

Leslie Thorne and Andrew Van Osselaer Author Article in Mealey's Pollution Liability Report: 'Mitigating Exposure to PFAS Liability'

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PRACTICES Insurance Recovery, Litigation, Real Estate Litigation, Environmental Litigation, PFAS and Emerging Contaminants

Haynes Boone Partner [Leslie Thorne](#) and Associate [Andrew Van Osselaer](#) authored an article in *Mealey's Pollution Liability Report*. Read an excerpt below:

Almost all industries and businesses have used or made products containing PFAS (per- and polyfluoroalkyl substances). Unfortunately, some studies now suggest certain PFAS compounds pose significant health risks. This discovery presents legal and regulatory peril of a magnitude that is difficult to comprehend. What we do know is that state and federal governments are rapidly ramping up to regulate PFAS and address what they deem to be existing contamination. Meanwhile, in the private sphere, it seems every day a new lawsuit is filed against companies in industries running the gamut from fire-protection, to cosmetics, to fast food. This surge in activity, and PFAS's ubiquitous presence, has led some commentators to conclude PFAS will be the "new asbestos."

As the shadow of litigation and regulation looms, it is essential for companies interacting with PFAS to think about risk-mitigation—both going forward, mitigating future risk, and looking back, bracing for existing liabilities based on past conduct. In truth, while insurance is a crucial and quintessential tool for risk mitigation, there are many methods companies can adopt to protect themselves, including self-audits and voluntary remedial actions. Given the potential for liability, companies would be wise to consider all options.

I. Why should I be worried?

The term PFAS refers to a group of non-naturally-occurring chemicals widely used for decades (and to this day) as a surfactant (a substance that reduces surface tension) and as an adsorptive agent, water-repellant, and non-stick additive in the manufacture of numerous products, including clothing, other fabrics, paint, paper products, waterproofing materials, disposable food containers, cookware, cosmetics, and, most notoriously, firefighting foam. According to some researchers and state and federal agencies (including EPA), PFAS chemicals pose serious health risks, including the risk of cancer, and autoimmune and thyroid issues, and may not be safe for human consumption at any level. This comes as unpleasant news because PFAS chemicals are already present in most human beings and is suspected to exist in most drinking water sources and even rainwater.

Excerpted from *Mealey's Pollution Liability Report*. To read the full article, click [here](#).