



## PFAS

As scrutiny mounts over the presence and use of per- and polyfluoroalkyl substances (PFAS), our clients face increased regulatory and litigation risk. Whether the soil of your property has a legacy presence of PFAS or you manufacture or distribute products containing even small amounts of PFAS, it is important to seek informed counsel with the resources and legal insight needed to help protect your business. Reinhart's interdisciplinary PFAS Team includes experienced corporate, product liability, litigation, environmental and real estate attorneys well-versed in the legal issues surrounding these chemicals, their environmental effects and how regulation and enforcement can impact businesses. Our team is uniquely equipped to assist our clients in navigating the rapidly evolving patchwork of state and federal regulation. We also provide sophisticated guidance on regulation, testing, permit non-compliance, remediation technology and costs related to PFAS.

### PFAS and Their Risks

PFAS are a family of chemicals used to make fluoropolymer coatings and products that resist heat, oil, stains, grease and water. Comprised of somewhere between 5,000 to 10,000 various compounds, PFAS are slow to break down in the environment, move freely through soil and water and can bioaccumulate. As a result, there is growing concern from legislators, regulators, and environmental and consumer advocates about the risks posed by PFAS chemicals to health and the environment.

### An Environmental and Consumer-Product Focus

Reinhart's PFAS Team is positioned to address both environmental concerns and those emerging issues impacting consumer products. As the presence of PFAS chemicals gains media attention, consumers are increasingly wary of their presence in everyday products such as food packaging, cookware and cosmetics, driving regulation at the state level and increased threat of litigation. As a result, manufacturers of these products, as well as textiles, carpets, rugs and upholstered furniture, face a rapidly changing legal landscape. Our team is prepared to provide specialized counsel to clients who face the burden of regulatory compliance and litigation costs, as well as the cost of identifying and modifying products that contain PFAS compounds.

### Environmental PFAS

The impact of PFAS regulation is felt across a range of industries, including construction, wholesale and retail trade, waste management and remediation services. In Wisconsin, the current administration may pursue claims against companies responsible for contaminating groundwater sources, rivers and lakes where the Wisconsin Department of Natural Resources (DNR) has found high levels of PFAS from spills. The DNR is also leading a statewide action plan to study the environmental and health effects of PFAS and develop rules to regulate their use and disposal.

## Product-related PFAS

Several states have already enacted legislation regulating the use of PFAS in a wide range of consumer products, and many more have proposed legislation pending. Manufacturers face a variety of inconsistent product categories, dates, definitions and consumer plaintiff litigation regarding deceptive or misleading claims about PFAS content in products. Manufacturers and distributors need to prepare for rapidly changing rules and regulations on PFAS content, required disclosures and supply chain certifications of compliance. Companies whose products allegedly contain PFAS have also been sued for deceptive and misleading claims regarding safety and sustainability. Mitigating litigation risk may entail qualifying marketing claims and disclosing PFAS content. Our team is working alongside global manufacturers and supply chain experts involved in auditing and product testing to prepare for the emerging challenges of regulatory compliance and litigation avoidance on the state and federal levels.

## Matters

- Counseled a multinational consumer products firm on review of supply chain for PFAS use and compliance strategy for state and federal PFAS content disclosure and reporting requirements.
- Advised the owners of an open-air shopping mall/mixed-use complex in preparing a PFAS response to the Wisconsin Department of Natural Resources (WDNR). When WDNR re-opened the closure letter due to new vapor issues, we worked with our consultant to ensure that the re-opening did not result in any PFAS testing.
- Assisted a client considering the purchase of a manufacturing plant in central Wisconsin, WI, that uses foam as an insulation insert. The primary municipal drinking water well was once the plant production well, and PFAS was a major concern. The municipality completed sampling of the well for PFAS with no detections.
- Represented a client who purchased a vacant lot for use as a bank in West Allis, WI, where foundry-sand fill had been found to a depth of several feet below the ground surface. We asked WDNR for a determination that the foundry-sand fill at the site did not require PFAS testing, which they concurred with.
- Counseled a manufacturer of concrete products and machinery with the request and closure of a site in Manitowoc County, Wis. As a condition of the closure, the Wisconsin Department of Natural Resources (WDNR) requested our client prove that the facility did not use PFAS. We assisted in reviewing and providing WDNR with the required Material Safety Data Sheets and were approved to close the site.
- Assisted a manufacturer of metal stamping products through a PFAS analysis at their site to obtain closure from WDNR. After working with a consultant to provide the analysis, our finished product was accepted by WDNR and no PFAS testing was required as a condition of closure.
- Represented multiple clients with PFAS analysis of sites that involved property transactions adjacent to airports

and/or air force bases which raised potential PFAS issues due to the use of firefighting foam.

- Counseled a multistate distributor of cosmetics on supply chain issues concerning the presence of PFAS.

## Key Contacts



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