



PFAS Liability Risks Are on the Rise

Here's What Supply Chain Leaders Need to Know

Scrutiny of per- and polyfluoroalkyl substances (PFAS) from regulators, investors, public watchdogs, and the court system is on the rise. Having PFAS in your supply chain, whether it's in your parts or used in processes, puts you at significant risk.

61% of manufacturers surveyed said legal consequences were their top PFAS concern, outranking parts obsolescence and reputational damage.

PFAS Risks Are Shifting & Full of Unknowns

The legal risks of PFAS have never been higher. More than 6,000 lawsuits have been filed against companies related to their PFAS use and production — and it's not just PFAS manufacturers being targeted. Corporate liability risks are expected to increase with the introduction of new legislation:

- ▶ The U.S. National Primary Drinking Water Regulation sets PFAS contamination limits for six types of PFAS in drinking water and triggers testing and remediation requirements, which could lead to lawsuits against companies using PFAS in areas exceeding water quality thresholds
- ▶ Two PFAS have been declared as hazardous substances under the U.S. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund
- ▶ Forty-six states have passed or proposed PFAS legislation¹ and at least 35 U.S. states are anticipated to introduce further PFAS policies in 2024²
- ▶ A proposed U.S. federal law would ban non-essential PFAS uses over the next 10 years
- ▶ Loss of corporate liability insurance or even investors due to PFAS risks and anticipated future clean-up costs or litigation

¹ Bloomberg Industry Group. (2023, October 27). PFAS State Activity Tracker Table. <https://public.flourish.studio/visualisation/12740251>

² Safer States. (2024, February 8). 2024 Analysis of State Legislation Addressing Toxic Chemicals and Plastics. <https://www.saferstates.org/insights/2024-analysis-of-state-legislation-addressing-toxic-chemicals-and-plastics/>

Most Manufacturers Misjudge Their Liability Risk

There's a misconception that PFAS-related lawsuits only impact chemical manufacturers — but any company using PFAS can be held liable. Enforcement agencies and even private citizens are expected to target a number of different sectors. Even if manufacturers haven't manufactured or imported PFAS into the U.S. for several years, they may still be held liable.

PFAS liability risks can disrupt your business and harm your bottom line. By being proactive about finding hidden PFAS in your supply chain, you can avoid:

- ▶ Lawsuits related to PFAS remediation
- ▶ Fraud or greenwashing allegations if you're claiming to be green, natural, or sustainable
- ▶ Class action lawsuits from the public and environmental watchdogs
- ▶ Non-compliance fines and lost market access

Steps to Reducing Risk

If you have PFAS in your supply chain, you likely have some level of risk. But having the right internal processes and defensible data can go a long way toward protecting your business.

1. Focus on effective communication between compliance teams and legal departments.
2. Identify all PFAS in your supply chain, including parts and maintenance, repair, and operations (MRO) use cases.
3. Engage and educate suppliers on PFAS requirements to collect accurate PFAS disclosures for anything you purchase.
4. Conduct due diligence on past purchasing records and product designs to assess historic PFAS use.
5. Evaluate product labels and marketing for sustainability or health claims if PFAS is in your product.



“Manufacturers not only need to know what’s in their products, so they can assess their options for making substitutions or phasing out products, but also understand the business impact of making those changes to themselves and to clients. Assent gives us the data to make informed decisions.”

—Donna Driver, Chief Risk & Compliance Manager at Bray International Inc.

Get More Expert Insights

Watch our on-demand webinar, *Spotlight on Risk: Defend Against PFAS Liabilities*, for a legal perspective on your PFAS risks and how to manage them. It features a conversation with John Gardella, a recognized PFAS expert and attorney, as well as Donna Driver, Chief Risk & Compliance Manager at Bray International Inc., and covers:

- ▶ Recent litigation and fines that have set the trend for rising costs of PFAS
- ▶ Why companies that take proactive steps are more resilient to liability risks
- ▶ How to identify and mitigate your PFAS risks



[Watch Now >](#)

