pervasive that they are now detected in the blood of over 98% of Americans.

Fact 2: Soaring Litigation

As awareness grows about the potential health and environmental hazards of PFAS, so does the number of lawsuits. While these suits began as claims against manufacturers of PFAS itself, they are now beginning to appear further down the supply chain implicating an enormous variety of industries. As consumers and communities seek compensation for alleged harm caused by PFAS exposure, the sheer magnitude of these lawsuits is sending shockwaves through industries unprepared for the legal battles ahead.



Fact 3: Regulatory Landscape in Flux

Federal and state laws and regulations are evolving and have created a patchwork of PFAS regulations that are not necessarily consistent. Uncertainty around CERCLA liability and cleanup standards has created significant financial “unknowns” – impacting corporate decision making across the board.

Fact 4: Insurance Coverage Under Scrutiny

Insurance carriers are also feeling the heat as PFAS litigation intensifies. As a result, many are revisiting their coverage policies, making it increasingly challenging for businesses to secure adequate insurance protection. It’s a high-stakes game where companies must navigate through evolving coverage landscapes to safeguard their fiscal interests.

Fact 5: The Race for Alternatives

In response to mounting concerns, industries are scrambling to find PFAS alternatives. The search for safer substitutes that maintain product performance is fueling innovation and competition. As businesses invest in research and development, they must carefully evaluate the risks associated with PFAS-containing products and proactively seek alternatives, ensuring they stay ahead of the curve.

Risk Management Strategy:

To confront the imminent threat of PFAS litigation head-on, businesses must adopt a robust risk management strategy:

1. Vigilant Prevention: Implement stringent protocols to minimize PFAS usage and release. Stay updated on evolving regulations and guidelines to ensure compliance, protecting both your customers and your reputation. SOCMA provides a variety of PFAS related information, as well as updated guidance on any changes via Capitol Hill.

2. Prospects for maintaining coverage: Whether or not your insurance carriers provide coverage for PFAS depends on a variety of factors – including but not limited to: your company profile, knowing whether your products contain PFAS, checking with legal to see whether your company has already been sued for PFAS, reviewing whether your supply contracts include

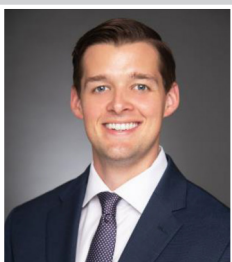
indemnity provisions, and determining whether your property has been impacted by PFAS. Collaborate with insurance brokers experienced in environmental risk to explore specialized coverage options specifically tailored to PFAS-related liabilities.

3. Historical Treasure Hunt: Since PFAS exposure spans decades, spend time locating historic general liability and umbrella policies that pre-date the “pollution exclusion” clause. These hidden gems may provide crucial coverage for cleanup efforts and indemnity, potentially saving your company millions. If you are unable to locate the historic policy information – there are outside firms that specialize in “insurance archeology” work to help piece information together.

Conclusion:

The world of PFAS litigation is rapidly expanding, posing a significant threat to businesses across industries. By understanding the hidden risks, taking proactive measures to prevent PFAS usage, exploring insurance options, and enlisting the support of legal professionals, companies can protect their bottom line and ensure a safer future.

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