

ALSTON & BIRD

PFAS PRIMER

2025 Q3



Federal Updates

SEPTEMBER 2025

EPA Declines to Roll Back CERCLA Hazardous Substance Designation for PFAS (*September 17, 2025*)

The EPA will retain the CERCLA hazardous substance designation for two PFAS, PFOA and PFOS. In a motion filed in the U.S. Chamber of Commerce’s litigation challenge to the CERCLA hazardous substance designation, the EPA asked the District Court for the District of Columbia to lift the stay that the EPA had requested shortly after inauguration day. A declaration from a senior adviser to the EPA’s Office of Land and Emergency Management filed with the court stated that the agency will continue to “engage with Congress and industry to establish a clear liability framework that ensures the polluter pays and passive receivers are protected.”

EPA’s Spring Unified Agenda Outlines Plans to Roll Back PFAS Rules (*September 4, 2025*)

The EPA published its [Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions](#) outlining its regulatory priorities for next year. The agenda included a notice of the EPA’s intent to rescind drinking-water limits for three PFAS substances, PFHxS, PFNA, and HFPO-DA (GenX), and the mixture of these three PFAS plus PFBS, as well as a notice that the EPA plans to propose an extension of the compliance deadline for this rulemaking. The EPA also stated that it plans to revisit the Toxic Substances Control Act (TSCA) rule on PFAS reporting and recordkeeping requirements by amending the data submission period, proposing certain exemptions, and otherwise modifying the scope of the reporting rule. The EPA still intends to add certain PFAS to the TSCA Toxics Release Inventory.

State Updates

CALIFORNIA

September 2025: Passed [SB 682](#) to exempt certain components of cleaning products from the prohibition in current law, which prohibits, beginning January 1, 2028, the distribution, sale, and offer for sale of cleaning products, dental floss, juvenile products, food packaging, or ski wax that contain intentionally added PFAS, except for previously used products and as otherwise preempted by federal law. The amended bill would, until January 1, 2031, exempt certain components of cleaning products from this prohibition.

ILLINOIS

August 2025:

Enacted [Public Act 104-0221 \(HB 2409\)](#), which amends the PFAS Reduction Act to require, beginning January 1, 2026, sellers of firefighting personal protective clothing containing PFAS chemicals to provide written notice to purchasers stating the presence of PFAS and explaining why these chemicals are added. The bill also prohibits the manufacture, sale, distribution, and use of firefighting personal protective clothing with intentionally added PFAS chemicals beginning January 1, 2027, and by January 1, 2030, the prohibition will extend to auxiliary firefighting PPE, such as breathing apparatuses, hearing protection, and communication devices.

Enacted [Public Act 104-0231 \(HB 2516\)](#), which amends the PFAS Reduction Act to prohibit the sale of certain products containing intentionally added PFAS. Starting January 1, 2026, the law bans the sale of cookware, cosmetics, dental floss, juvenile products, menstrual products, intimate apparel, and food packaging that contain intentionally added PFAS. The law also requires the Illinois EPA to submit a report to the General Assembly by August 1, 2027 that assesses the regulatory framework and scientific understanding of fluoropolymers.

MAINE

July 2025: The Maine Department of Environmental Protection [proposed](#) to amend rule Chapter 90 to designate two specific components of cleaning product containers as currently unavoidable uses of intentionally added PFAS in products subject to the sales prohibition beginning January 1, 2026. The proposed current unavoidable uses would be valid until January 1, 2031.

MASSACHUSETTS

August 2025: Introduced [H.4357](#) (replacing H.384), which would prohibit the sale, offer for sale, and distribution of any children’s product that contains intentionally added PFAS. The bill would require the Massachusetts Department of Environmental Protection to determine the threshold level of PFAS.

MINNESOTA

June 2025: The Minnesota Pollution Control Agency [announced](#) that it extended the January 1, 2026 reporting deadline under its PFAS products reporting program under Amara’s Law until July 1, 2026.

NEW JERSEY

June 2025: Passed [A5195](#), which requires manufacturers of firefighting equipment that contains PFAS to provide written notice to purchasers that the equipment contains PFAS, the reason the equipment contains PFAS, and the specific PFAS contained in the product beginning one year after the bill’s effective date. The bill also prohibits the sale and manufacture of firefighting equipment with intentionally added PFAS two years after the bill’s effective date.

NORTH CAROLINA

July 2025: Overrode the governor’s veto of [HB 402](#), which requires all rules, including PFAS rules, with a projected aggregate cost of \$1 million or more to be adopted by a vote of at least two-thirds of the relevant board or commission, and rules with a cost greater than

\$10 million are required to receive unanimous approval from the state’s environmental regulatory oversight panel before they can take effect.

Litigation Updates

AUGUST 2025

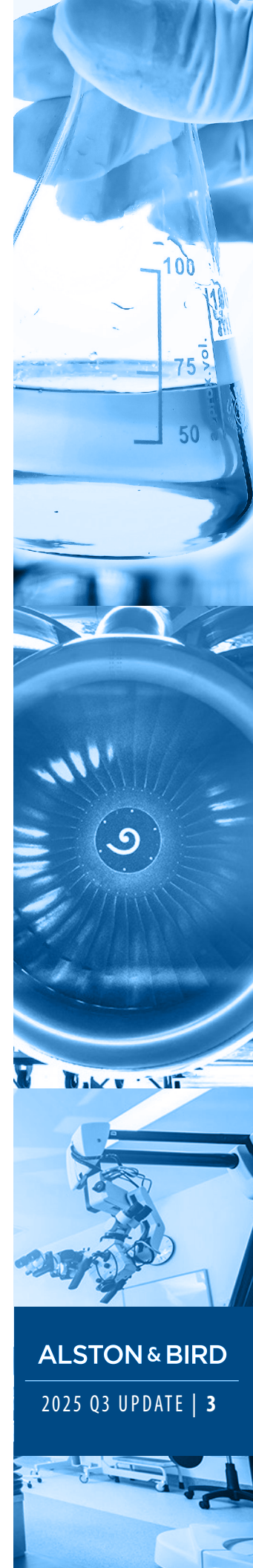
Challenge to Minnesota’s PFAS-Containing Cookware Legislation Gets Cooked

The District of Minnesota dismissed an industry group’s lawsuit that challenged Minnesota’s law banning cookware and other products that contain intentionally added PFAS. The industry group claimed that the law violated the dormant Commerce Clause, which “denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles of commerce.” According to the industry group, which consists of members that are headquartered outside Minnesota but sell fluoropolymer nonstick products in the state, the law discriminated unfairly against out-of-state manufacturers like its members. The court disagreed and granted the state’s motion to dismiss. The court reasoned that the law is facially neutral and that, though it may have a disparate impact on out-of-state businesses, does not make the law discriminatory. The court also found that the industry group failed to plausibly allege a substantial burden on interstate commerce.

August 11, 2025 | *Cookware Sustainability Alliance v. Kessler*, No. 0:25-cv-00041 (D. Minn.).

North Carolina Court Upholds Attorney General’s Authority to Pursue PFAS Suits

A North Carolina court has denied a motion to dismiss an environmental lawsuit brought by the state against chemical manufacturers over alleged PFAS contamination caused by operations at a chemical manufacturing facility. The defendants



argued that the state attorney general lacked authority to maintain the suit following the repeal of N.C.G.S. § 114-2(8)(a), which previously authorized the attorney general to “institute and originate proceedings” and “appear before agencies on behalf of the State and its agencies and citizens in all matters affecting the public interest.” The court rejected the defendants’ argument, holding that the attorney general retains common-law authority to prosecute claims for harm to the state’s natural resources, including negligence, trespass, public nuisance, and fraud. The court also dismissed the defendants’ separation of powers concerns, finding no statutory bar to the attorney general pursuing damages independent of the North Carolina Department of Environmental Quality.

August 7, 2025 | *State of North Carolina ex rel. Jackson v. E.I. DuPont de Nemours & Co.*, No. 20CVS005612-250 (N.C. Super. Ct.).

New Jersey Reaches \$2 Billion Settlement over PFAS Contamination

The State of New Jersey announced a settlement with DuPont and related companies, including Chemours and Corteva, that is purportedly valued at more than \$2 billion. The state’s lawsuits against DuPont arise out of alleged PFAS contamination at four different sites, including Pompton Lakes Works and Chambers Works, as well as DuPont’s alleged liability for the state’s AFFF claims. The \$2 billion settlement figure consists of \$875 million for restoration of natural resources and drinking-water treatment, \$1.2 billion for a remediation funding source, and \$475 million as an additional reserve fund.

August 4, 2025 | *New Jersey Department of Environmental Protection v. E. I. Du Pont de Nemours and Company*, No. 1:19-cv-14758 (D.N.J.).

Science

SEPTEMBER 1, 2025

Analysis of Legacy PFAS and Potential Precursors in Curtain, Sofa, and Carpet Fabric Samples

This study analyzes fabric samples from carpets, curtains, and sofas for PFAS.

[Science of the Total Environment](#)

AUGUST 23, 2025

Mitigating PFAS Contamination in the United States: Assessing the Impact of California’s Legislation from 2018 to 2022 on Drinking Water Quality

This study evaluates the impact of California’s PFAS legislation on PFOA and PFOS levels in public drinking water. Findings highlight the potential for state-level regulatory measures to effectively reduce PFAS contamination.

[Journal of Public Health Policy](#)

AUGUST 10, 2025

Enhanced Immobilisation of Per- and Polyfluoroalkyl Substances (PFAS) Using a Combination of Sorbents and Plants: A Controlled Rainfall Simulation Study

This study researches the efficacy of activated carbon and groundcover in mitigating PFAS migration from soil.

[Science of the Total Environment](#)

JULY 17, 2025

Phthalates, Bisphenols and Per- and Polyfluoroalkyl Substances Migration from Food Packaging into Food: A Systematic Review

This review examines the migration of PFAS from plastic food packaging into food substances. The study finds that migration rates are affected by temperature, exposure time, and food composition.

[Reviews on Environmental Health](#)

Contributors



[Greg Berlin](#)
Partner



[Meaghan Boyd](#)
Partner



[Jeffrey Dintzer](#)
Partner



[Matt Wickersham](#)
Partner



[Andrew Roberts](#)
Senior Associate



[Ayodeji Ayolola](#)
Associate



[Andrew Boyer](#)
Associate



[Madeline Daniel](#)
Associate



[Andrea Galvez](#)
Associate



[Ytran Hoang](#)
Associate



[Jane Kaufman](#)
Associate



[Clayton Kinsey](#)
Associate



[Briana Matusovsky](#)
Associate



[Samantha Van Winter](#)
Associate



[Henry Woods](#)
Associate

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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