

ALSTON & BIRD

PFAS PRIMER

2024 Q4 Update



Federal Regulatory Updates

DECEMBER 2024

EPA Releases Draft Recommendations for Health-Based Levels of PFAS in Bodies of Water

The EPA announced draft national recommended criteria to be used by states and tribes to consider when setting water-quality standards. The [recommended human health criteria](#) identify [concentrations](#) of three PFAS (PFOA, PFOS, and PFBS) in water bodies at or below where they are not expected to cause adverse human health effects from chronic (lifetime) exposure.

EPA Publishes Plan for Studying and Developing Technology-Based PFAS Limits on Industrial Wastewater Discharges

The EPA [published](#) its Preliminary Effluent Guidelines Program Plan 16 for 30-day public comment. The EPA is collecting studies and data on battery manufacturers, centralized waste treatment, oil and gas industry wastewater, and PFAS processors, as well as developing an information collection request for data from a subset of industries on facility operations to develop technology-based PFAS limits on industrial wastewater discharges.

EPA Requests Public Comment on PFAS Monitoring in the 2026 NPDES General Industrial Stormwater Discharge Permit

The EPA published [notice](#) requesting public comment on the 2026 Multi-Sector General Permit, which would replace the EPA’s existing general permit that expires February 28, 2026. The permit includes a provision that would require certain industrial sectors to conduct quarterly “report-only” indicator sampling

and analytical monitoring for 40 different compounds with PFAS. The EPA requested comment on whether some or all industrial sectors should be subject to PFAS-related benchmark monitoring.

OCTOBER 2024

EPA Proposes Adding 100 PFAS to the Toxic Release Inventory

The [proposal](#) includes adding 16 individual PFAS and 15 categories of PFAS. The rule would also designate the PFAS as chemicals of special concern, forcing compliance with more robust reporting requirements, including reporting even for small concentrations.

State Updates

CALIFORNIA

September 2024:

- Enacted [AB 2515](#), which prohibits the manufacture, sale, distribution, and offer for sale of menstrual products containing PFAS by July 1, 2029. The law requires the Department of Toxic Substances Control (DTSC) to publish a list of accepted methods for testing whether a covered product complies with the PFAS restrictions by January 1, 2027 and requires manufacturers of covered products to register with the DTSC and pay a registration fee by July 1, 2029.
- Enacted [AB 347](#), which gives the Department of Toxic Substances Control (DTSC) jurisdiction over existing PFAS regulations covering juvenile products for children under 12 (AB 652 (2021)), food packaging (AB 1200 (2021)), and textiles (AB 1817 (2022)). The law requires the DTSC to adopt regulations to implement and enforce PFAS restrictions by January 1, 2029 and requires manufacturers of covered products to register their products with the DTSC by July 1, 2029. The law also narrows the definition of juvenile products to those specifically mentioned in the law.

HAWAII

December 2024: [Act 152](#)/HB1644 went into effect on December 31, 2024. Signed into law in 2022, Act 152 prohibits the manufacture, sale, distribution, and use of food packaging and class B firefighting foams that contain PFAS. Prohibited food packaging includes wraps, liners, plates, food boats, and pizza boxes.

MAINE

December 2024: The Maine Department of Environmental Protection (DEP) published a [proposed rule](#) that prohibits the sale, offer for sale, and distribution for sale of products containing intentionally added PFAS. The prohibition on certain covered products, including cleaning, cookware, cosmetic, and menstruation products, is effective January 1, 2026, with later dates for other product types. The proposed rule requires manufacturers with more than 100 employees that manufacture covered products with currently unavoidable use determinations of intentionally added PFAS to submit a notification to the DEP that includes a description of the product, an estimate of the total number of units sold annually in the state, and the amount of PFAS in the product, as well as a \$1,500 fee.

NEW JERSEY

December 2024: Introduced [S3946/A5195](#), which would require manufacturers of firefighting personal protective equipment containing PFAS to provide notice to purchasers that the product contains PFAS, the specific PFAS used in the product, and the reasons for its use within six months of the bill’s effective date. This bill would also ban the sale and manufacture of firefighting personal protective equipment with intentionally added PFAS within two years of the bill’s effective date.

TEXAS

December 2024: Introduced HB 1674, which would ban the manufacture, sale, distribution, and application of commercial fertilizers (including biosolids, compost, wastewater residuals, industrial/sewage septage, sewage sludge, lagoon residuals, soil amendment, and topsoil replacement materials) with PFAS concentrations above certain levels beginning September 1, 2025. If adopted, the bill would:

- Require commercial fertilizer manufacturers to self-test each batch of materials before distribution, sale, or application; maintain records of each test; and publish the results of each test on its public internet website.
- Require manufacturers to send samples of their materials to the Texas Feed & Fertilizer Control Service each month for chemical analysis, and if the submitted samples contain PFAS above the prescribed concentration levels, the manufacturer must dispose of the entire batch from where the sample was taken. If (1) a manufacturer fails to self-test (or otherwise fails to comply with the self-test provisions); (2) a manufacturer fails to submit a sample two or more times in a single calendar year; or (3) the service receives two or more noncompliant samples from the same manufacturer in the same calendar year, then the service will issue a stop-sale order for all the manufacturer’s commercial fertilizers and suspend the manufacturer’s permit to distribute commercial fertilizers until the manufacturer submits a compliant sample. The service may also conduct random, on-site sampling at the manufacturer’s expense while the manufacturer’s permit is suspended.
- Make it a misdemeanor criminal offense to intentionally and knowingly sell, distribute, or apply materials with noncompliant PFAS concentrations. Subsequent violations constitute a state jail felony.

Litigation Updates

DECEMBER 2024

State of Texas Sues PFAS Manufacturers for Deceptive Trade Practices

State of Texas v. 3M Co., et al., No. DC-C202400996 (Tex. Dist. Ct. Dec. 11, 2024).

Texas is the latest state to sue PFAS manufacturers for manufacturing and selling PFAS to the public without disclosing their alleged health and environmental risks. Texas alleges that the defendant manufacturers sold their Scotchgard and Teflon products as having “remarkable benefits such as resistance to heat, oil, stains, grease, and water” and that they “profited immensely from the sale of their products.” However, Texas claims that PFAS “pose risks to people’s health and impact the environment,” may be associated with diseases such as cancer, and can contaminate drinking water and the environment. Texas brings one count for violation of the Texas Deceptive Trade Practices–Consumer Protection Act.

Georgia Federal Court Rejects \$850 Million PFAS Remediation Claim

Johnson v. 3M Co., et al., No. 4:20-cv-00008 (N.D. Ga. Dec. 10, 2024).

The Northern District of Georgia dismissed a plaintiff’s request for a permanent injunction that would have required the defendants to clean up a 9,800-acre site allegedly contaminated with PFAS. A resident of Rome, Georgia, alleged that the defendants contaminated Rome’s drinking water, which in turn caused Rome to increase the plaintiff’s water rates. The court refused to order the defendants to clean up the site, finding that the plaintiff lacked Article III standing because the plaintiff failed to show a cognizable health, property, or recreational injury and the plaintiff’s future ratepaying injury was moot because Rome agreed to not increase water

rates due to PFAS contamination. The court granted summary judgment to the defendants on this claim and dismissed the plaintiff’s claim.

OCTOBER 2024

Diaper Manufacturer Wins Dismissal of PFAS-Related Suit

Saedi v. Coterie Baby Inc., No. 1:24-cv-03893 (S.D.N.Y. Oct. 3, 2024).

The Southern District of New York granted Coterie Baby’s motion to dismiss a putative class action alleging that Coterie’s diapers contained PFAS despite advertising that its diapers are free from PFAS and other chemicals. The plaintiff alleged that she was injured because she paid more for the diapers than she would have if she had known that the diapers purportedly contained PFAS. The court held that the plaintiff lacked Article III standing to assert her claims because she failed to plausibly show that the specific diapers that she purchased contained PFAS. The court also rejected the plaintiff’s allegation that PFAS are “ubiquitous,” including in dust accumulating in buildings, such that it was “essentially impossible to manufacture, ship and sell a diaper that is entirely PFAS-free.”

Science Updates

DECEMBER 4, 2024

PFAS-Free Energy Storage: Investigating Alternatives for Lithium-Ion Batteries

This article evaluates the feasibility of PFAS-free alternatives for lithium-ion batteries.
[Environmental Science & Technology](#)

NOVEMBER 19, 2024

Release of Volatile Per- and Polyfluoroalkyl Substances from Plant Fiber-Based Food Packaging and Municipal Solid Waste to Gas Under Simulated Landfill Conditions

This study analyzes the release of volatile PFAS to the gas phase from PFAS-containing, single-use food packaging materials and from municipal solid waste during anaerobic decomposition.
[Environmental Science & Technology](#)

NOVEMBER 12, 2024

A Pilot Study of Bis-perfluoroalkyl Sulfonimides in Dust from E-waste and Urban Regions

This study investigates electronic waste dismantling and recycling as a source of bis-FASIs, an emerging type of PFAS, to the environment.
[Environmental Science & Technology Letters](#)

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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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