

## **Forever Chemicals: EPA Regulation and Insurance Implications**

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On April 10<sup>th</sup>, 2024, the US environmental Protection Agency (EPA) finalized a National Primary Drinking Water Regulation for several per-and polyfluoroalkyl substances (**PFAS**), which have been linked to adverse health effects including from cancer and reproductive and developmental disorders. The EPA has established legally enforceable Maximum Contaminant Levels for six types of PFAS found in drinking water. This regulation will require public water systems to monitor these levels over the next three years and, if needed, take action by 2029 to comply with lowering contaminant levels. While this is the first ruling at the federal level, certain states have already implemented standards for PFAS in drinking water.

PFAS, also known as “forever chemicals” have been widely used for decades in various products such as non-stick cookware, stain/water-resistant materials and fire extinguishing foams. PFAS are pervasive, do not degrade easily and therefore measurable amounts can be found in the bloodstream of most people. Several major manufacturers such as 3M and DuPont have reached billion-dollar settlements with public water systems for environmental damage. *There could be insurance coverage for some of these settlements.*

In addition to environmental suits, there could be a wave of personal/bodily injury lawsuits related to PFAS exposure if there are provable specific disease linkages. For example, once widely used asbestos mineral fibers in industrial products were found to cause mesothelioma. Of note, the property & casualty (P&C) re/insurance industry has spent over \$100 billion to defend and indemnify policyholders against asbestos liabilities over several decades.

As scientists continue to study the effects of the thousands of PFAS compounds, regulation and litigation should continue to evolve, with P&C re/insurers potentially facing material claims for legacy exposures. P&C re/insurance underwriting standards have evolved with the introduction of stricter policy limits and pollution and other exclusions – PFAS exclusions have also been added to policies in more recent years. While we expect insurers to have legacy exposures, with court interpretations varying by jurisdiction, costs should be absorbed over an extended period. Furthermore, such higher costs and uncertainty support price hardening, which could benefit insurance profitability.

P&C re/insurers are more adept underwriters today, with better access to data and prudent reserving practices. They are further supported by robust capitalization and healthy earnings. **We see emerging claims from PFAS liability as a manageable headwind.**

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