

ACI's Summit on PFAS

Regulation, Compliance, and Litigation

May 30–31, 2024 | New York City Bar Association, New York, NY

KEYNOTE SPEAKER



David Uhlmann
Assistant Administrator
**Environmental
Protection Agency,
Office of Enforcement
and Compliance
Assurance (OECA)**

Gain Insights on Critical Government PFAS Initiatives From:



Richard Trumka
Commissioner
**Consumer Product
Safety Commission**



Melanie Loyzim
Commissioner
**Maine Department of
Environmental Protection**



Yana Garcia
Secretary
**California Environmental
Protection Agency**



Katrina Lassiter
Hazardous Waste
and Toxics Reduction
Program Manager
**Washington State
Department of Ecology**



Katrina Kessler
Commissioner
**Minnesota Pollution
Control Agency**



Valentina Bertato
Policy Officer
**European Commission,
DG Environment**



Shawn M. LaTourette
Commissioner
**New Jersey Department
of Environmental
Protection**

Esteemed Co-Chairs:



Julia Hatcher
Partner
Latham & Watkins LLP



Kegan Brown
Partner
Lowenstein Sandler LLP

Benefit from In-Depth Discussions On:

- The Implications of a PFAS “Hazardous Substance” Designation Under CERCLA
- Understanding New **PFAS Reporting Requirements** and **New Use Rule** Under the TSCA
- Navigating the Growing Maze of **State PFAS Laws Impacting Consumer Products**
- Emerging **Litigation Against “Downstream” Manufacturers** of PFAS-Containing Products
- Minimizing PFAS Risks in **Manufacturing Practices and Supply Chain Management**
- Hedging Against PFAS Dangers in **M+A Transactions** and **Property Transfers**

PLUS! Don't Miss Our In-Depth Pre-Conference Workshops on May 29th:

- A Environmental Law Fundamentals:** An Essential Primer on the Cornerstone Laws Impacting the Regulation of PFAS in the United States (CERCLA, TSCA, RCRA and Beyond)
- B Demystifying the Science of PFAS:** A Comprehensive Analysis of the Science Behind PFAS Lifecycles, Toxicology, Testing and Remediation

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PFAS Compliance and Litigation Risks are Rapidly Escalating – The Time to Prepare is NOW.

Per- and Polyfluoroalkyl Substances – otherwise known as “PFAS” – are making headlines for their alleged links to significant health and environmental risks. Companies at every level of the stream of commerce now face exposure to PFAS enforcement action and litigation. With threats now reaching beyond the chemical manufacturers to downstream manufacturers, importers, distributors and retailers of PFAS-containing products, there is not a single industry that will not in some way feel the impact of new PFAS regulation and increased litigation.

With new regulations from the EPA on the horizon, and the patchwork of inconsistent state PFAS laws continuing to grow, it is critical that companies have a 360-degree understanding of the current legislative, regulatory, enforcement and litigation landscape.

As we enter 2024, failing to understand the full scope of PFAS risks to your organization will expose you to damaging business disruptions, substantial penalties for non-compliance, costly litigation and environmental liabilities, broken supply chains, reputational/brand damage, lost market share and more.

Attend **ACI's Premiere Summit on PFAS Regulation, Compliance and Litigation** to gain an in-depth analysis of the most critical regulatory and litigation developments having cross-industry implications. Attend and walk away with an understanding of where the PFAS-related risks exist within your (or your client's) business, and how to most efficiently tackle and mitigate those risks.

Registration is now open. We look forward to seeing you in New York City this May for what is sure to be one of the most valuable events of the year.



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ESTEEMED SPEAKERS



PRE-CONFERENCE WORKSHOPS

Wednesday, May 29

9:00 – 12:30

A

Environmental Law Fundamentals: An Essential Primer on the Cornerstone Laws Impacting the Regulation of PFAS in the United States (CERCLA, TSCA, RCRA, and CWA)

 Philip Comella, Partner, Taft Stettinius & Hollister LLP

Elizabeth Knauer, Principal, Sive Paget Riesel

Alexandra Hamilton, Partner, Hunton Andrews Kurth LLP

This primer will provide attendees with an essential working knowledge of the fundamental environmental laws which provide the framework for newly emerging PFAS regulations in the U.S.

Our workshop leaders will set the stage for the main conference by helping you to comprehend the foundational policies underpinning the impending governance of PFAS chemicals in the United States. Topics to be covered will include:

- An overview of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
 - » Analyzing the legal framework and key statutory provisions
 - » Assessing significant legal, legislative and regulatory developments since the Act's inception
 - » Exploring priorities set forth by the Biden Harris Administration with regard to CERCLA
 - » What types of action can the federal government take under CERCLA to address the release of contaminants or the threatened release of contaminants?
 - » What authority does CERCLA provide to the EPA in terms of holding Potentially Responsible Parties (PRPs) liable for environmental contamination?
 - » Examining important State Superfund Law considerations
- Understanding the fundamentals of the Resource Conservation and Recovery Act (RCRA)
 - » Analyzing the implications of including a substance on the RCRA list of hazardous constituents
- A comprehensive analysis of the Toxic Substances Control Act
 - » Understanding the full scope of authorities that the TSCA provides to the EPA with regard to the governing of chemical substances in the U.S.
 - » Examining the 2016 amendments to the Act
 - » Examining significant compliance and enforcement developments under the Act
 - » Understanding the function of the TSCA Chemical Substance Inventory, and the implications of a chemical being listed on the Inventory

1:30 – 5:00

B

Demystifying the Science of PFAS: A Comprehensive Analysis of the Science Behind PFAS Toxicology, Testing, and Remediation

 Sarah Parker, Ph.D., Senior Managing Scientist, Exponent

Andrew Patterson, Technical Director, VP of Innovation and Development, Eurofins Environment Testing America

Jay West, Senior Director, Chemical Products and Technology, American Chemistry Council

Andrew Knight, Chemist, Principal Member of the Technical Staff, Sandia National Laboratories

In this comprehensive workshop, attendees will benefit from a critical discussion of the current state of PFAS science. Our panel of experts will break down the latest advances in understanding Per- and Polyfluoroalkyl Substances, how harmful they really are, how companies can most accurately test their products, and more. Topics of discussion will include:

- What are PFAS chemicals?
- Do PFAS chemicals really last "forever?" – what does the science show?
- Analyzing different PFAS exposure pathways and exposure levels by life stage
- How harmful are PFAS really?
 - » Analyzing health effects studies of both PFOA and PFOS
 - » Deciphering health effects studies on animals vs. humans
- Breaking down the various PFAS testing options, the science behind the testing methodologies, and making sense of the results
 - » Approaches for measuring PFAS environmental releases
 - » Discerning the levels and volumes of PFAS in your products, and understanding the most accurate testing methods for different types of products
- Evaluating how underlying technical/scientific information is used by agencies to support rulemaking around PFAS
- Analyzing the latest scientific developments in PFAS remediation

MAIN CONFERENCE DAY ONE

Thursday, May 30

9:00

Welcome and Chair's Opening Remarks: 2024 PFAS State of the Union

 **Julia Hatcher**, *Partner*, **Latham & Watkins LLP**

Kegan Brown, *Partner, Environmental and Products Liability Litigation*,
Lowenstein Sandler LLP

Our esteemed co-chairs will set the stage for the conference with a high-level exploration of the most significant policy initiatives, regulatory movements, and litigation developments in the realm of PFAS to date.

Status Update on the EPA's "PFAS Strategic Roadmap"

9:30

EPA Keynote Address

 **David Uhlmann**, *Assistant Administrator*, **Environmental Protection Agency, Office of Enforcement and Compliance Assurance (OECA)**

In our opening session, the EPA will share insights on the latest strides being taken by the Office of Enforcement and Compliance Assurance to implement the agency's PFAS Strategic Roadmap. They will provide key updates on what the OECA has been doing to address PFAS exposure as part of the agency's National Enforcement and Compliance Initiatives, and what is next on the horizon.

10:15 Morning Coffee Break

10:45

Analyzing the Profound Implications of a PFAS "Hazardous Substance" Designation Under CERCLA: Critical Considerations for All PFAS Stakeholders

 **Stephanie Feingold**, *Partner*, **Morgan, Lewis & Bockius LLP**

Kegan Brown, *Partner, Environmental and Products Liability Litigation*,
Lowenstein Sandler LLP

By all accounts, the EPA has estimated that their final rule designating PFAS chemicals as hazardous substances will be in February 2024. This CERCLA designation will have critical implications for manufacturers of PFAS and PFAS-containing products, owners/operators of properties or facilities where PFAS has been released or disposed, and other various entities.

This panel will closely examine topics including:

- Analyzing the EPA's final rule designating PFAS as a "hazardous substance" under CERCLA
 - » Examining the status of the final rule, projected timelines and Congressional responses
- Assessing the implications of a CERCLA designation for owners/operators of properties or facilities where PFAS chemicals were released or disposed
- Understanding the full scope of liability implications for "Potentially Responsible Parties" (PRPs), including:
 - » Manufacturers and importers of PFAS chemicals
 - » Businesses that use or manufacture products containing PFAS
 - » Entities that have generated, transported or arranged for the disposal of PFAS chemicals
 - » Waste management and wastewater facilities that treat PFAS contamination
- Assessing the circumstances under which "Potentially Responsible Parties" may be found responsible under CERCLA; how liability allocations will be determined and calculated; and potential ways to minimize liability
- Comprehending the implications of any exemptions granted to facilities or PFAS users under the new final rule

11:45

Examining Recent Developments Under the Toxic Substances Control Act (TSCA): What Every PFAS Counsel Must Know About the Latest EPA Reporting Requirements and the Upcoming "New Use Rule"

 **Julia Hatcher**, *Partner*, **Latham & Watkins LLP**

Cynthia AM Stroman, *Partner*, **King & Spalding LLP**

David Fotouhi, *Partner*, **Gibson, Dunn & Crutcher**

- Examining the new Final Rule requiring the reporting of PFAS data to the EPA
- Addressing the full scope of the inventory, recordkeeping and reporting requirements for companies that have manufactured or imported PFAS or PFAS-containing products since 2011
- Navigating the challenges of obtaining and reporting accurate information pertaining to: chemical identity, uses, volumes made and processed, byproducts emitted, environmental and health effects, worker exposure, and disposal to EPA
- Examining the 41 new additional PFAS chemicals that the final rule identifies as concerning and deems subject to the new reporting requirements
- Understanding EPA's newly released framework for addressing "new and new uses of PFAS" under the TSCA

12:45 Networking Luncheon for Speakers and Delegates

1:45

Exploring Federal PFAS Initiatives of the Consumer Product Safety Commission (CPSC)

 **Richard Trumka**, *Commissioner*, [Consumer Product Safety Commission](#)

INTERVIEWED BY: **Lori Leskin**, *Partner, Co-Chair, Consumer Products Practice Group*, [Arnold & Porter LLP](#)

Join us for a Fireside Chat with CPSC Commissioner, Richard Trumka, as he shares insights on recent initiatives of the Consumer Products Safety Commission with regard to PFAS. Hear about what the Commission is currently doing to examine and determine the permissibility of PFAS in consumer products, and more.

Spotlight on State-Level PFAS Activity

2:15

State Regulators Roundtable: Insights from Key State Environmental Agencies on the Latest PFAS Rulemaking Initiatives

 **Shawn M. LaTourette**, *Commissioner*, [New Jersey Department of Environmental Protection](#)

Melanie Loyzim, *Commissioner*, [Maine Department of Environmental Protection](#)

Yana Garcia, *Secretary*, [California Environmental Protection Agency](#)

Katrina Kessler, *Commissioner*, [Minnesota Pollution Control Agency](#)

Katrina Lassiter, *Hazardous Waste and Toxics Reduction Program Manager*, [Washington State Department of Ecology](#)

MODERATOR: **Thomas Lee**, *Partner and PFAS Team Leader*, [Bryan Cave Leighton Paisner LLP](#)

3:30 Afternoon Break

3:45

Navigating the Growing Labyrinth of Evolving State PFAS Laws Impacting Consumer Products

 **Seth Mailhot**, *Partner*, [Husch Blackwell](#)

Steven Siros, *Partner, Co-Chair of Environmental Health and Safety Practice*, [Jenner & Block](#)

Manufacturers, distributors, and retailers of consumer products across a broad spectrum of industries are now being impacted by laws regulating PFAS, with over 100 PFAS-related regulatory policies in place across nearly 25 U.S. states. The dangers for these companies continue to escalate as states are creating new and inconsistent laws, and the penalties and litigation risks for non-compliance can be substantial. This panel will analyze:

- The most critical state-by-state PFAS laws to be aware of, including those relating to:
 - » PFAS in packaging, containers and food wrappers
 - » PFAS in cosmetics
 - » Product labeling and disclosures
 - » Bans on the intentional addition of PFAS
 - » Thresholds for the unintentional addition of PFAS
- Navigating discrepancies in state PFAS testing standards, compliance timelines and penalties for non-compliance
- Strategies for developing a cross-state PFAS compliance strategy

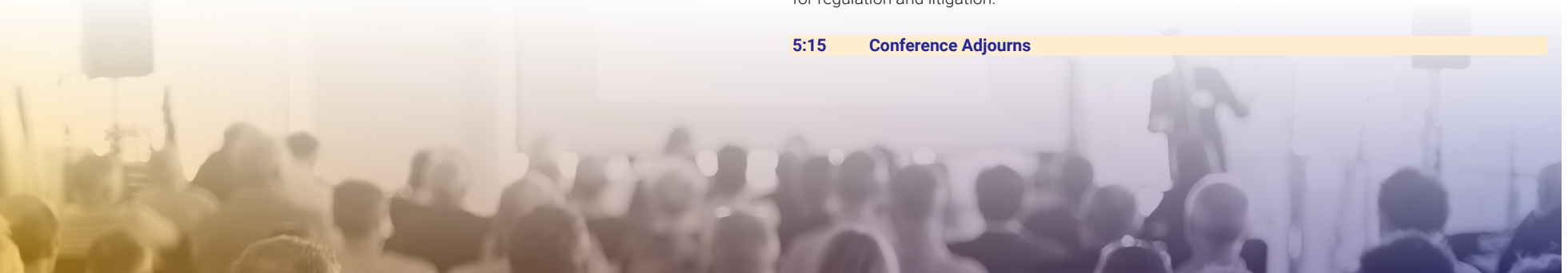
4:45

Looking Beyond PFOA and PFOS: A Focus Session on Additional PFAS Which May Be the Next Target for Regulators and the Plaintiffs' Bar

 **Paul LaFata**, *Partner*, [Dechert LLP](#)

While PFOA and PFOS are the two most widely used PFAS, there are thousands of other PFAS chemicals present throughout the United States. What's more, the EPA has indicated its intention to add additional PFAS chemicals to the CERCLA hazardous substances list. This panel will reconcile the vast universe of Per- and Polyfluoroalkyl Substances and forecast which may be the next target for regulation and litigation.

5:15 Conference Adjourns



MAIN CONFERENCE DAY TWO

Friday, May 31



9:00

Co-Chairs' Welcome Back and Recap of Day 1

 **Julia Hatcher**, *Partner*, **Latham & Watkins LLP**

Kegan Brown, *Partner, Environmental and Products Liability Litigation*,
Lowenstein Sandler LLP

9:15

Key Takeaways from the Recent 3M and Dupont PFAS Settlements

 **Lana Rowenko**, *Partner*, **Kelley Drye & Warren LLP**

Join us for a case study of the recent, historic PFAS settlements with 3M and Dupont. Our panelists will analyze litigation strategies, significant rulings and key takeaways from these cases and provide insights on how they may impact future actions against PFAS chemical manufacturers.

10:00 **Morning Coffee Break**

10:30

Examining Emerging Trends in PFAS Litigation Against “Downstream” Manufacturers, Distributors, and Retailers of PFAS-Containing Products

 **Shannon McClure Roberts**, *Partner*, **Reed Smith**

Suzanne Galvin, *Partner*, **Thompson Coburn LLP**

Marina Schwartz, *Counsel*, **Dechert LLP**

As PFAS litigation continues to ramp up, we are now seeing the plaintiff bar shifting their focus to second, third, and fourth “tiers” of defendants, as primary defendants (like direct manufacturers of PFAS chemicals) are becoming insolvent and seeking bankruptcy protections. This panel will examine:

- The different trends in litigation and settlements against “downstream users of PFAS” – such as businesses involved in the manufacturing and sale of PFAS-containing products
- What kinds of claims are being brought under what theories against what industries?
- Examining the latest creative ways plaintiffs are bringing lawsuits under theories of:
 - » Consumer fraud / false advertising
 - » Medical monitoring
 - » Personal injury
 - » Public nuisance
 - » Product liability

- Strategies for preventing, combatting and defending these lawsuits
- What does the future litigation landscape look like and things businesses can do now to avoid being a class action target

11:30

Lessons from Across the Pond: Examining Europe’s Latest Actions to Regulate PFAS and Critical Takeaways for the U.S.

 **Valentina Bertato**, *Policy Officer*, **European Commission, DG Environment**

Martin Ahlhaus, *Partner*, **Produkt Kanzlei (Germany)**

- Taking a look at the latest regulatory initiatives in Europe to restrict certain PFAS compounds
- Examining what is in the EU’s PFAS REACH Proposal (Registration, Evaluation, Authorisation and Restriction of Chemicals)
 - » Understanding the PFAS reporting requirements under REACH
- Analyzing the European Chemicals Agency (ECHA)’s proposal to ban PFAS
 - » Understanding how this ban would impact the supply chains and customer expectations of companies around the world
- Forecasting whether current EU movements could serve as precedent for future regulations in the US and across the globe

12:15

Networking Luncheon



PFAS Risk Management Essentials

1:15

Minimizing PFAS Risks in Manufacturing Practices, Supply Chain Management, and Sourcing from Overseas Suppliers

 **Guy R. Temple**, *Partner*, **Reinhart Boerner Van Deuren s.c.**

Thomas Brugato, *Of Counsel*, **Covington & Burling LLP**

- Developing and implementing a complete compliance audit to best assess and mitigate areas of potential concern for PFAS liability in your company's operations
- Evaluating your organizations current and historical operations for material sourcing, facility operations, and supply chain management to determine whether PFAS entered your operations, intentionally or otherwise
- Identifying data gaps and remedying those gaps
- Prioritizing the most significant risks to your business, keeping in mind future regulatory and market considerations
- Developing a mitigation plan to address your company's most material risks
 - » Understanding how to best balance transparency and confidentiality during this process

2:15

Protecting Against PFAS Liabilities in M+A Transactions and Property Transfers

 **Michael R. Blumenthal**, *Of Counsel*, **McGlinchey Stafford**

Heather A. Richardson, *Partner*, **Thompson Hine LLP**

- Understanding the full scope of responsibilities and liabilities that are at play for entities engaged in the purchase, sale, transfer, merger or absorption of a business or property with ties to PFAS
- Analyzing how to hedge against PFAS risks in these types of transactions
- Identifying best practices for negotiations and transactional due diligence to minimize PFAS risks and potential liabilities
- Assessing insurance coverage strategies for PFAS-related liabilities and losses

3:15 **Afternoon Break**

3:30

Understanding Potential Ways to Mitigate Exposure for PFAS Risks Through Insurance

 **Joseph Englert**, *Partner*, **McGuireWoods LLP**

- Assessing the various insurance-related implications triggered by PFAS exposure
- Examining different insurance coverage options to protect against losses stemming from enforcement or lawsuits for alleged PFAS contamination
- Addressing recent strides taken by insurers to enact PFAS-specific exclusions which would carve out coverage for PFAS-related issues

4:15 **Conference Ends**



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Workshop B: Demystifying the PFAS Science		\$600		

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