



PFAS and Emerging Contaminants

Kelley Drye is on the vanguard of legal issues related to per- and polyfluoroalkyl substances (PFAS). We have the preeminent team of attorneys dedicated to helping clients address PFAS contamination.

About

Kelley Drye represents 15 states and sovereign governments and dozens of water providers in PFAS litigations across the country. Kelley Drye was lead counsel for the State of New Jersey in its month-long trial against DuPont for PFAS and other contamination in New Jersey, resulting in settlements with 3M and DuPont that cumulatively recovered \$2.5 billion in remediation, restoration, damages and costs for New Jersey.

WHAT ARE PFAS | THE EFFECTS OF PFAS | PFAS REGULATION

Kelley Drye is lead-counsel in the largest and most significant PFAS litigations in the country, both for public and private clients.

Kelley Drye represents numerous states, municipalities, and water districts, as well as private sector clients, in more than twenty state and federal litigations throughout the country involving environmental contamination by PFAS. Most recently, our team served as Lead Counsel for the State of New Jersey in the first state case against a PFAS manufacturer for remediation costs and natural resource damages resulting from PFAS. Before trial commenced, the team secured a landmark settlement for New Jersey with 3M, resulting in a cash settlement that will bring up to **\$450 million** in recoveries to New Jersey for PFAS abatement projects, natural resource restoration, water treatment, and other actions to address the impacts of PFAS across the State. Then, following a month long trial against DuPont and related companies before Chief Judge Renee Bumb of the District of New Jersey, the Kelley Drye team negotiated a settlement with DuPont and related companies bringing another **\$2 billion** in remediation, restoration and damages to the people of New Jersey.

Putting these results together with the 2024 and 2025 settlements with Solvay and Arkema for PFAS from their operations in West Deptford, the Kelley Drye team has recovered **\$3 Billion** in remediation, restoration, PFAS abatement, and Natural Resource Damages for New Jersey since 2019.

Our team also represents numerous states and public water providers in claims related to the use of firefighting foam – aqueous film-forming foam (AFFF) – and other products that contain PFAS compounds. Thousands of cases from across the nation involving AFFF claims, including cases brought by Kelley Drye’s clients, have been consolidated in a multi-district litigation in the U.S. District Court for the District of South Carolina (AFFF MDL), where Kelley Drye attorneys have been appointed to numerous positions on the Plaintiffs’ Executive Committee that leads the AFFF MDL, including serving on the Plaintiffs Executive Committee, chairing the States/Sovereigns Committee, co-chairing the Property Damage Committee, and serving on the Discovery Committee.

Kelley Drye attorneys bring decades of unmatched experience in complex environmental contamination and natural resource damages matters, including on behalf of states and private businesses, and are applying that experience to PFAS regulation and litigation. In addition to litigation services, Kelley Drye counsels clients with internal investigations into PFAS risks and liability, how to mitigate those risks, and represents them in actions to recover costs they incur to address PFAS contamination.

Innocent customers and unwitting users of PFAS-containing products are already liable for PFAS investigation and remediation costs – including significant drinking water treatment costs – as “responsible parties” under several state environmental laws. In 2025, the federal government also designated two PFAS chemicals, PFOA and PFOS, as “hazardous substances” under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As a result, companies that used PFAS – whether knowingly or not and without consideration of fault – may be strictly liable under CERCLA for cleanup costs at their own facilities and offsite disposal sites, as well as resulting injuries to natural resources and the costs to assess them. Our team is ready to assist businesses in connection with these potential liabilities arising under CERCLA and similar state laws, combining its years of experience in such matters with its unparalleled background in PFAS litigation and regulation.

In short, Kelley Drye is uniquely positioned to provide cutting-edge, yet cost-effective, legal services related to PFAS, through decades of experience and the most up-to-date knowledge of the shifting PFAS landscape.

What Are PFAS

PFAS belong to a class of man-made chemicals known as perfluorinated compounds. There are thousands of PFAS chemicals in use and in the environment today. These chemicals include perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA), perfluorodecanoic acid (PFDA), perfluorononanoic acid (PFNA), perfluorobutanesulfonic acid (PFBS), perfluorohexanoic acid (PFHxA), perfluorohexanesulfonate (PFHxS), and HFPO dimer acid (GenX).

PFAS were originally developed in the 1940s, and put into large-scale manufacture and use by the early 1950s. These compounds have unique physical and chemical properties – including their carbon-fluorine bond – which can impart oil, water, stain, and soil repellency, chemical and temperature resistance, friction reduction, and surfactant properties to a wide range of products. The unique ability of PFAS to repel both oil and water has led to their application in numerous household goods and apparel.

PFOA and PFOS have been the most extensively produced and studied of these chemicals. They are persistent, bioaccumulative, and linked to various human diseases and cancers. While U.S. manufacturers have phased out their domestic use of PFOA and PFOS and other long-chain PFAS chemicals, they have shifted production to shorter-chain PFAS chemicals mentioned above.

Because of their unique properties, including waterproof, stain-resistant, and non-stick, PFAS are ubiquitous in industrial and consumer products and, now, in the natural environment:

- **Food items:** Food can be packaged in PFAS-containing materials, processed with equipment that used PFAS, or grown in PFAS-contaminated soil or water.

- **Commercial household products:** Stain- and water-repellent fabrics, non-stick products, polishes, waxes, paints, cleaning products. Commonly used products include Stainmaster® carpets, Scotchguard® fabrics, Teflon®, Gore-Tex®, and Tyvek®.
- **AFFF:** PFAS have been widely used in high performance firefighting products. The Department of Defense (DOD) has issued military specifications for AFFF since the 1960s, but AFFF has also become a common commercial product sold to private and public facilities around the world. For several decades, AFFF has been used by military bases, airports, oil refineries, industrial facilities, and local firefighters, and there are now thousands of sites across the United States with related PFAS contamination.
- **Industrial products and use:** Facilities or industries (e.g., chrome plating, electronics manufacturing or oil refining and storage) where PFAS is used in the manufacturing process or is a byproduct.
- **Waste facilities:** Industrial and municipal waste treatment facilities and landfills treating PFAS-containing waste.
- **Drinking water:** Drinking water contamination typically associated with a specific industrial facility, treatment facility, or AFFF use.
- **Living organisms:** Animals and humans, where PFAS have the ability to build up and persist over time.

The Effects of PFAS

Risks to Human Health and the Environment

Because of their wide use, PFAS affect everyone. PFAS are found in the blood of virtually all humans and animals throughout the world, including newborn babies.

The EPA has identified PFOS and PFOA as emerging contaminants and has listed PFOA as a likely carcinogen finding that no level of PFOA in drinking water is safe.

Research is ongoing, but current evidence suggests that PFOS and PFOA pose a significant risk to human health and the environment. Approximately 95% of people tested have PFAS in their blood, and PFAS can be detected in human breast milk and umbilical cord blood. Exposure to PFAS over certain levels may result in adverse health effects, including developmental effects, and independent epidemiological studies link numerous adverse health conditions to high exposures of PFOS or PFOA, including kidney cancer, testicular cancer, ulcerative colitis, thyroid disease, pregnancy-induced hypertension, high cholesterol, liver damage, decreased fertility, and decreased antibody response to vaccines. Laboratory animals exposed to PFOS and PFOA have displayed changes in liver, thyroid, and pancreatic function, as well as developmental, immunological, and cancer effects.

Personal injury and related litigation regarding exposure to PFOA in particular has been ongoing since 1999. States and other public entities have increasingly brought litigation under their authority to protect the well-being of their citizens and their natural resources.

Risks to Businesses

Private businesses are also impacted directly and/or indirectly by these chemicals, either from their

use during industrial production or from the use of products that contain these chemicals, such as AFFF. Potentially impacted industries include:

- Aerospace
- Automotive
- Construction
- Electronics
- Food
- Manufacturing
- Oil and gas
- Water
- Waste treatment

PFAS Regulation

Federal Action Regarding PFAS

PFAS are an increasingly significant focus of federal and state regulation. In this dynamic regulatory environment, it is crucial to seek ongoing advice from expert legal counsel.

The novelty of addressing emerging contaminants like PFAS engenders a complex regulatory landscape across multiple jurisdictions. At the federal level, the EPA has taken steps to regulate PFAS under federal environmental laws, such as the Comprehensive Environmental Response, Compensation, and Liability Act ([CERCLA](#)), the Resource Conservation and Recovery Act ([RCRA](#)), the Safe Drinking Water Act ([SDWA](#)), the Emergency Planning and Community Right-to-Know Act ([EPCRA](#)), and the Toxic Substances Control Act ([TSCA](#)).

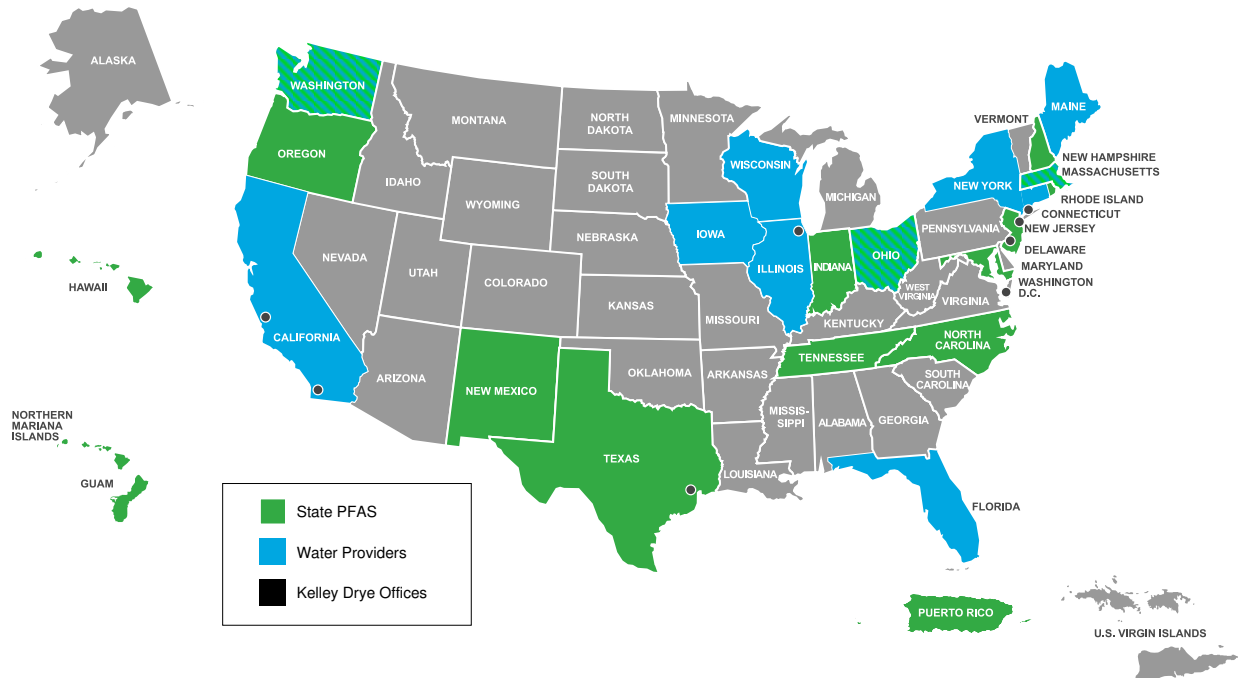
Simultaneously, states and territories have played leading roles in regulating PFAS. California, New Jersey, Minnesota, Vermont, and others have adopted [drinking water or cleanup levels](#) more stringent than federal guidance and that frequently cover a broader range of compounds. Several states and territories have also taken legal action to address PFAS and aqueous film-forming foam (AFFF) contamination, including New Jersey, Michigan, Minnesota, New York, North Carolina, and Guam. Further, 37 states and territories have cases in the multi-district litigation, *In re Aqueous Film-Forming Foam Products Liability Litigation*, MDL No. 2873, pending in the U.S. District Court for the District of South Carolina.

Overall, the regulatory landscape for PFAS continues to evolve. Challenges to federal regulations, compounded by the deregulatory attitude of the Trump Administration's EPA, may prompt states to intensify their regulatory efforts. As new PFAS requirements emerge, impacted parties must stay abreast of the evolving regulatory landscape and any related litigation.

Kelley Drye is closely monitoring all federal and state PFAS regulatory developments and represents numerous states, water providers, and private sector clients in litigation and enforcement matters. For questions, please contact our team.

Experience

National PFAS Representation



Kelley Drye Leads in the AFFF MDL

- Kelley Drye represents 15 states and sovereign governments, dozens of water providers, and private plaintiffs in the In Re: Aqueous Film-Forming Foams Products Liability Litigation, MDL No. 2:18-mn2873-RMG, in the U.S. District Court for the District of South Carolina. Further, [Bill Jackson](#) serves on the Plaintiffs Executive Committee and chairs the States/Sovereigns Committee on matters being prosecuted on behalf of all states and sovereign governments in the MDL. Additionally, [John Gilmour](#) co-chairs the Property Damages Committee and is a member of the States/Sovereigns Committee in the MDL.

PFAS Representation for Businesses

- Kelley Drye serves as national counsel to the Valero Companies in lawsuits filed in multiple state courts, including California, Louisiana, Michigan, Oklahoma, Tennessee, and Texas, as well as in the AFFF MDL to recover damages that they have incurred and will continue to incur arising out of the purchase, use, storage and/or disposal of AFFF products.
- Kelley Drye is representing other private sector clients in the energy sector asserting claims against the manufacturers of AFFF and PFAS for environmental investigation and remediation costs, water treatment costs, and breach of contract damages.
- Kelley Drye attorneys have advised and represented clients in connection with PFAS impacts at properties undergoing remediation and properties or businesses that are the subject of transactions involving commercial loans, purchases, leases and mergers and acquisitions.

- Kelley Drye’s knowledge of the rapidly developing regulatory and liability environment associated with PFAS impacts have allowed us to provide our business clients with a unique perspective and practical advice for managing PFAS-related risks.

PFAS Representation for States and Sovereign Entities

- Since 2019, Kelley Drye has served as Special Counsel to the Attorney General of New Jersey representing the New Jersey Department of Environmental Protection in a series of actions related to statewide-PFAS contamination. The results that Kelley Drye has achieved for the people of New Jersey are remarkable by any standard. Through four separate settlements, Kelley Drye has recovered over **\$3 billion** in remediation, restoration, costs and damages for the State of New Jersey, including:
 - Serving as lead trial counsel for New Jersey’s claims against DuPont for decades of discharging PFAS into the waters of the State at Chambers Works, knowingly contaminating the natural resources of New Jersey, and resulting in a groundbreaking **\$2 billion-plus** settlement for statewide remediation of PFAS and other contamination, including the recovery of \$875 million in costs and damages. This is the largest environmental settlement for any single plaintiff – and one of the largest settlements of any kind – in the history of the United States.
 - Settling with 3M on the eve of the Chambers Works trial for up to another **\$450 million** in damages recoveries for PFAS contamination across New Jersey.
 - Settling with Solvay for almost \$400 million in remediation and damages for PFAS contamination from its West Deptford facility in New Jersey.
- Kelley Drye represented the State of Ohio and Ohio Attorney General Dave Yost in litigation against DuPont and its spin-off Chemours over the company’s decades-long discharge of PFOA from its Washington Works Plant in Parkersburg, West Virginia across the Ohio River and into Ohio, resulting in a settlement of \$110 million in damages.
- Kelley Drye represents the State of North Carolina in bringing claims against DuPont and Chemours for contaminating the Cape Fear River and a massive area around Fayetteville with PFAS from DuPont’s Fayetteville Works Site.
- Kelley Drye represents the State of Texas in bringing Deceptive Trade Practice Act and consumer protection claims against 3M and DuPont for omitting from its advertisements to Texas consumers the risks of PFAS.
- Kelley Drye is serving as Special Counsel to the Attorney General of New Hampshire in representing the state in two statewide litigation matters:
 - Litigation in the AFFF MDL against DuPont, Chemours, 3M and the manufacturers of AFFF for statewide PFAS contamination from AFFF; and
 - Litigation in New Hampshire State Court arising from PFAS contamination in the State’s natural resources statewide.
- Kelley Drye represents the Government of Guam and the Guam Attorney General in the AFFF MDL against the manufacturers of PFAS and AFFF for island-wide PFAS contamination and seeking island-wide remediation and treatment costs, as well as natural resource damages.

- Kelley Drye is serving as Special Counsel to the Office of the Attorney General to represent Northern Mariana Islands (CNMI) in litigation related to PFAS contamination from AFFF in the AFFF MDL. CNMI's suit seeks remediation and treatment costs and damages arising from AFFF, as well as natural resource damages.
- Kelley Drye also represents numerous states in the AFFF MDL for PFAS contamination and natural resource damages arising from PFAS in AFFF, including the States of Hawaii, Indiana, Maryland, Massachusetts, New Mexico, Oregon, Rhode Island, Tennessee, Texas and Washington State.

PFAS Representation for Water Districts and Municipal Governments

- Kelley Drye is also representing dozens of Water Districts, water providers, and Municipal Governments seeking the costs to treat, in perpetuity, public drinking water systems that have been contaminated by PFAS from AFFF in states across the country.

Related Services

Environmental Litigation
Environmental Regulation
Proposition 65
Natural Resource Damages

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