

ALSTON & BIRD

# PFAS PRIMER

2025 Q1 Update





# Federal Updates

## FEBRUARY 2025

### House Introduces Water Systems PFAS Liability Protection Act (February 12, 2025)

Introduced [H.R. 1267](#), the Water Systems PFAS Liability Protection Act, which would exempt specified waste management entities from liability under CERCLA for releases of certain PFAS. The entities covered under the bill are public water systems, publicly or privately owned or operated treatment works, municipalities with a stormwater discharge permit, political subdivisions or special districts of a state that act as a wholesale water agency, and contractors performing the management or disposal activities for these entities. Under the bill, the exemption only applies if the covered entity transports, treats, disposes, or arranges for the transport, treatment or disposal of PFAS during and following the conveyance or treatment of water under federal or state law, such as through the management or disposal of biosolids consistent with the Federal Water Pollution Control Act. Liability for damages or costs associated with the release of certain PFAS would not be precluded if an entity acted with gross negligence or willful misconduct.

# State Updates

## CALIFORNIA

### February 2025:

- Introduced S.B. 682, which would prohibit the distribution, sale, and offer for sale of certain new products containing intentionally added PFAS at staggered dates. The prohibition would apply to cleaning products, cookware, dental floss, juvenile products, food packaging, and ski wax beginning January 1, 2027; refrigerants, solvents, propellants, clean fire suppressants, and other products beginning January 1, 2024; and any other product that contains intentionally added PFAS beginning January 1, 2033. The bill

provides exceptions if the Department of Toxic Substances Control determines that the use of PFAS in the product is a currently unavoidable use or the prohibition is preempted by federal law.

- Introduced A.B. 794, which would require, on or before January 1, 2026, the State Water Resources Control Board to adopt an emergency regulation and to initiate a primary drinking-water standard for PFAS substances.

## CONNECTICUT

**January 2025:** Introduced S.B. 887, which would exempt certain cookware from PFAS requirements. The bill would amend the definition of cookware to not include any polymer-coated durable items that the U.S. FDA authorizes for food contact.

## IOWA

**February 2025:** Introduced HF 588, which would require manufacturers of products sold or distributed in Iowa that contain intentionally added PFAS to submit information by January 1, 2026 to the Iowa Department of Health and Human Services, including a description of the product, purposes of the PFAS used in the product, and the amount of PFAS in the product. The bill would also prohibit the sale and distribution of certain products (carpets or rugs, cleaning products, cookware, cosmetics, dental floss, fabric treatments, juvenile products, menstruation products, textile furnishings, ski wax, and upholstered furniture) with intentionally added PFAS beginning January 1, 2026 and would prohibit the manufacture and sale of new food packaging, class B firefighting foam, and firefighting personal protective equipment that contain intentionally added PFAS beginning January 1, 2026.

## MAINE

**March 2025:** Introduced [LD 987 \(SP 419\)](#), which would expand the list of vehicles and equipment, including any textile article or refrigerant that is included in or as a component part of such products, that are exempt from

existing notification requirements that the products contain PFAS.

**February 2025:** Introduced [LD 493 \(HP 322\)](#), which would enact several PFAS regulations related to private drinking-water wells: (1) landlords of residential buildings would be required to test private wells for PFAS; (2) sellers of residential property would be required to disclose any PFAS present in the private water supply; and (3) PFAS would be added to the Maine Department of Health and Human Services list of contaminants recommended for regular testing in private drinking wells. The bill represents a novel approach to regulating and disclosing the presence of PFAS in drinking water.

## MARYLAND

**January 2025:** Introduced HB 0386 (SB 0345), which would require the Maryland Department of Agriculture to create and maintain a list of pesticides that list PFAS as an active ingredient, prohibit the usage of certain PFAS pesticides, and prohibit the sale of certain PFAS pesticides in the state.

## MASSACHUSETTS

### February 2025:

- Introduced S.630, which would prohibit the sale, offer for sale, and distribution in the state of any beverage container, foodware accessories, foodware, or food packaging that includes “toxic substances,” including PFAS. The prohibition would begin two years after the bill’s adoption.
- Introduced S.56 (H.109), which would create two funds, the Agricultural Fertilizer Purchasing Fund and Agricultural PFAS Relief Fund, focused on supporting farmers dealing with increased costs associated with PFAS contamination and restrictions. The bill would also provide immunity to farmers from civil liability for damages due to certain PFAS-related harms that are a “result of standard agricultural practices.”

Introduced S.195 (H.384), which would prohibit the sale, offer for sale, and distribution of any children’s products that contain intentionally added PFAS. The Massachusetts Department of Environmental Protection would be required to determine the threshold level of PFAS.

- Introduced S.1588, which would prohibit the sale, offer for sale, and distribution of food packaging that contains intentionally added PFAS.
- Introduced H.911, which would deem containers and packaging material containing PFAS to not be recyclable.

## MINNESOTA

**March 2025:** Introduced HF 81, which would exempt off-highway vehicles, snowmobiles, and electric-assisted bicycles from the prohibition on PFAS in certain juvenile products and would extend the deadline for these items to become PFAS-free to January 1, 2032.

**February 2025:** Introduced HF 726 and SF 2129, which would impose a tax on PFAS product manufacturers and retailers in Minnesota, establish a cleanup fund for environmental purposes, and create an advisory commission to oversee fund usage.

## NEVADA

**February 2025:** Reintroduced [S.B. 76](#), which is identical to the bill the governor vetoed in June 2023. The bill would establish restrictions on the manufacture and sale of products containing intentionally added PFAS. It would also require manufacturers of cookware containing PFAS to list those substances on the cookware product label and provide certain information about the intentionally added PFAS substances to consumers. The bill would impose misdemeanor penalties for failure to comply with its provisions.



## NEW JERSEY

**February 2025:** Introduced A5260, which prohibits the sale and manufacture of all apparel with intentionally added PFAS two years after the bill's effective date.

## NEW MEXICO

**March 2025:** Passed HB 212, the Per- and Poly-Fluoroalkyl Substances Protection Act, which prohibits the sale of various consumer products (cookware, food packaging, dental floss, juvenile products, and firefighting foam) with intentionally added PFAS by January 1, 2027 and prohibits the sale of PFAS-containing carpets or rugs, cleaning products, cosmetics, fabric treatments, feminine hygiene products, textiles, textile furnishings, ski wax, and upholstered furniture by January 1, 2028. The bill authorizes the Environmental Improvement Board to adopt rules to prohibit the sale of other consumer products not enumerated. The bill also prohibits the sale of products with intentionally added PFAS in the state unless the use of PFAS for that product is designated as unavoidable by January 1, 2032. The bill also lists discarded AFFF containing intentionally added PFAS as "hazardous waste."

**January 2025:** Introduced HB 222, which bans the use of hydraulic fracturing fluid, drilling fluid, proppant, or other additives that contain intentionally added PFAS in downhole oil and gas operations.

## NEW YORK

**January 2025:**

- Introduced A01430, which would prohibit the sale of any medical adhesives or bandages that contain intentionally added PFAS effective December 31, 2026.
- Introduced S01493/A04373, which would require the Department of Environmental Conservation to promulgate rules and/or regulations that define PFAS as a high toxicity air contaminant within 90 days of the bill's effective date. The bill would also mandate the department establish a PFAS air emissions

fence line monitoring program that prioritizes monitoring facilities in "disadvantaged communities" within six months of the bill's effective date.

- Introduced A01600, which would entitle parties providing cleanup or removal of PFAS discharge to contributions from other responsible parties, amending the New York General Obligations Law § 15-108.
- Introduced S02057/A02054, which would establish the Beauty Justice Act that prohibits the use of intentionally added PFAS (among other chemicals) in personal care or cosmetic products by January 1, 2029. The bill also provides that cosmetic and personal care products cannot contain PFAS at or above certain determined levels as a nonfunctional byproduct or nonfunctional contaminant by two years after those levels are prescribed.
- Introduced S03205/A01635, which would prohibit the sale of any cosmetic product or personal care product that contains intentionally added PFAS.
- Introduced S00187A/A07738, which would prohibit the sale of new textile articles, rugs, fabric treatments, cookware, ski waxes, architectural paints, cleaning products, and dental floss that contain certain levels of intentionally added PFAS by January 1, 2027. Manufacturers of covered products must provide a certificate of compliance.
- Introduced S01464/A01749, which would enact the Packaging Reduction and Recycling Infrastructure Act, which includes a prohibition against selling or distributing into New York packaging with intentionally added PFAS.
- Introduced S00420/A06671, which would prohibit certain products, including those with intentionally added PFAS or PFAS above certain levels, from being considered recyclable by January 1, 2029.

## OREGON

**February 2025:** Introduced [HB 3512](#), which would ban the manufacture, sale, offer for sale, and distribution of new covered products, including artificial turf, cookware, textile articles, cosmetics, and outdoor apparel for severe wet conditions that contain intentionally added PFAS. The bill does not apply to clothing items for exclusive use by members of the U.S. military. It would require covered product manufacturers to certify that their products do not contain intentionally added PFAS. The bill authorizes the Oregon attorney general to investigate violations and bring civil actions against violators, which could result in fines of up to \$10,000 per violation.

## PENNSYLVANIA

**February 2025:** Introduced HB 675, which would prohibit the distribution, manufacture, and sale of firefighting PPE with intentionally added PFAS unless the state fire commissioner has determined that the use of PFAS in the firefighting PPE is unavoidable and has guidance to that effect, beginning January 1, 2028. Violations are subject to civil penalties of up to \$10,000.

## RHODE ISLAND

**March 2025:**

- Introduced SB 645 and HB 6059, which would amend Rhode Island's comprehensive PFAS ban to exempt products containing PFAS used as durable items that the U.S. FDA authorizes for food contact for consumer goods. The existing PFAS ban already prohibits any person from manufacturing, selling, offering for sale, or distributing for sale in Rhode Island any covered product, as defined, that contains intentionally added PFAS, starting on January 1, 2027.
- Introduced SB 650 and HB 5844, which would require applicants seeking an order to distribute or land-apply biosolids from the Rhode Island Department of Environmental Management (RDEM) to test their biosolids for PFAS and submit the results of the test to the RDEM with their applications. The bills would

also require operators with existing orders of approval to test their biosolids for PFAS quarterly and submit the results of each test to the RDEM by the last day of each quarter. Under the bills, sampling would begin during Q4 of 2025, and the first round of results would be due to the RDEM by December 31, 2025. The bills would further authorize the RDEM's director to reject any application for an order of approval to distribute or land-apply biosolids if the applied-for biosolids' distribution or land application would pose an environmental threat or risk to public health, safety, or welfare.

**January 2025:** Introduced SB 405 and HB 5217, which would ban polluting atmospheric experimentation and interventions, including experiments and processes that involve the release of pollutants that reduce the amount of sunlight reaching the earth's surface and involve the use of interoperable ground-based, airborne, and space-based facilities, within or over Rhode Island. Within these parameters, the bills would prohibit the release of pollutants including chaff, which the bills explicitly define as including PFAS. A violation constitutes a felony criminal offense and can result in a fine of not less than \$500,000 and/or imprisonment for not less than five years, with a separate offense accruing for each day of violation. The bills further require the Rhode Island state police to investigate any violations to ensure compliance and to deputize and train volunteer Rhode Island citizens to help enforce the bills' provisions.

## VERMONT

**February 2025:** Introduced H.286, which would require the secretary of natural resources to file a final proposed rule with the secretary of state and Legislative Committee on Administrative Rules setting a maximum contaminant level of zero parts per million for PFOA, PFOS, PFHxS, PFNA, PFHpA, and PFDA.



# Litigation Updates

## MARCH 2025

Fourth Circuit Paves the Way for Defendants to Remove More PFAS Cases to Federal Court (and Transfer Them to the AFFF MDL)

A divided Fourth Circuit panel held that district courts in Maryland and South Carolina erred in remanding certain cases that 3M removed to federal court based on the federal officer removal statute. The states originally sued 3M in state court and expressly disclaimed any liability based on PFAS contamination caused by aqueous film-forming foam (AFFF). 3M removed the cases to federal court under the federal officer removal statute—based on 3M’s manufacture of AFFF for the U.S. military—arguing that the PFAS from 3M’s AFFF “indistinguishably commingled” with the PFAS at issue in the states’ lawsuits. The district courts disagreed and remanded the cases to state court, but the Fourth Circuit vacated those decisions on appeal. The Fourth Circuit refused to “accept the States’ attempts to immunize their complaints from federal officer removal with their purported disclaimers in this case.” Instead, the Fourth Circuit looked to 3M’s “well-pleaded facts of removal” and held that 3M’s removal “holds sufficient water” because the states pleaded PFAS contamination near military bases where 3M alleged that it sold AFFF. This appeal is not yet finished—the Fourth Circuit recently stayed the panel’s decision to consider the states’ petition for rehearing en banc.

March 7, 2025 | *Maryland v. 3M Company*, No. 24-1218 (4th Cir.); *South Carolina v. 3M Company*, No. 24-1270 (4th Cir.).

Court Dismisses (Without Prejudice) Environmental Suit Arising from “Wholly Past” PFAS Contamination

The Middle District of Tennessee dismissed a citizen suit involving PFAS chemicals brought by a nonprofit organization under the Clean Water Act and Resource Conservation and Recovery Act. Tennessee Riverkeeper, which claims it is “dedicated to the preservation, protection, and defense of the Tennessee and Cumberland Rivers,” sued a private landfill operator that allegedly contaminated a river with PFAS. The landfill operator moved to dismiss for lack of jurisdiction, arguing that these environmental statutes do not give citizen-plaintiffs standing for “wholly past” violations. The court agreed. Tennessee Riverkeeper had alleged “one instance of a pollutant discharge ten months before filing this lawsuit,” which the court found to be insufficient. The court refused to credit Tennessee Riverkeeper’s conclusory allegations that the violations continued and it also rejected Tennessee Riverkeeper’s argument that the landfill operator’s purported failure to not put in place remedial measures meant that the violations continued.

March 6, 2025 | *Tennessee Riverkeeper Inc. v. Waste Connections of Tennessee Inc.*, No. 3:24-cv-00883 (M.D. Tenn.).

## FEBRUARY 2025

D.C. Circuit Stays Challenge to EPA’s PFAS Regulations Pending Possible Rule Change

Lawsuits brought by industry groups challenging the EPA’s recent regulation of PFAS—including its designation of PFOA and PFOS as hazardous substances under CERCLA and its final rule setting maximum contaminant levels in drinking water for six PFAS chemicals—came to a halt in February. In separate filings, the EPA asked the D.C. Circuit to hold the lawsuits in abeyance for 60 days pending its review of the regulations, which could reflect an effort by the new Administration to roll back those regulations. The D.C. Circuit granted the EPA’s requests, so both lawsuits are now stayed pending further order of the court.

February 24, 2025 | *Chamber of Commerce of the United States of America v. Environmental Protection Agency*, No. 24-1193 (D.C. Cir.).

February 7, 2025 | *American Water Works Association v. Environmental Protection Agency*, No. 24-1188 (D.C. Cir.).

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Go to the [PFAS Primer](#) for more information about PFAS and regular updates on the latest regulations, litigation, and science involving PFAS.

Learn more about our [Perfluoroalkyl & Polyfluoroalkyl Substances \(PFAS\) Team](#) and how we can help you stay ahead of the curve.

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