

The Proliferation of State-level Regulation of PFAS in Consumer Products Continues in Washington, New Jersey and Pennsylvania

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January 20, 2026

Washington and New Jersey have finalized new regulations that add to the list of state restrictions and reporting requirements addressing per- and polyfluoroalkyl substances (“PFAS”)—so-called “forever chemicals”—in consumer products. Meanwhile, Pennsylvania legislators are the latest to consider a ban on PFAS in several common household and personal care products.

Washington Adopts 50 ppm Fluorine Threshold in New PFAS Rule

Washington regulators have finalized a rule under the *Safer Products for Washington* program that will eventually ban certain consumer products with “intentionally added” per- and polyfluoroalkyl substances (“PFAS”). The state defines “intentionally added” PFAS as substances that serve a deliberate function or purpose in the final product or its manufacturing process.

Exemptions to “Intentionally Added” PFAS

In announcing the final rule, Washington regulators introduced a novel 50 parts per million (ppm) total fluorine (“TF”) *de minimis* exemption. Under the rule, products with a detection of TF above 50 ppm would be presumed to contain intentionally added PFAS, and would therefore be subject to the restrictions. Manufacturers will be able to rebut this presumption by submitting a statement to the Washington Department of Ecology that includes evidence of inadvertent inclusion.

The use of TF as a proxy for PFAS presence was criticized by some industrial stakeholders for a variety of reasons, including because it captures any chemical component with a fluorine atom and not just “PFAS.” Nevertheless, the state decided to move forward with this method, citing broader detection capability, instead of testing for total organic fluorine (“TOF”), the method used under California’s PFAS regulations for apparel and other state laws. The TF approach mirrors the EU’s proposed PFAS restrictions, and purports to offer some flexibility for manufacturers to rebut any assumptions made under the regulations.

Other exemptions in the rule from the definition of “intentionally added” include any PFAS present due the use of recycled materials in a manufacturing process, or from the unintentional usage of things like contaminated process water. However, these exemptions may need to be submitted as a part of a rebuttal if TF levels exceed 50 ppm.

Scope of the Rule

Starting on January 1, 2026, manufacturers will need to report the intentional use of PFAS in the following categories of products:

- Extreme and extended-use apparel;
- Footwear;
- Recreational and travel gear;
- Automotive waxes;
- Cookware and kitchen supplies;
- Hard surface cleaners;
- Floor wax and polish; and
- Firefighting PPE.

Starting on January 1, 2027, a full sales prohibition on products with intentionally added PFAS will come into force. The products subject to this prohibition include:

- Apparel;
- Accessories;
- Automotive washes; and
- Cleaning products with intentionally added PFAS. Prohibitions on the sale of these goods start January 1, 2027.

Washington's new ban does not include a currently unavoidable use (CUU) exemption process. Instead, the state will employ the novel *de minimis* total fluorine threshold approach, in addition to the other above-discussed exemptions to "intentionally added" PFAS. In the event that a product is identified as containing more than 50 ppm of total fluorine, manufacturers should be prepared to rebut the presumption of "intentionally added" PFAS to Washington regulators.

New Jersey Implements Product Ban and Cookware Labeling Requirements

Outgoing New Jersey Governor Phil Murphy signed into law SB 1042, which imposes a ban on "intentionally added" PFAS from a variety of consumer products, and requires labeling for consumer-grade cookware containing PFAS.

The prohibition on the sale of products applies to the following categories:

- Cosmetics;
- Carpets,
- Fabric treatments,
- Food packaging.

The cookware labeling requirement applies to any "durable houseware items that are used to

prepare, dispense, or store food, foodstuffs, or beverages, that are intended for direct food contact, and that are items to which heat is transferred or which come into direct contact with a heat source, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.” Commercial cookware is exempt from the law.

The ban and reporting requirements will take effect on January 12, 2028, two years after the effective date of the act.

The law’s bans and labeling requirements apply to the above-discussed products that include “substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.” Unlike recent bills passed in California, Vermont, and New Mexico, SB 1042 does not exempt fluoropolymers from the product bans, a commonly used subset of PFAS found in cookware and medical devices that the industry argues pose fewer risks than other PFAS chemicals, such as PFOA and PFOS.

Pennsylvania Proposes Ban on PFAS in Consumer Products

A recently introduced bipartisan bill in the Pennsylvania House aims to ban PFAS from several products that commonly come in close and direct contact with consumers. The bill, if enacted, would prohibit the inclusion of intentionally added PFAS in the manufacturing of cosmetics, dental floss, juvenile products, and menstrual products. The act intends to implement the ban by July 1, 2027, allowing for a compliance period for manufacturers to meet the bill’s requirements. Distributors or retailers of products may be exempted from these restrictions if they receive certificates of compliance with the law from manufacturers. If in violation, companies could face enforcement under the state’s Unfair Trade Practices Act for unfair or deceptive business practices.

As of January 15, 2026, the bill has been referred to the PA House’s Consumer Protection, Technology & Utilities Committee.

Part of a Growing Trend

These three rules and proposals represent the continuation of a recent spike in state-level regulatory and legislative activity around consumer products containing PFAS. Whether an outright ban, or labeling or disclosure requirements, companies must remain aware of their state-specific obligations wherever they conduct business.

If your company believes it may be subject to his bill, or has identified products and processes that may exceed this threshold, please contact us directly at to discuss options for compliance.