

Maine PFAS Law

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Issue

This report summarizes Maine’s 2021 law on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

PFAS are substances with any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. They are used in many products for a variety of reasons, such as to keep food from sticking to packaging or cookware, or to make clothes stain resistant. For general information on PFAS and examples of other state laws regulating them, see [OLR Report 2019-R-0158](#).

Summary

Maine’s 2021 law on PFAS generally (1) requires product manufacturers to provide written notification of products, including product components, containing intentionally added PFAS and (2) establishes bans on certain products and product parts with intentionally added PFAS ([Me. Rev. Stat. Ann. tit. 38, § 1614](#)). “Intentionally added PFAS” are PFAS added to a product or a product component to provide a specific characteristic, appearance, or quality, or to perform a specific function.

It exempts from these provisions products for which federal law governs the presence of PFAS and products covered by state laws on toxics in packaging and food packaging. (For example, the state Department of Environmental Protection (MDEP) may ban, if certain conditions allow for it, food packaging with intentionally added PFAS in an amount greater than an incidental amount ([Me. Rev. Stat. Ann. tit. 32, § 1733](#)).)

The law also requires MDEP, if funds are available and in consultation with relevant stakeholders, to develop a program to reduce PFAS in discharges to air, water, and land.



Under the law, MDEP may assess a fee on product manufacturers to cover its reasonable costs to (1) develop rules governing the notification requirements and product bans and (2) administer the notification requirements and PFAS source reduction program.

PFAS Law Components

Notification

Maine's law requires, beginning January 1, 2023, the manufacturer of a product for sale in the state that has intentionally added PFAS to (1) provide MDEP with certain PFAS-related and product information and (2) update the information when there is a significant change to it or when MDEP requests.

The ban prohibits selling or offering or distributing for sale in the state a product with intentionally added PFAS if its manufacturer fails to provide the required information. If MDEP has reason to believe a product is being offered for sale without the required notification, the law authorizes it to direct the product's manufacturer to (1) attest in writing that the product does not have intentionally added PFAS or (2) notify sellers of the product that its sale is banned and give MDEP a list of those who received the notice.

Content. The written notification must include the following information:

1. brief product description;
2. purpose for which PFAS are used in the product, including any product component;
3. amount of each of the PFAS (identified by chemical abstracts service registry number) in the product;
4. manufacturer's name and address, including the name, address, and phone number of a contact person; and
5. any additional information MDEP requires.

The law allows a manufacturer to provide the above information for a category or type of product, rather than for individual products.

Waiver. The law allows MDEP to waive the notification requirement, in whole or part, if it determines that there is substantially equivalent information already publicly available. MDEP may also (1) have agreements with other states or political subdivisions to collect notifications and (2) accepts notifications to a shared system.

Product Bans

Maine's law has several bans on selling products with intentionally added PFAS.

First, it bans, beginning January 1, 2023, the sale, offer for sale, or distribution of a carpet, rug, or fabric treatment with intentionally added PFAS. Used carpets, rugs, and fabric treatments are exempt.

As of January 1, 2030, the law prohibits the sale, offer for sale, or distribution of any product with intentionally added PFAS unless MDEP determines that the use of PFAS in the product is unavoidable.

The law also allows MDEP to identify products by category or use that it prohibits the sale, offer for sale, or distribution of if they have intentionally added PFAS. In doing so, it requires the department to prioritize banning product categories that are most likely to contaminate land or water resources, but MDEP may exempt products in which PFAS use is unavoidable.

None of these bans apply to the sale or resale of used products. An "unavoidable use" is a PFAS use that MDEP determines is essential for health, safety, or society functioning, and there is no reasonably available alternatives.

Source Reduction Program

Maine's law requires, to the extent that funds are available, MDEP to develop and implement a plan to reduce PFAS in discharges to air, water, and land. The department must do so by encouraging (1) using safer alternatives and (2) properly managing materials with PFAS. The law allows the program to include such things as:

1. informational resources for industrial or commercial PFAS users;
2. education for the public; and
3. if available, grant funding for (a) publicly owned treatment works operators to develop, expand, or implement pretreatment standards and educate users on PFAS sources and proper management and (b) municipalities to educate solid waste disposal users on PFAS sources and proper management.

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