

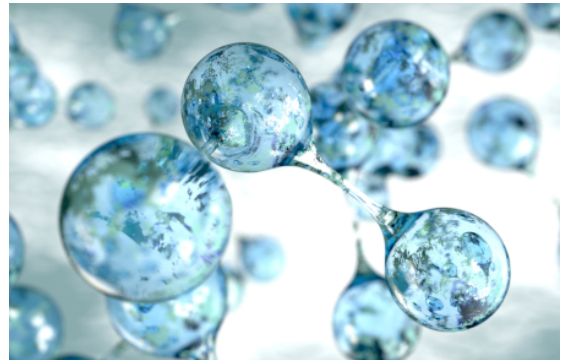
**BLOG**

# “Forever Chemicals” Create Increased Risk Exposure

By Joe Quarantello, Senior Vice President

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The toxic group of chemicals widely known as PFAS continue to make headlines as the public and regulatory authorities learn more about the health and environmental hazards linked to their presence in our everyday lives. Commercial developers and lenders involved in the supply chain of PFAS chemicals will face a growing number of risk exposures as new legislation is passed to keep harmful contamination at bay.



## About PFAS

PFAS stands for per- and polyfluoroalkyl substances. Known for their resistance to grease, water and stains, these synthetic chemicals are used in industrial and consumer products, including non-stick cookware, clothing, carpeting, furniture, food packaging and fire-fighting foams. Estimated at over 4,700 different chemicals, PFAS resist degradation and remain in the environment and human body for an exceptionally long time.

They've been linked to [adverse health effects](#), such as cancer, birth defects, kidney disease and autoimmune disorders. Most people have been exposed to PFAS in some way, though exposure through drinking water has become an increasing concern due to the tendency of PFAS to accumulate in groundwater. The contamination is typically localized to where PFAS is produced and used — manufacturing facilities, landfills, waste treatment plants and firefighter training facilities.

## California Cleans up Act

California has recently received a lot of public scrutiny over its [lackluster track record](#) of addressing PFAS-related issues. The Golden State has [responded with a bill](#) that requires water providers to notify customers if they detect PFAS in drinking water. The previous bill only required water providers to notify customers of two out of the 14 to 18 chemicals that are sampled for in public water systems.

The demand for continued transparency around the public's exposure to PFAS has led the Environmental Protection Agency (EPA) to release a [PFAS Action Plan](#) that is used as a guidance document in mitigating potential risks to people and the environment.

## Uncovering Hidden Exposures

Greater public awareness around PFAS contamination has already led to multimillion dollar verdicts. Last year, the state of Minnesota's lawsuit against 3M over a Scotchgard ingredient that got into the state's drinking water ended in an \$850 million settlement against 3M. In 2017, Dupont paid \$671 million to settle thousands of lawsuits involving contamination from the manufacturing of Teflon.

Developers and lenders need to be aware of the possibility of PFAS-related contamination in real estate transactions, especially in areas where the chemicals were manufactured or used. Contamination often goes undetected until environmental assessments are brought on by a purchase or sale. By that stage, it's too late, as current owners and lenders are assigned liability for all related damages and remediation projects linked to contamination, even if the parties were previously unaware.

The extent of litigation exposure borne by developers, lenders, manufacturers, product distributors and other parties along the PFAS supply chain can go well beyond environmental remediation to reputational damage.

### **Navigating Uncharted Territory**

While the presence of these "forever chemicals" in our water systems, environment and even our bloodstreams has been proven, the threat level they present is a topic debated as widely as global warming. The first step in being able to accurately assess the threat and assign the right insurance products for protection is to increase investments in more comprehensive testing equipment to eliminate false positives and inaccurate results.

With no regulated standards and accurate or consistent testing methods available yet, PFAS liabilities present developers, lenders and insurance carriers with huge amounts of uncertainty when it comes to protecting themselves and their clients. Until uncertainty is out of the equation, they will have to grapple with assigning insurance products to handle the situation, which could have widespread impact on property transactions.

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