



## Could Your Manufacturing Business Be Impacted By PFAS?

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PFAS is the environmental issue manufacturers across many sectors need to pay attention to now. [PFAS](#) is an acronym for per- and polyfluoroalkyl substances. It is a family of chemicals used in many applications, but they are getting a lot of attention now because of potential negative environmental impacts. That attention is in the form of regulation, remediation obligations, and potential lawsuits, which means potential increased risk and liability that manufacturers need to proactively assess.

To know if your manufacturing business could be impacted, here are three questions to ask.

### Do you now or have you in the past used PFAS compounds in your process?

The [Interstate Technology & Regulatory Council](#), or ITRC, lists 18 industries and applications of PFAS compound use including: aviation and aerospace; automotive; biocides; building and construction; cable and wiring; cosmetics and personal care products; electronics; energy; firefighting and safety; food processing; household products; medical products; metal plating and metal finishing; oil production; mining; paper and packaging; photolithography; and textiles. PFAS compounds also have been associated with car wash operations, paper or cardboard recycling operations, and properties on or

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near former military bases. If your business is in one of these industries, then you should check if you currently or in the past have used PFAS compounds or investigate if PFAS compounds may have been used on the property.

If your operations include tank farms that store petroleum products or if you have ever had a fire, there may be PFAS compounds on your property as part of fire suppression systems. Central heating plants also may have internal fire suppression systems that use PFAS compounds and may have been activated inadvertently or because of an emergency situation.

In 2020, EPA added 172 PFAS compounds to its [Toxics Release Inventory](#) (TRI), which means industries that have to conduct annual TRI reporting will have already had to assess whether they have PFAS compounds in the operations.

### **Do you already participate in the remediation of federal Superfund remediation projects?**

If your current portfolio of environmental liabilities includes remediation at one of more Superfund sites, then this remediation may be impacted by PFAS. There are no PFAS compounds currently listed as a hazardous substance under Superfund, but this has been a stated focus in the new [Biden administration](#). In the meantime, EPA has set [interim remediation goals](#) for two of the PFAS compounds, PFOA and PFOS, and Superfund sites have been asked to look for these new contaminants. If found, there will likely need to be more funds allocated to these remediation projects.

### **Do you have a well that uses groundwater as a source for either process or drinking water?**

The primary health concern with PFAS compounds is ingestion through drinking water. Some states – including Michigan, Illinois, Ohio, and many others – have implemented statewide drinking water sampling programs to test public water supplies. This sampling has also included non-community systems that may service industrial facilities. If your facility uses an onsite groundwater well, that may be included as part of a testing program.

This is, of course, not an exhaustive of list of what a manufacturer could review, but these questions can serve as an initial screening tool. If your manufacturing business could have potential impacts from use of PFAS, consider working with an attorney to assess what your risks may be. These risks could be in the form of greater water or air permitting obligations, new or increased remediation work, worker exposure or citizen suit lawsuits, current and past waste disposal questions, and increased focus on these issues during transaction diligence – to name a few.