Proposed Carve-Out Permits Settling Litigants to Recover Costs of PFAS Cleanup in New York

By Brian D. Gross

April 12, 2023

New York has proposed an amendment that would permit settling parties, in tort claims, to pursue contribution claims for the costs of remediating PFAS contamination. As means of encouraging settlements in civil lawsuits, New York's General Obligations Law (GOL) §15-108 generally prohibits settling parties from pursuing contribution claims and, likewise, shields settling parties against contribution claims of other parties. In environmental cleanup actions, however, GOL §15-108's contribution bar has the opposite effect, discouraging settlement. To wit, claimants asserting causes of action under both New York state law and federal law—i.e., the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)—have no viable contribution claim under state law, but are permitted to seek contribution for abatement and cleanup of "hazardous substances" under CERCLA. Except, PFAS are not currently "hazardous substances" under CERCLA, leaving no viable contribution claim for PFAS cleanup under both state and federal law. A proposed amendment to GOL §15-108 fills the gap.

On March 16, 2023, the New York State Assembly proposed an amendment to General Obligations Law §15-108, offering a carve out to permit settling parties to seek contribution for the costs of PFAS cleanup. The amendment comes among a national wave of new legislation and regulation aimed at the manufacture, sale, and use of PFAS and PFAS-containing products. The cost of compliance with the new legislation and regulation is expected to be astronomical, thus triggering the desire to seek contribution from those who allegedly contributed to the PFAS contamination.

Attorney Advertising. This material is for general informational purposes only and does not represent our advice as to any particular set of facts; nor does it represent any undertaking to keep recipients advised of all legal developments. Prior results do not guarantee a similar outcome. © 2026 MG+M The Law Firm