



# Insurance Marketplace Update: August 2023

## State of the Market Environmental:

Overall, environmental rates have been stable, and concerns continue to include climate change and impacts from lawsuits and governmental programs. The number of lawsuits involving pollution liability claims is on the rise, as is the severity of judgments. Capacity remains stable; however, higher limits remain difficult and expensive in some higher hazard classes such as oil and gas, mining, chemical, habitational, and hospitality.

### PFAS

You will continue or start to see contaminant exclusions for per- and poly-fluoroalkyl substances (PFAS), and the trend will continue as the Environmental Protection Agency (EPA) moves to designate PFAS as hazardous substances under the "Comprehensive Environmental Response, Compensation, and Liability Act" (ERCLA) aka Superfund.

If finalized, the rule would require entities to immediately report releases of PFOA and PFOS that meet or exceed the reportable quantity to respective emergency response teams. Any entity deemed responsible for contamination would be forced to pay to clean it up regardless of fault.

This designation would create issues for businesses and sites with PFAS exposure, and ultimately create more opportunities for environmental contractors and consultants dealing with the cleanup of these sites.

Additionally, the EPA is putting substantial resources into regulation enforcement—resulting in more fines, penalties, and claims. Exposures that may have previously gone unnoticed or ignored are now receiving attention due to the heightened focus on pollutants. If this trend continues, we are likely to see an expansion of exclusions in pollution coverage.

We will continue to review environmental coverage and watch for additional exclusions for "superfund" sites as well as other locations deemed as high hazards by the EPA.

Environmental liability insurance is not "one size fits all," and a policy can be customized for any risk.

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