

THE FOREVER CHEMICAL IN NEW JERSEY: LIABILITY AND INSURANCE

Cameron Argetsinger
Robert M. Horkovich
Art Clarke
David Reap
Drew Renzi

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CAMERON ARGETSINGER

202-416-6515 / cargetsinger@andersonkill.com

Cameron Argetsinger is a shareholder in Anderson Kill's Washington, D.C. office, where he focuses his practice on insurance recovery counseling and dispute resolution. He has represented corporate policyholders across a broad range of coverage disputes — including cyber liability, directors and officers liability, employment practices liability, environmental contamination, antitrust litigation, flood and hurricane damage, intellectual property liability, false advertising, lead-based paint, asbestos, the False Claims Act, and overseas tort liabilities — and has advised clients on placing and negotiating coverage such as cyber and D&O insurance.

Beyond insurance recovery, he has handled administrative and commercial disputes ranging from construction design defects and international trade to class action litigation against the Social Security Administration. He has appeared in trial and appellate courts and arbitration tribunals across the country, including courts in Virginia, Ohio, New York, Illinois, North Carolina, and the District of Columbia, as well as the U.S. Court of International Trade. He was recognized by Super Lawyers as a Washington, D.C. "Rising Star" from 2014 to 2016.



ROBERT M. HORKOVICH

212-278-1322 / rhorkovich@andersonkill.com

Bob Horkovich is a trial lawyer at Anderson Kill whose practice centers on complex insurance coverage litigation for corporate policyholders and governmental entities. Chambers USA has recognized him as a leading insurance recovery attorney every year since 2005 — calling him “the go-to person in the area of insurance recovery” — and in 2025 he was named to Benchmark Litigation’s Hall of Fame. He is also a Fellow of the American Bar Foundation.

He has obtained over \$8 billion in settlements and judgments from insurance companies for his clients. His victories include one of the top 10 jury verdicts in the United States, the top insurance recovery jury verdict in the U.S., seven landmark state Supreme Court decisions, and numerous jury and bench trial wins. Representative engagements include serving as general insurance counsel to the United Nations; lead trial counsel for the State of California in the Stringfellow Acid Pits litigation; a \$188 million asbestos-coverage jury verdict in the Fuller-Austin matter; and the resolution of AT&T’s \$300 million environmental coverage litigation against CNA.

Earlier in his career, Bob served as a Captain in the USAF JAG Corps, where as a Special Assistant U.S. Attorney he prosecuted more than 200 cases, and as a Special Assistant District Attorney for Manhattan he argued *People v. Octavio Peck* before the New York Court of Appeals.



ART CLARKE

201-321-5718 / arthur.clarke@jsheld.com

Art Clarke has over 40 years of experience as an environmental consultant and attorney, with technical experience as a project manager and analytical chemist. He specializes in litigation support, expert witness services, transactional support, due diligence, and regulatory compliance, and provides regulatory counseling to clients appearing before state and federal administrative agencies, administrative law proceedings, and plenary courts.

As Senior Director of litigation support and expert witness services at J.S. Held, he oversees the firm's environmental litigation and advisory support services for a global clientele. His leadership spans environmental, toxic tort, and insurance litigation, arbitrations and mediations, damages allocation and apportionment, regulatory oversight and enforcement, and corporate and professional liability. He is extensively involved in developing expert opinions and testimony on site investigation and remediation, historical manufacturing operations, waste management, property damage, bodily harm, and natural resource damages.

His areas of expertise include CERCLA and the National Contingency Plan, RCRA and hazardous waste management, the Clean Water Act/NPDES, state cleanup laws, brownfields redevelopment, PFAS assessment and remediation, and natural resource damages. He is a Licensed Site Remediation Professional (LSRP) and holds federal bar admissions in the District of New Jersey and the Southern and Eastern Districts of New York.



DAVID REAP

212-808-7636 / dreap@kelleydrye.com

Dave Reap is a former deputy attorney general who represents public and private sector clients in environmental litigation, leveraging his experience to represent government entities in high-impact matters protecting public health, safety, and the environment. His cases seek natural resource damages and treatment of contaminated drinking water supplies, with a substantial portion concerning per- and polyfluoroalkyl substances (PFAS) contamination.

As a deputy attorney general in the New Jersey Attorney General's Office, Dave represented the state and its agencies before New Jersey's trial courts, Appellate Division, and Supreme Court. Assigned primarily to the Consumer Fraud Prosecution Section, he prosecuted civil enforcement actions under the New Jersey Consumer Fraud Act and related statutes, and also handled high-profile matters involving the Governor's Office, the Treasury, and the State Police.

Dave began his legal career as a law clerk in the New Jersey Superior Court, Chancery Division – General Equity Part, for Judge Harriet F. Klein, and during law school was selected for a fellowship with District Judge Susan D. Wigenton of the U.S. District Court of New Jersey.



DREW RENZI

732-747-9003/ wkuzmin@cprlaw.com

Drew Renzi is an associate with Cohen, Placitella & Roth, where he focuses his practice on class action, environmental, and products liability litigation.

He earned his J.D. from Tulane University in 2019, where he served as a student attorney with the Tulane Environmental Law Clinic, as a fellow for the Tulane Institute on Water Resources Law & Policy, and as a managing editor for the Tulane Environmental Law Journal. Prior to law school, he graduated from Georgetown University with a B.A. in Economics in 2015.

Drew is admitted to practice in Pennsylvania, New Jersey, and Massachusetts.



THE FOREVER CHEMICAL IN NEW JERSEY

Liability & Insurance

PFAS Regulation in New Jersey

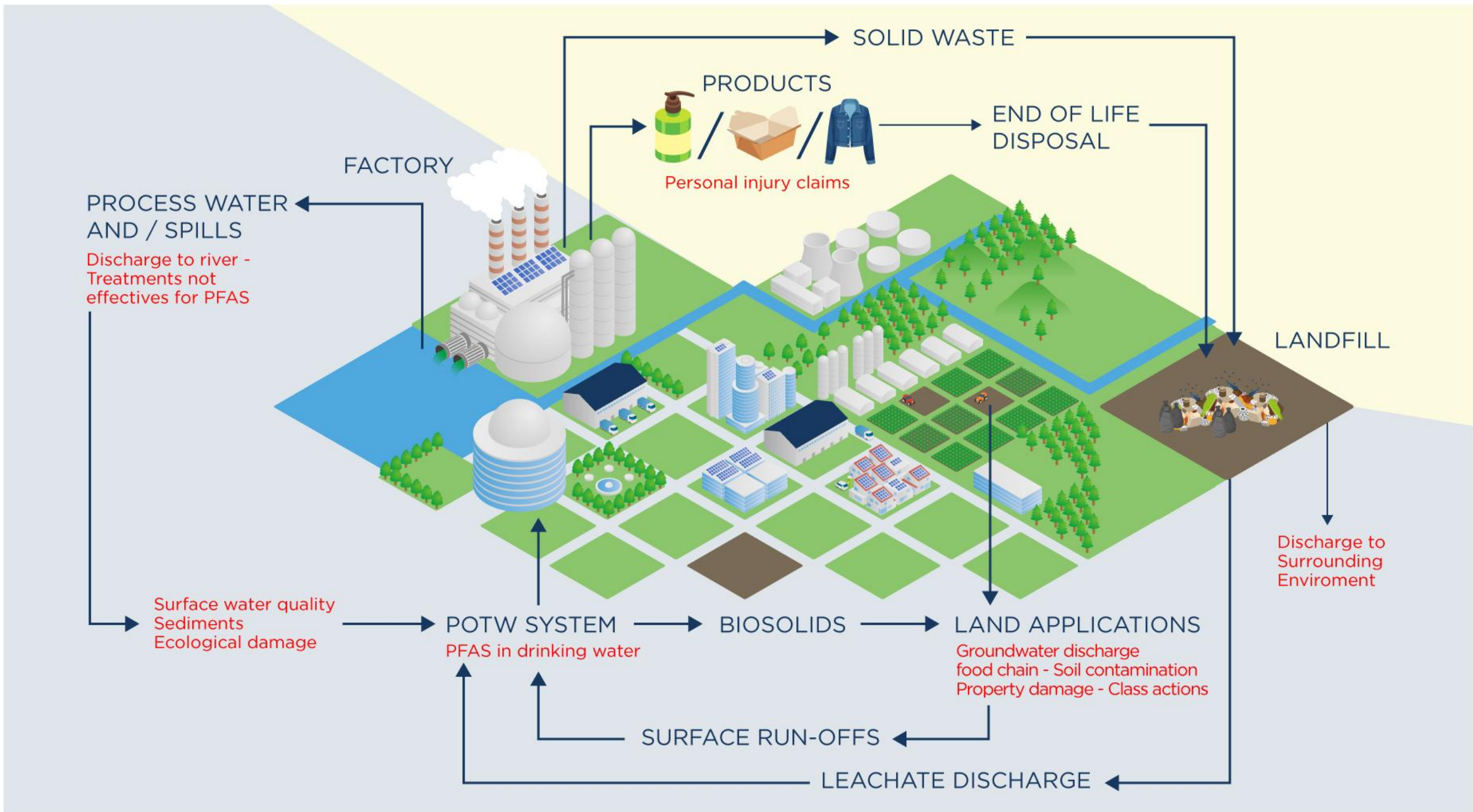
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PFAS



PFAS CHARACTERISTICS

- Per- and polyfluoroalkyl substances (PFAS)
- Thousands of Synthetic Organic Compounds
- Fluorinated Carbon Atoms
- Repel Both Water and Oil
- Resistant to High Temperatures/Chemical Reactions
- Persist Indefinitely Due to the Strength of Their Carbon-Fluorine Bonds ["Forever Chemicals"]
- PFAS Have Been Produced and Used Since the 1950s
- Stain-Resistant Coatings for Upholstery/Carpeting
- Water-Resistant Breathable Clothing
- Greaseproof Food Packaging
- Non-Stick Cookware
- AFFF – Aqueous Film Forming Foams



NEW JERSEY GOVERNOR MIKIE SHERRILL – THE FIRST 100 DAYS

- **Executive Order No. 2** declared state of emergency relating to high energy costs
- **Executive Order No. 5** requires agencies to submit plans detailing plans for improved efficiencies.
- **Executive Order No. 7** - No agency shall propose or adopt any rule for a period of 90 days, subject to exceptions.
- **NJ REAL (Resilient Environment and Landscapes) Rule-** Got in just before the Stay – January 20, 2026
- **June 1, 2026** – Extended legacy deadlines from July 2026 to July 2027
- **U.S. Climate Alliance** – Agreed to continue working to meet U.S. climate goals by 2050



Governor Sherrill Signs Executive Order
Instituting Regulatory Freeze

THE NEW JERSEY DEPARTMENT ENVIRONMENTAL PROTECTION INITIATIVES

- **Ed Potosnak, NJDEP Commissioner**
- Launched Operation FAST, (Facilitated Approvals for Sustainable Transformation)
- A comprehensive effort to make the DEP more efficient and responsive to the public and businesses.
- Implement permitting reforms across the agency
- 50 additional staff across permitting programs



THE NEW JERSEY DEPARTMENT ENVIRONMENTAL PROTECTION INITIATIVES

Operation FAST Objectives

Through operation FAST, the DEP is committed to:

- Reorganizing key permitting programs
- Recruiting and training new staff
- Supercharging the Office of Permitting & Project Navigation
- Supplementing technical staff capacity
- Streamlining review procedures
- Modernizing technology
- Implementing robust and expedited coordination for energy projects to help meet electricity generation shortfalls.
- Permit Czar? Joe Seebode, NJDEP



NJDEP – 2025-2029 PFAS REGULATORY IMPLEMENTATION

DRINKING WATER

- Public water systems must monitor for these PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.
- Public water systems have five years (by 2029) to implement solutions that reduce these PFAS if monitoring shows that drinking water levels exceed these MCLs.
- “Only strong **nationwide standards** can ensure that every single American gets clean, safe drinking water free from PFAS forever chemicals that can endanger our health,” said New Jersey Environmental Protection Commissioner Shawn M. LaTourette

NJDEP – GROUND WATER QUALITY STANDARDS

- Analysis of PFNA, PFOA, and PFOS is required in the Characterization of the Quality of the Discharge Data to be submitted in the application for a Discharge to Ground Water (DGW) permit. (N.J.A.C. 7:10-5.1 and 5.2)
- Ground Water Quality Standards (GWQS) for PFAS (N.J.A.C. 7:9C)
 - PFOS – 13 ppt
 - PFOA - 14 ppt
 - PFNA – 13 ppt
- Private Well Testing Act (PWTa). The PWTa is a consumer information law established in 2002 that requires private wells to be tested by a certified laboratory during real estate transfer and requires landlords to test well water supplied to tenants every five years and provide results.

NJDEP – 2025-2029 PFAS REGULATORY IMPLEMENTATION

DRINKING WATER

- By 2029 [2031]– New Jersey public water systems must take action to reduce levels of these PFAS in drinking water to Federal MCLs
- HOW?
 - Treatment Systems
 - Granulated Activated Carbon (GAC)
 - Ion Exchange Systems
- How Much \$\$\$?
 - Bluefield forecasts drinking water utilities will spend nearly \$13.5 billion between 2023 and 2030 on PFAS retrofits - primarily dedicated to the installation of granular activated carbon (GAC) filtration.
 - Middlesex Water Company ~ \$52 Million PFAS treatment Plant Costs

Is It Too Big To Treat?

NJDEP – PFAS UNDER THE STATE'S WATER POLLUTION ACT

WASTEWATER

- **Administrative Order (AO No. 2023-01) applicable to:**

- State's NJPDES Program
- Waste Water Treatment Plants (WWTPs)
- Significant Industrial Users (SIUs) permitted by the Department (i.e. Treatment Entities)
- WWTPs with approved Industrial Pretreatment Programs, referred to as Delegated Local Agencies (DLAs).

The AO does not prohibit or regulate the concentration of PFAS in wastewater;

- The AO calls for the NJDEP to "proactively evaluate and reduce potential sources of PFAS, including, but not limited to, evaluating the presence of PFAS in wastewater discharges and considering requirements for the reduction of PFAS in such discharges" in an effort "to better understand" PFAS in wastewaters

NJDEP – PFAS UNDER THE STATES CONTAMINATED SITE REMEDIATION & REDEVELOPMENT PROGRAM

(CSRR)

Mission: To reduce the number of contaminated sites in New Jersey to ensure the protection of public health and the environment and ready sites for redevelopment

- Brownfields
- Licensed Site Remediation Program (LSRPs) – Regulations and Guidance Documents
- Underground Storage Tanks (USTs and UHOTs)
- Child Care Centers
- Industrial Site Recovery Act (ISRA formerly ECRA)
- New Jersey Spill Act – Liability and Funding Programs
- Contaminants of Emerging Concern (CECs) – PFAS, 1,4 Dioxane, etc.

When the site or area of concern under remediation is currently or was formerly occupied by facilities that, after appropriate assessment, were suspected of manufacturing, storing, handling, or using CECs (PFAS), LSRPs must consider these contaminants during the investigation and remedial action.

NJDEP – PFAS UNDER THE STATES CONTAMINATED SITE REMEDIATION & REDEVELOPMENT PROGRAM

(CSRR)

GOAL: Determine if PFAS is a contaminant of concern and if further investigation or remediation is required

- Site Specific Analysis Required
- Site Manufacturing and Disposal Histories
- Air, Water and Waste Discharge Histories

Evaluation does not necessarily require sampling

Multiple lines of evidence should be considered to track whether sampling and possible remediation is mandated.

This evaluation requires the LSRP to look at the history of a site undergoing an investigation under the CCSR on a site-specific basis to decide if the operations at the site may have involved PFAS.

NJDEP SITE REMEDIATION PROGRAM

Contaminant	Groundwater Remediation Standard (µg/L)	Soil Remediation Standard: Ingestion-Dermal Residential (mg/kg)	Soil Remediation Standard: Ingestion-Dermal Nonresidential (mg/kg)	Soil Remediation Standard: Migration to Groundwater (mg/kg)	Soil Leachate Remediation Standard: Migration to Groundwater (µg/L)
GenX	0.02	0.23	3.9	Area of Concern / Site-Specific	0.40
PFNA	0.013	0.047	0.67	Area of Concern / Site-Specific	0.26
PFOS	0.013	0.11	1.6	Area of Concern / Site-Specific	0.26
PFOA	0.014	0.13	1.8	Area of Concern / Site-Specific	0.28

FEDERAL PFAS PROGRAMS THAT APPLY IN NEW JERSEY

QUICK REVIEW

SDWA - Regulatory Modifications Proposed May 18, 2026 (Comments due July 20, 2026)

- Stricter MCLs for PFOA and PFOS Upheld – 4 ppt
- MCLs for other PFAS Compounds Dropped (including PFNA and GenX)
- Compliance Timelines Extended to April 26, 2031 (if requested by Water Systems)
- PFAS OUT Program

Resource Conservation and Recovery Act (RCRA):

- Listing of Nine PFAS as RCRA Hazardous Constituents
- Definition of Hazardous Waste to include PFAS Applicable to Corrective Action for Solid Waste Management Units (SWMUs)

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

- Designated PFOA and PFOS as 'hazardous substances' under CERCLA
- Impacts closed sites where the remedy has been completed and/or under CERCLA's five-year review process.
- USEPA and other parties may assert new claims for cost recovery and contribution

Toxics Release Inventory (TRI) - Addition of Certain PFAS for Reporting Year 2026

WHAT'S NEXT IN NEW JERSEY?

FUTURE PFAS REGULATIONS?

Establishing a Drinking Water Standard for PFAS as An Entire Class

- New Jersey P.L.2023, c.279
- Feasibility Study Conducted
- Assessed Treatment of Entire Class or a Subclass of PFAS
- Thousands of Chemicals Defined as PFAS
- **Entire Class – No**
- **Subclass – Yes (29 Compounds)**

Establishing a Standard for PFAS in Wastewater

- Reporting only
- NJPDES Permit Requirements
- Treatment Technologies
 - GAC
 - Ion Exchange
- Surface Water Quality Standards
- Sludge Issues

WHAT'S NEXT IN NEW JERSEY?

FUTURE PFAS REGULATIONS?

REGULATING PFAS IN THE STREAM OF COMMERCE

- New Jersey – P.L.2025, c.202
- Not just discharges of PFAS to Land, water and air
- Follow Other States

REGULATING AIR EMISSIONS OF PFAS

- Air Permits
- Hazardous Air Pollutant
- Initial Threshold Screening Levels (ITSL)
- Reference Concentrations (RfC)
- Inhalation Exposure Assessments
- OTM-50 Atmospheric Air Method
- ASTM D8560-24 Indoor Air Methods

WHAT'S NEW IN NEW JERSEY?

REGULATION OF PFAS IN THE STREAM OF COMMERCE

NJDEP's PFAS regulations have predominantly been focused on impacts originating from the manufacture, use, storage, and discharge of Aqueous Film Forming Foam (AFFF), Teflon and Fluorosurfactants in drinking water and environmental media

Other States are Regulating PFAS in the Stream of Commerce and their Direct Impacts on Human Health

- Non-stick cookware
- Waterproof/breathable clothing
- Chemical/heat resistant industrial products
- Water and stain resistant coatings on carpets and upholstery
- Sludge/Biosolids- Fertilizer; and
- Food and Food Packaging

Point of Origin and End of Life Products Regulation

REGULATION OF PFAS IN THE STREAM OF COMMERCE

New Jersey – P.L.2025, c.202

- The State recently enacted a law which prohibits the sale of cosmetics, carpet and fabric treatments, and food packaging containing intentionally added PFAS.
- Relies on information provided by the companies that make and sell the products, and it does not require analysis of the products for PFAS

Maine – L.D. 130

- The law establishes agricultural limits for PFAS and provides testing, technical, and financial assistance to farmers and on-farm mitigation efforts.
- If a maximum PFAS limit is exceeded, the state may prohibit the commercial sale of those products that exceed the maximum thresholds.
- PFAS in food MCLS:
 - Beef - PFOS Action Level for beef at 3.4 parts per billion (ppb)
 - Milk - PFOS Action Level of 210 parts per trillion (ppt).

California: Compliance testing for textiles which need to be below 100 ppm in a Total Organic Fluorine (TOF) test, reducing to 50 ppm in 2027.

REGULATION OF PFAS IN THE STREAM OF COMMERCE

Colorado: recently enacted its proposed legislation (SB24-081) into law that will impose a ban on the sale and distribution of products containing “intentionally added” PFAS.

New Jersey – Banning use of PFAS in Fire Fighting PPE

Apparel Bills

- California AB 1817 – No intentionally added PFAS with some exceptions from 2025
- NY 37-0121 – Banning use of PFAS in apparel, starting in 2027 testing limits to be introduced.
- Minnesota 116.943 (5)(a)(6) no products allowed to be sold with intentional PFAS fabric treatments

MINNESOTA

LAW 116.93 – JANUARY 2025

- Prohibited PFAS in products for children
- Applicable to < age of 12
- Withdrawal of juvenile ATVs and motor bikes in the state





PFAS LITIGATION: THE NEW JERSEY STORY

June 11, 2026

Dave Reap
Special Counsel
New York Office

Please note: Any views expressed here are my own and should not be considered those of Kelley Drye or its clients.

FOCUS ON PUBLIC CLAIMS

- State*
- Counties
- Municipalities
- Utilities



- There is a “current economic and affordability crises in New Jersey” – Sherrill Administration, Executive Order No. 7

STATE'S ROLE

- ***Parens Patriae*** – vindication of “quasi-sovereign interests” including “the health and well-being—both physical and economic—of its residents in general”
- **Enforcer** – primary enforcer of environmental laws such as Spill Act and Water Pollution Control Act
- **Trustee** – authority (and duty) to protect and restore natural resources for the public's benefit

THEORIES/CLAIMS

Site-specific cases

Statewide PFAS

Statewide AFFF

OPENING MOVE: STATEWIDE PFAS DIRECTIVE

- DEP issued under Spill Act and additional authority
- Respondents: Solvay, DuPont, DowDuPont, Chemours, 3M
- Recited basis for “statewide” liability
- Included various information requests
- *Required Respondents to meet with DEP to discuss good faith estimate of costs to address PFAS across the State, and establishment of funding sources for same
- Partial compliance, good faith defenses asserted

- 
- “In issuing this directive, we are putting these five companies on notice that many years of contaminating New Jersey’s precious drinking water and other natural resources will not go unchecked. On behalf of all New Jerseyans, we will hold these companies accountable” – DEP Press Release, March 2019

STATE FOLLOWS WITH SERIES OF LITIGATIONS DURING 2019-2020

- 2019 – NJDEP v. DuPont, 4 cases filed in N.J. Superior Court, consolidated, ultimately removed to federal court in New Jersey before Chief Judge Bumb
- 2019 – NJDEP v. 3M, initially filed in N.J. Superior Court, ultimately transferred to AFFF MDL in federal court in South Carolina
- 2020 – NJDEP v. Solvay, filed in N.J. Superior Court and remained there

**‘We’re taking on DuPont,’
Murphy’s AG says. N.J. is
suing over decades of
pollution at these 4 sites.**

Updated: Mar. 27, 2019, 8:41 p.m. | Published: Mar. 27, 2019, 1:58 p.m.

NJDEP V. SOLVAY SPECIALTY POLYMERS USA, LLC

- NJ was facing a unique PFNA contamination problem in South Jersey
- Case was filed in Nov. 2020
- Primarily targeted the release of PFNA from West Deptford, NJ plant
- Sought clean up costs, drinking water treatment for surrounding communities, and NRD

Gurbir S. Grewal
ATTORNEY GENERAL OF NEW JERSEY
Richard J. Hughes Justice Complex
25 Market Street; PO Box 093
Trenton, NJ 08625-0093
Tel.: (609) 376-2761
By: Gwen Farley, Deputy Attorney General
Bar No. 000081999
Attorneys for Plaintiffs

Leonard Z. Kaufmann
Atty. ID #045731994
lzk@nllawfirm.com
COHN LIFLAND PEARLMAN
HERROMANN & KNOFF LLP
Park 80 West - Plaza One
250 Pehle Avenue, Suite 401
Saddle Brook, New Jersey 07663
Tel.: (201) 845-9600
Special Counsel to the Attorney General

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,

Plaintiffs,

v.

SOLVAY SPECIALTY POLYMERS USA, LLC; ARKEMA INC; AND "ABC CORPORATIONS" 1-10 (Names Fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
GLOUCESTER COUNTY
DOCKET NO. _____
CIVIL ACTION
COMPLAINT AND JURY TRIAL DEMAND

Plaintiffs the New Jersey Department of Environmental Protection ("Department" or "NJDEP"), the Commissioner of the Department of Environmental Protection ("Commissioner"), and the

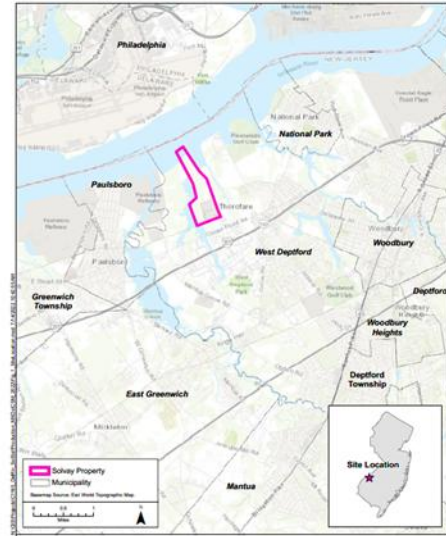


Figure 1. Site Location

SOLVAY CASE – KEY THEORIES AND EVIDENCE

November 15, 2013

West Deptford Plant PFC Usage and Emissions

Year ^a	Surflon Used ^b (kg)	Surflon Emissions ^c (kg)					NaPFO Used (kg)	NaPFO Emissions ^c (kg)			
		Air ^d	Water ^d	Landfill ^e	Products ^d	Destroyed ^f		Air ^d	Water ^d	Landfill ^e	Products ^f
1991	4,375	1,171	2,624	88	493	0	0	0	0	0	0
1992	3,714	994	2,227	74	418	0	0	0	0	0	0
1993	3,292	881	1,974	66	371	0	0	0	0	0	0
1994	3,940	1,054	2,363	79	444	0	0	0	0	0	0
1995	5,228	1,399	3,135	105	589	0	0	0	0	0	0
1996	5,832	1,561	3,498	117	657	0	429	34	382	9	4
1997	9,008	2,435	5,456	182	1,025	0	1,773	142	1,578	35	18
1998	7,952	2,128	4,769	159	896	0	525	42	467	11	5
1999	6,683	1,788	4,008	134	753	0	2,169	174	1,930	43	22
2000	7,100	1,900	4,258	142	800	0	2,747	220	2,445	55	27
2001	7,953	2,128	4,770	159	896	0	1,547	124	1,377	31	15
2002	7,549	2,020	4,527	151	851	0	878	70	781	18	9
2003	8,226	2,201	4,933	165	927	0	496	40	441	10	5
2004	8,659	2,317	5,193	173	976	0	0	0	0	0	0
2005	8,946	1,859	4,166	139	783	0	0	0	0	0	0
2006	7,081	1,895	4,247	142	798	0	0	0	0	0	0
2007	8,467	2,266	5,078	169	954	0	0	0	0	0	0
2008	6,341	1,697	3,803	127	714	0	0	0	0	0	0
2009	6,462	1,729	3,596	130	727	280	0	0	0	0	0
2010	171	46	106	3	16	0	0	0	0	0	0
2011	0	0	0	0	0	0	0	0	0	0	0
2012	0	0	0	0	0	0	0	0	0	0	0

Notes:

NaPFO = sodium perfluorooctanoate

^a Data prior to 1991 during Pennwalt/AtChem ownership are not available in Solvay Specialty Polymers records.

^b Usage data are estimated from production and accounting records.

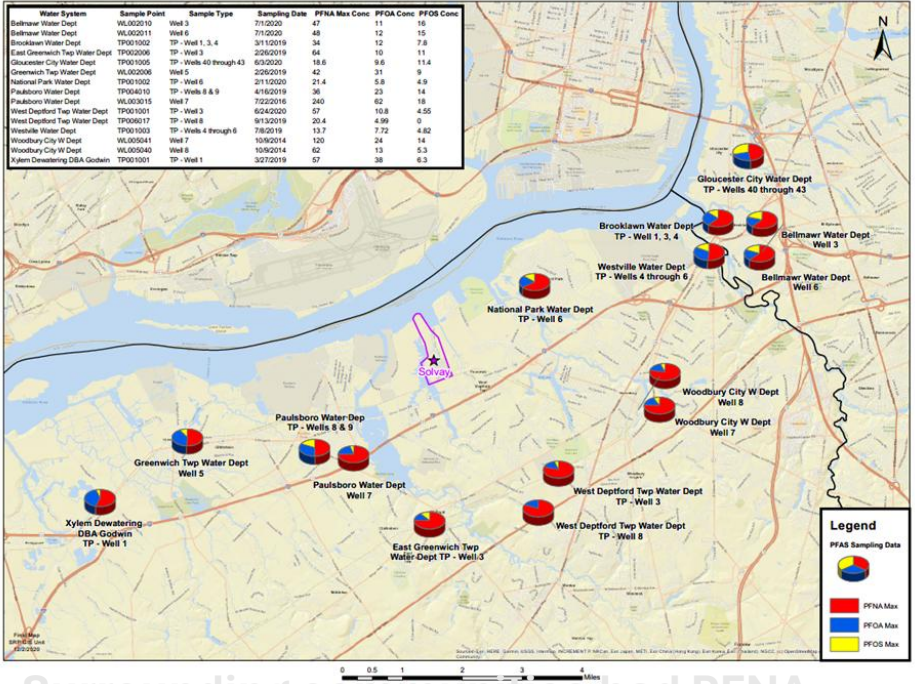
^c Emissions data are estimated using engineering calculations.

^d Estimated from analyses of process samples and mass balance equations.

^e Estimated based on historical patterns of solid waste generation rather than analysis of samples.

^f Estimated from quantity of liquid waste collected for incineration.

Public Community and Non-Community Supply Well
PFAS Sampling Data in Proximity to Solvay



Surrounding communities had PFNA-dominate PFAS signature in water systems

Solvay's LSRP identified tens of thousands of pounds of Surflon emissions from 1991-2010

SOLVAY, THEN ARKEMA, SETTLE

- Following key motion practice and discovery battles, settlements reached
- Solvay Judicial Consent Order – proposed 2023, final 2024
 - AG's office heralded it as the "Largest Single-site Natural Resource Damages and Remediation Case in New Jersey History"
 - Valued at approximately \$394 million – includes \$214 million Remediation Funding Source, *\$101 million Remedial Projects, \$75 million NRD, and \$3.7 million past costs
 - Solvay further responsible for conducting PFAS remediation (regardless of ultimate amount) as outlined in JCO, including private well testing and treatment
- Arkema Judicial Consent Order – proposed 2024, final 2025
 - Valued at approximately \$109 million – includes \$21.250 Remedial Projects, \$12.7 million NRD, and \$75 million remediation reserve fund

NJDEP v. DUPONT

- Filing of cases in March 2019 followed concerns about Chemours' financial viability
- 4 sites, but Chambers Works ultimately became leader—complex site with over 100 years of history
 - Extensive PFAS use and disposal, including as the birthplace of Teflon
- Wide variety of relief, including remediation, NRD, and assorted damages across sites

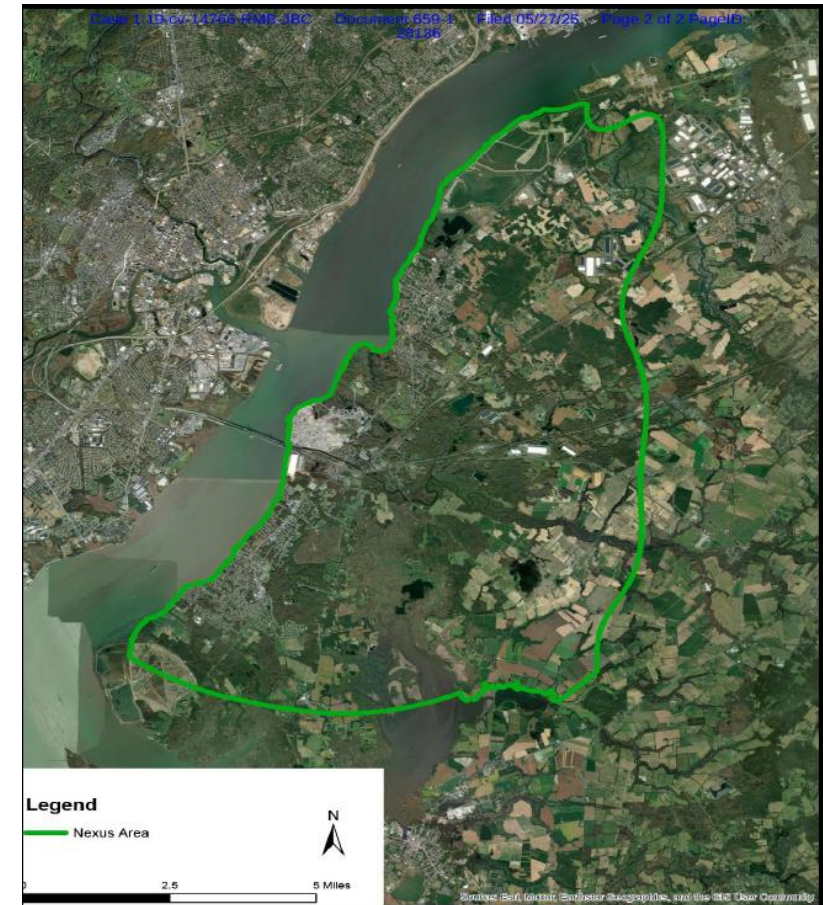


CHAMBER WORKS – NOTABLE FEATURES

- Large aerial PFOA impact zone, affecting private wells
- DuPont's PFAS activities at Chambers Works included a wastewater disposal operation that accepted PFAS waste from DuPont's other plants
- 3M named as defendant not as a "direct discharger," but as product manufacturer and seller

Exhibit A (Chambers Works electronic sales data):
Attachment to Certification

Product Type	Year	Chambers Works Total	Units
FC-118	1995	50,950	LBS
	1996	77,650	LBS
	1997	67,000	LBS
	1998	63,650	LBS
	1999	90,650	LBS
	2000	61,550	LBS
	2001	55,700	LBS
FC-2000	2001	600	LBS



into the Ohio River. An alternative method of disposal would be to send additional wastewater containing C-8 to Chambers Works for treatment. Currently Washington Works is sending 12,000 lbs./year of C-8 mixed with wastewater by rail cars to Chambers Works and would like to increase it to 24,000 lbs./year.

3M, THEN DUPONT, SETTLE

- Cases extensively litigated heading toward a May 2025 trial
 - Six years of litigation, over 14 million pages of documents, over 100 depositions, over 60 expert reports, multiple rounds of motion practice on complex issues, numerous pre-trial hearings and trial preparation
- 3M Judicial Consent Order – proposed 2025 (eve of trial), pending approval
 - Valued between \$400-\$450 million, resolves Chambers Works and statewide PFAS claims
 - Includes PFAS Abatement Funding, NRD, Costs/Fees/Punitive Damages
- DuPont Judicial Consent Order – proposed 2025 (mid-trial), pending court approval
 - Valued at over \$2 billion, resolves 4 sites and statewide PFAS claims
 - Requires Remediation Funding Sources up to \$1.2 billion, and an additional reserve fund of \$475 million
 - Includes \$875 million payment for Abatement Damages, NRD, Costs/Fees/Punitive Damages

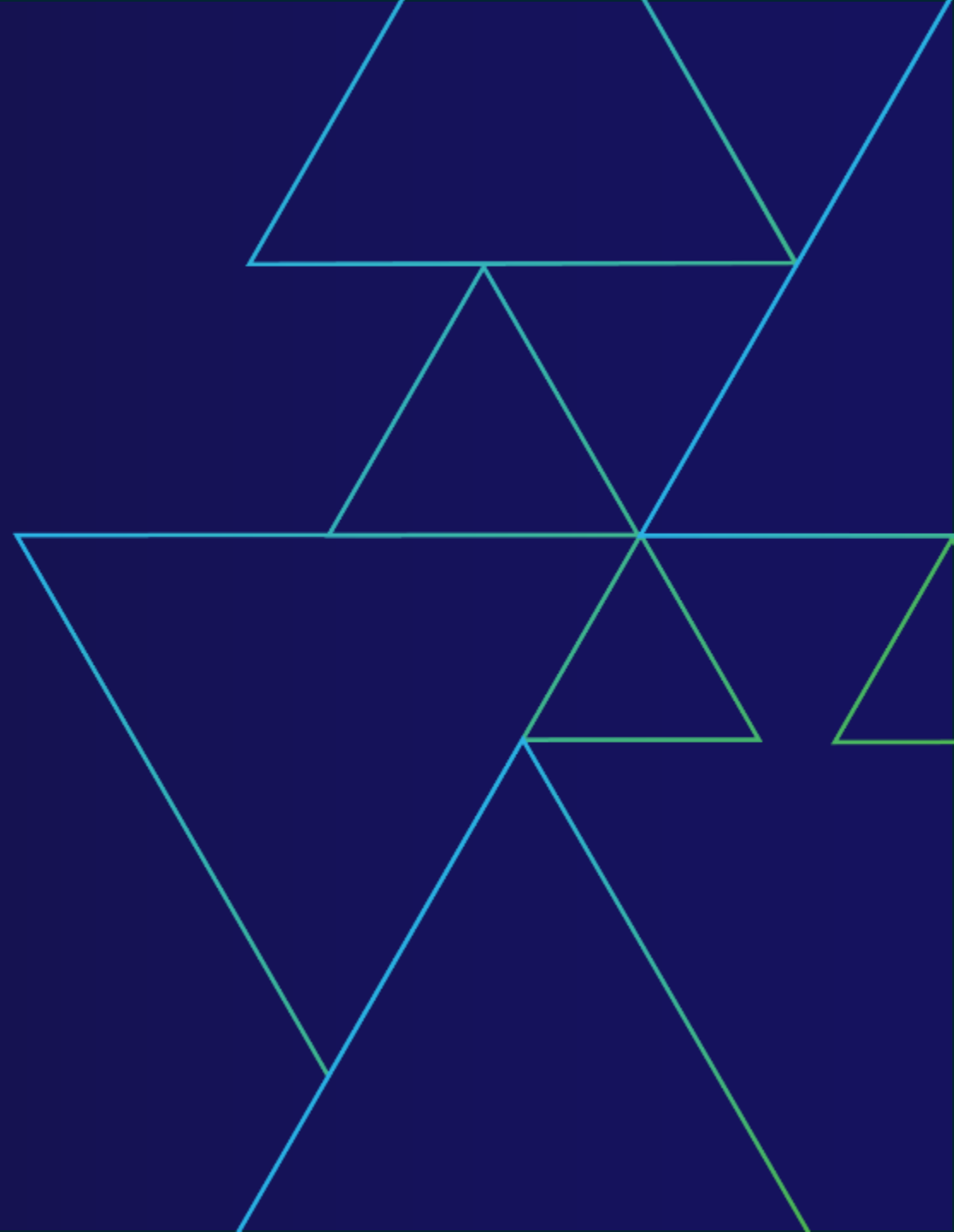


THANK YOU.

New York
Washington, DC
Chicago

Houston
Los Angeles
San Diego

San Francisco
New Jersey
Stamford





WHAT COMPANIES NEED TO KNOW

PFAS and the Expanding Plaintiff Pool

Toxic Tort & Environmental Litigation Overview

WHERE ARE THE NEW PLAINTIFFS COMING FROM?



Drinking water consumption – consumers and water companies



Consumption of freshwater fish



Household item exposure: cooking pans, waterproofing of clothing and furniture, etc.

THE PFAS LITIGATION LANDSCAPE



Prior litigation concentrated on military bases, firefighters, and chemical plants



Emerging science links exposure via drinking water and freshwater fish consumption to new categories of risk



EPA has designated PFOA and PFOS as hazardous substances under CERCLA — triggering Superfund enforcement and private cost-recovery actions



PFAS pose permanent environmental risks — they resist heat and solvents, the very properties that made them commercially valuable



PFAS were incorporated into consumer products across industries: cookware, children's clothing, food packaging, and more



An evolving web of state and federal regulations continues to expand the legal landscape

CURRENT LITIGATION LANDSCAPE

AFFF MDL

- Multi-District Litigation consolidated around Aqueous Film Forming Foam
- Strong causation link — core battleground for PFAS liability
- Bellwether trials shaping broader litigation strategy

Product Claims

- Consumer fraud & products liability
- Nuisance, fraud, breach of warranty
- State consumer protection statutes
- Medical monitoring claims

Insurance Disputes

- At least 16 coverage cases pending
- Filed across 11 states
- CGL scope, pollution exclusions, and trigger of coverage all contested

CHALLENGES IN PLAINTIFF LITIGATION

Causation Complexity

PFAS are ubiquitous — isolating a single responsible company or source is extraordinarily difficult.

Multiple manufacturers, formulators, and industrial users are often all potential defendants in the same exposure chain.

The fungibility and indestructibility of PFAS compounds the attribution problem.

Spectrum of Harm

Signal diseases

Testicular & kidney cancer — stronger causation link

Harder-to-prove harms

Elevated cholesterol, lower birth weight, birth defects, thyroid disorders

Latency periods

Long lag between exposure and diagnosis complicates proof

CHALLENGES FOR ALL LITIGATORS

01

Educating Finders of Fact

Judges and jurors are accustomed to asbestos paradigms — clear signal diseases, single exposure pathways. PFAS litigation requires retraining on multisource exposure, diffuse harm, and probabilistic causation.

02

Expert Witness Strategy

Finding and qualifying experts who can bridge toxicology, epidemiology, and industrial chemistry is essential — and intensely contested by defendants. Daubert challenges will be a primary defense tool.

03

Fungibility & Indestructibility

PFAS migrate across environmental media, do not break down, and accumulate in tissue over decades. These properties simultaneously strengthen environmental claims and complicate source attribution.

CONCLUSION & KEY TAKEAWAYS

- 1 Science is developing rapidly — new exposure pathways and disease categories will continue to expand the potential plaintiff pool.
- 2 CERCLA designation and MCL standards will dramatically increase cleanup obligations and cost-recovery litigation.
- 3 The AFFF MDL is the key litigation to follow — causation is strongest and outcomes will shape the broader PFAS docket.
- 4 Insurance companies must prepare now for burdensome, time-consuming disputes over historic CGL policies, trigger of coverage, and pollution exclusion scope.

Note: Case citations and regulatory developments should be independently verified before reliance.

Insurance Coverage for PFAS Liabilities

POTENTIAL INSURANCE COVERAGE: HISTORIC CGL INSURANCE POLICIES

- **Historic Liabilities:**

- PFAS has been in commercial use since the 1950s
- In 2026, plaintiffs are claiming:
 - Long-ago exposures to PFAS
 - Latent property damage and bodily injuries that went undiscovered for long periods of time

- **Historic CGL Insurance Policies:**

- CGL policies respond to bodily injury and property damage that happens during the policy period
- When damage/injury spans decades, which policy responds?

HISTORIC CGL INSURANCE POLICIES

“TRIGGER OF COVERAGE”

- **Typical Insuring Agreement:**

“The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of (a) bodily injury or (b) property damage to which this policy applies, caused by an occurrence. . . .”

- **Typical “Occurrence” Definition:**

“Occurrence” means “an accident, including injurious exposure to conditions, which results, during the policy period, in bodily injury or property damage neither expected nor intended from the standpoint of the insured” (emphasis supplied).

HISTORIC CGL INSURANCE POLICIES WHICH POLICY(IES) ARE TRIGGERED?

- **New Jersey: Continuous “Trigger” of Coverage for “Long-Tail” Claims**
 - All policies are triggered from time of initial exposure through discovery or manifestation of injury
 - *Owens-Illinois v. United Ins. Co.*, 138 N.J. 437 (1994) (asbestos context)
- **Other Approaches to Trigger:**
 - Manifestation/Diagnosis
 - Exposure
 - Injury-in-Fact

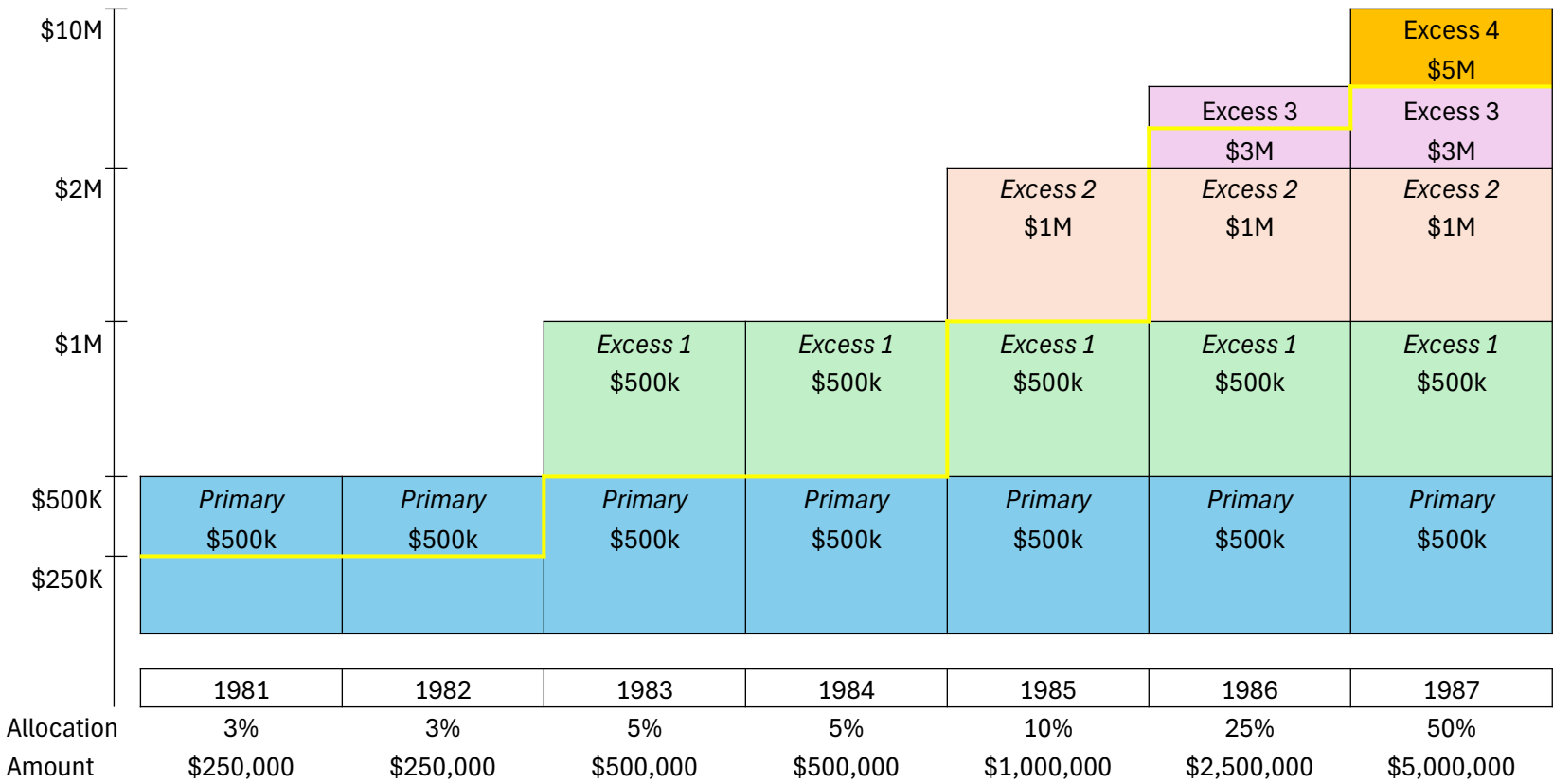
COVERAGE CHALLENGE: ALLOCATION

- **Allocation:** *apportioning coverage over multiple triggered years*
- **All Sums v. Pro Rata**
 - All Sums: Policyholder can choose which triggered policy pays first
 - Pro Rata: Payment responsibility divided among all triggered policies on a pro rata basis
- **New Jersey Approach: Pro Rata by limits**
 - *Allocation = annual policy limits / total policy limits of entire coverage period*
 - *Owens-Illinois v. United Ins. Co.*, 138 N.J. 437 (1994)

COVERAGE CHALLENGE: ALLOCATION

Hypothetical:

- \$10M loss spread over 7 years
- \$20M in total policy limits
- Annual allocation = limits / \$20M
- *Carter-Wallace, Inc. v. Admiral Ins. Co.*, 154 N.J. 312 (1998): Vertical exhaustion required to reach excess policies



COVERAGE CHALLENGE: POLLUTION EXCLUSIONS

- **Pre-1986 “Standard” CGL Pollution Exclusions:**

- Limited application in NJ
- Courts required intentional discharge of known pollutants
 - *Morton Intern. v. General Accident Ins. Co. of Am.*, 134 N.J. 1 (1993)

- **Post-1985 “Absolute” Pollution Exclusions:**

- Far more restrictive, but only applies to “traditional environmental pollution”
 - *Nav-Its v. Selective Ins. Co. of Am.*, 183 N.J. 110 (2005)
- Potential exceptions:
 - Product/Completed Operations claims (products used for intended purpose)
 - Substances used in manufacturing process that do not escape into the outside environment

POTENTIAL LIABILITY INSURANCE BENEFITS

WHAT'S COVERED?

Defense

Pays for:

- Fees of lawyers defending lawsuits or dealing with environmental authorities
- May pay for investigation: RI/FS costs
- Test: whether there is any possibility of coverage

Indemnity

Pays for:

- Settlements
- Judgments
- Clean-Up Costs

PFAS LAWSUITS MUST BE DEFENDED

- Insurance companies ordered to defend 3M in PFA lawsuits. 3M's motion for summary judgment granted re: insurance company breach of contract.
 - *Wolverine World Wide Inc. v. American Ins. Co.*, 2021WL 5548103 (W.D. Mich. 2021).
- Insurance company ordered to defend PFA lawsuits against policyholder.
 - *James River Ins. Co. v. Dalton-Whitfield Regional Solid Waste Management Authority*, (N.D. Ga. 2022).
- Manufacturer of firefighter foam was owed duty to defend hundreds of cases brought by firefighters.
 - *Colony Ins. Co. v. Buckeye Fire Equipment Co.*, 2020 WL 152381 (WDNC 2020); aff'd.; 2021 WL 5397595 (4th Cir. 2021).

Practical Steps for Securing Coverage for PFAS Liabilities

WHAT TO DO IF YOU HAVE A CLAIM

- **NOTICE**

- **Notice of An Occurrence** (An Event or Happening That Might Result in a Claim Against the Policyholder).
- **Notice of A Claim** (Claim or Threat Against Policyholder).
- **When?** Now.
- **To Whom?** Everyone.
- **How?** In Writing.

FINDING PRE-1986 INSURANCE POLICIES

- Own insurance files (insurance - risk management department/comptroller/GC/ (storage)
- All brokers/agents (existing and old)
- Outside accountants (policy premium payments)
- Outside counsel (who paid defense costs?)
- U.S. Navy (Maryland warehouse)
- Insurance archeologists

FINDING PRE-1986 INSURANCE POLICIES

- Determine whether that coverage has been settled and released or eroded or exhausted.
- No need to have actual policy if you can prove existence, limits, time period and level.



WHAT'S NEXT?

- Identify/Collect/Preserve Records
- Determine Policy Erosion/Settlement/ Release
- Provide Reasonable Cooperation (to Assist Reinsurance Claim If Nothing Else)
- Provide Updates
- Value Claim
- Discuss Settlement
- Cost/Benefit Analysis of Pursuing Coverage

PURSUING COVERAGE FOR PFAS CLAIMS: CHOOSE YOUR BATTLEGROUND

- *Choice of law decisions can be outcome determinative*
 - Trigger and Allocation issues
 - Method of application of insurance to the policyholder's loss
 - Trigger period
 - Number of occurrences
- *Forum Shopping*
 - What states' laws may potentially apply?
 - Where can the lawsuit be brought?
 - What are the choice of law rules in that forum?

CHOOSE YOUR BATTLEGROUND

- Basic Choice of Law Approaches
 - *Lex Loci Contractus* – place of contracting (what to do with multiple policies?)
 - Place of Wrong
 - Place of Performance
 - Restatement Approach
 - Principal location of the insured risk
 - Jurisdiction with the most significant interest

CHOOSE YOUR BATTLEGROUND

- ***The Advantages of Filing First***
 - The First Filed Rule & Comity
 - Given substantially identical issues and parties, a court should defer to the first filed action the basis of comity and stay the later action
 - Even if second suit is filed and not stayed, filing first can give your action a head start in the race to judgment

QUESTIONS & ANSWERS

THANK YOU

Cameron Argetsinger

204.416.6515 / cargetsinger@andersonkill.com

Robert Horkovich

212.278.1322 / rhorkovich@andersonkill.com

Art Clarke

212.321.5718 / arthur.clarke@jsheld.com

David Reap

212.808.7636 / dreap@kelleydrye.com

Drew Renzi

732.747.9003 / wkuzmin@cprlaw.com

ANDERSON KILL