

Report to the Joint Standing Committee on
Environment and Natural Resources
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Report on the Implementation of Maine Law Regulating Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances

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Purpose

The Maine Department of Environmental Protection (Department) submits this report to the Joint Standing Committee on the Environment and Natural Resources pursuant to Public Law 2023, Chapter 630, *An Act to Support Manufacturers Whose Products Contain Perfluoroalkyl and Polyfluoroalkyl Substances*¹. Maine law sets forth a series of specific product category sales prohibitions on the use of intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS) in products, culminating in a 2032 sales prohibition on the use of intentionally added PFAS in any product sold in Maine, with some exceptions, unless the Department has determined by rule that the use of PFAS in the product is a currently unavoidable use.

P.L. 2023, c. 630 directs the Department to submit a report regarding the implementation of to 38 M.R.S. §1614, including an overview of other state and federal laws governing the presence of PFAS in products and any recommendations for necessary legislative changes. The following report provides a description of the Department's implementation efforts, a summary of a similar federal program, comparisons to other states with similar regulation, and a review of implementation challenges.

Background

The PFAS in Products Program was initially enacted in Public Law 2021, Chapter 477, *An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution*², which established a broad reporting requirement by January 1, 2023, for any product sold in Maine containing intentionally added PFAS. This law included a comprehensive sales prohibition beginning January 1, 2030, for any product containing intentionally added PFAS sold in Maine unless the use of PFAS in the product is specifically designated as a currently unavoidable use by the Department.

This statute was amended in 2023 to delay implementation of the reporting program (moving it from January 2023 to January 2025) to allow the Department time for implementation (PL 2023, c. 138). Then it was more comprehensively amended in 2024 by Public Law 2023, Chapter 630.

¹ <https://legislature.maine.gov/ros/LawsOfMaine/breeze/Law/getDocById/?docId=107194>

² <https://legislature.maine.gov/ros/LawsOfMaine/breeze/Law/getDocById/?docId=90781>

The most recent legislative change eliminated the general notification requirement that was scheduled to take effect on January 1, 2025, created several new sales prohibitions for products with intentionally added PFAS with varying effective dates, added some specific exemptions to the prohibitions, and established a new reporting requirement for those products sold in accordance with a Currently Unavoidable Use (“CUU”) determination from the Department through routine technical rulemaking.

Federal Regulation of PFAS in Products

The federal Toxic Substances Control Act (TSCA), as amended by the National Defense Authorization Act for Fiscal Year 2020, obligates the Environmental Protection Agency (EPA) to require persons who manufactured a PFAS chemical substance between January 2011 and December 2022 to submit information regarding the intended uses of the PFAS, production volumes, byproducts, disposal, exposures, and existing information on environmental or health effects of the chemicals (TSCA section 8(a)(7), *PFAS Data* [15 U.S.C. 2607(a)(7)])³.

The EPA rule detailing implementation of this reporting obligation was finalized in 40 CFR Part 705, *Toxic Substances Control Act Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances* (November 2023).⁴ The scope of EPA’s definition of “regulated PFAS” in 40 CFR Part 705 is specific to the sub-structures of the substance.

EPA determined it was unnecessary to require reporting for substances with only a single fluorinated carbon, or unsaturated fluorinated moieties, as they are less likely to persist in the environment. The agency chose a structural definition to avoid inadvertently limiting the scope of reportable substances. EPA also expanded their originally proposed definition to include two additional substructures that would encompass other chemical substances that are persistent in the environment (88 Fed. Reg. 70516 (October 11, 2023))⁵.

³ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a7-reporting-and-recordkeeping>

⁴ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-R/part-705>

⁵ <https://www.govinfo.gov/content/pkg/FR-2023-10-11/pdf/FR-2023-10-11.pdf>

The second sub-structure ($R-CF_2OCF_2-R'$, where R and R' can either be F, O, or saturated carbons) aims to capture certain fluorinated ethers based on the understanding that these ethers are likely to be found in water (88 Fed. Reg. 70516 (October 11, 2023)).

The third sub-structure ($CF_3C(CF_3)R'R''$, where R' and R'' can either be F or saturated carbons) aims to capture a different type of branching for highly fluorinated substances that would not meet the originally proposed definition due to their non-adjacent fluorinated carbons. These substances are likely to be persistent, and EPA believes that reporting for these more branched substances is necessary to fully meet the requirement of collecting information described in TSCA section 8(a)(2)(A)(G) for substances with similar persistence properties to PFOA, PFOS, or GenX (88 Fed. Reg. 70516 (October 11, 2023)).

With this in mind, the TSCA reporting rule defines “regulated PFAS” as a chemical substance that includes at least one of the following structures (40 CFR §705.3):

1. $R-(CF_2)-CF(R')R''$, where both the CF_2 and CF moieties are saturated carbons.
2. $R-CF_2OCF_2-R'$, where R and R' can either be F, O, or saturated carbons.
3. $CF_3C(CF_3)R'R''$, where R' and R'' can either be F or saturated carbons.

EPA determined that at least 1,462 substances would meet this structural definition for reporting purposes.

Manufacturers importing PFAS in articles are considered PFAS manufacturers for the purposes of this TSCA reporting requirement. However, this is a unique provision within the rule as there is no requirement for domestically situated manufacturers of commercially available products containing PFAS to report. Instead, the rule requires manufacturers of regulated PFAS substances to provide information about the industrial processing and use at each site that receives a PFAS substance from the reporting entity, to the extent known or reasonably ascertainable (40 CFR 705.15). Information must include the corresponding sector code and function category for each industrial sector processing or using the reporting manufacturer's PFAS (40 CFR 705.15 (2)). Reporting manufacturers must also provide category codes that best describe the consumer and commercial products in which each PFAS will be used (regardless of whether the recipient site is

controlled by the reporting PFAS manufacturer), as well as the chemical’s designated function (40 CFR 705.15 (3) and (4)). Within the consumer product category, reporting chemical manufacturers must determine whether any amount of each reportable chemical substance manufactured by the submitter is present in or on any consumer products intended for use by children age 14 or younger, among other product use information (40 CFR 705.15 (7)).

EPA originally intended to begin receiving reports on the manufacture of regulated PFAS substances, and its uses, by November 2024. However, in September 2024, EPA announced a proposed rule to delay this reporting requirement to July 2025 due to a reduction of the TSCA budget by \$5 million, which would interfere with the program’s technical capabilities. In May 2025, an interim rule extending the reporting due date to October 2026 was issued. However, newly proposed amendments to the rule, issued in November 2025, recommend changes to the scope of this reporting requirement including the addition of several exemptions.

At present, the reporting obligations in EPA’s adopted rule 40 CFR Part 705 have not been implemented and uncertainty remains regarding how proposed changes to the rule would impact the program.

Other State Regulation of PFAS in Products

Nearly a dozen states now have laws regulating the use of PFAS in various categories of products (see Appendix A for a detailed list). California, Minnesota, New Mexico, and Maine have established laws regulating the use of PFAS in products in ways that closely mirror one another. Though there are differences, there are enough similarities that program staff from these states are collaborating to encourage consistency in implementation. The following summarizes the most relevant aspects of statutory language between these four states.

PFAS Definition

Minnesota, New Mexico, and California statutes define PFAS for the purposes of regulating these substances in products, with nearly identical language to Maine statute.

Maine: “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” “means substances that include any member of the class of fluorinated organic chemicals containing at least one fully

fluorinated carbon atom.” (38 M.R.S. section 1614 (1)(F)).

Minnesota: "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" “means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.” (Minn. Stat. § 116.943, subd. 1(q)).⁶

New Mexico: "Per- or poly-fluoroalkyl substance" “means a substance in a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.” (NM HB 212 Section 2(S)).⁷

California: “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.” (Cal. Health & Safety Code §108982(b), §108970(e), §109000(2)).⁸

Reporting

Minnesota law requires that manufacturers of *any* product sold, offered for sale, or distributed in Minnesota that contains intentionally added PFAS must notify the regulating agency by January 2026 (moved to July 1, 2026). California statute requires manufacturers of textile articles, food packaging, and juvenile products to report their use of intentionally added PFAS by July 1, 2029 (Cal. AB 347, Article 3 (a)). Information required within these reports is similar to language in Maine statute, with the greatest difference being Minnesota’s more detailed approach to product description data by requiring the product universal product code (UPC) or stock keeping unit code (SKU) (Minn. Stat. § 116.943, subd. 2). New Mexico requires this same level of detail and begins its broad reporting requirement for *any* product sold in the state on January 1, 2027 (NM HB 212 Section 3(B)).

Prohibition

California began its prohibition on the sale of cookware containing intentionally added PFAS in 2024 for products that do not meet labeling requirements (AB 1200)⁹, and added cosmetics (AB

⁶ <https://www.revisor.mn.gov/statutes/cite/116.943#stat.116.943>

⁷ <https://www.nmlegis.gov/Sessions/25%20Regular/final/HB0212.pdf>

⁸ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=109000.&lawCode=HSC

⁹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1200

2771)¹⁰, feminine hygiene products, and textile articles (when PFAS is measured above 100 parts per million) to the list of prohibited uses of intentionally added PFAS starting in 2025 (AB 1817)¹¹. Outdoor apparel for severe wet conditions that includes intentionally added PFAS will also become prohibited in California in 2028 (AB 1817). Beginning in 2030, California will expand their prohibition on the use of intentionally added PFAS to include juvenile products, all textile articles, and food packaging (AB 347)¹².

Beginning January 1, 2025, Minnesota law prohibits intentionally added PFAS in the same product categories prohibited in Maine beginning January 2026 with one exception: where Maine specifies “textile articles”, Minnesota regulates “textile furnishings” (Minn.Stat. § 116.943, subd. 5). However, Minnesota diverges from Maine law by exempting internal and electronic components of prohibited product categories, such as textile furnishings (Minn.Stat. § 116.943, subd. 5(b)).

New Mexico begins its sales prohibitions on January 1, 2027, for five specific product categories (cookware, food packaging, dental floss, juvenile products, firefighting foam) (NM HB 212 Section 3(B)). Beginning January 1, 2028, the list of prohibited product categories in New Mexico expands to include the categories prohibited by Minnesota in 2025 and Maine in 2026, with the exception that New Mexico uses the terms “textile furnishings” and “textiles” where Maine copied California’s use of the term “textile articles” (NM HB 212 Section 3(C)).

Like Maine, beginning January 1, 2032, Minnesota and New Mexico law prohibit the sale of *any* product containing intentionally added PFAS, unless there is a currently unavoidable use determination (Minn.Stat. § 116.943, subd. 5(d)), (NM HB 212 Section 3(E)). California does not have a prohibition of this scope currently in place.

New Mexico differs from Maine and Minnesota by requiring that products may not be sold in their state containing intentionally added PFAS after January 1, 2027, unless there is label clearly informing the consumer that the product contains these substances (NM HB 212, NM Proposed

¹⁰ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2771

¹¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1817

¹² https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB347

Rule Docket Section 20.12.2.13 (A), NMAC¹³).

Currently Unavoidable Use

Minnesota and New Mexico law provide for the same currently unavoidable use exemption process as Maine, with a variation on how those determinations are made and the timing of their applicability. In Maine, requests for CUU determinations are reviewed by Department staff, but may only be approved through routine technical rulemaking which is conducted by the Board of Environmental Protection. In Minnesota, CUUs are only applicable to the broad 2032 sales prohibition in Minnesota and may be determined by the Minnesota Pollution Control Agency Commissioner (Minn.Stat. § 116.943, subd. 5(d)). Similarly, New Mexico CUU determinations will use an internal decision-making process for requests pertaining to their 2027 sales prohibitions (NM Proposed Rule Docket Section 20.13.2.11, sect A, NMAC), and the board adopted rule process for CUU determinations applicable to the 2032 sales prohibitions (NM HB 212 Section 3 (E)).

Sales Prohibition Exemptions

Minnesota statutory exemptions are limited to used products and products whose presence of PFAS is regulated by federal law and some medical devices. New Mexico statute includes several of the same exemptions as those in Maine statute, such as exemptions for some medical devices, veterinary products, motor vehicles, watercraft, semiconductors, and non-consumer electronics and non-consumer laboratory equipment. New Mexico statute contains a notable difference with the exemption of products that contain fluoropolymers consisting of polymeric substances for which the backbone of the polymer is either a per- or polyfluorinated carbon-only backbone or a perfluorinated polyether backbone that is a solid at standard temperature and pressure (NM HB 212 Section 3(A)(16)).

Fees

Minnesota's recently adopted rule (Minnesota Pollution Control Agency Rule 7026.0010)¹⁴ requires reporting manufacturers to pay an \$800 fee upon submission of information meeting the notification standard. This is a one-time fee for an initial report and also covers subsequent

¹³ <https://www.env.nm.gov/wp-content/uploads/2025/10/2025-10-06-PFAS-Protection-Act-Proposed-Rules.pdf>

¹⁴ <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07o.pdf>

notifications submitted by the same manufacturer. New Mexico's recently published draft rule proposes to charge manufacturers a \$2,500 fee to submit an initial report for products offered for sale containing intentionally added PFAS and \$1,000 for subsequent reporting following a significant change (NM Proposed Rule Docket Section 20.13.2.16 (A) and (B) NMAC). This draft rule describes that the New Mexico Environment Department reserves the right to adjust this fee annually to reflect changes in the consumer-price index. Similar language regarding fee adjustments for inflation has been established in Minnesota's reporting rule also.

In its proposed program rule, New Mexico also intends to charge a \$5,000 fee to manufacturers applying for a first-time CUU designation. The New Mexico Environment Department intends to charge a fee for each subsequent CUU determination of \$2,500 (NM Proposed rule Docket Section 20.13.2.18, (C)). Minnesota has not established a fee related to CUU proposals. The rule specific to CUU requirements for Minnesota has not yet been developed.

A comprehensive table of state regulation of PFAS in products is listed in **Appendix A**.

Maine's PFAS in Products Program Implementation

Program Structure

The Department has assigned one full-time staff person to the implementation of the PFAS in Products Program and a second staff person originally assigned to manage other Safer Chemicals programs (encompassing the Toxic Chemicals in Children's Products Program (38 MRS §§1691-1699-B), Regulation of Food Packaging (32 MRSA §§1731-1747), Regulation of Flame Retardants (38 MRS §1609-A), and the Toxic Use Reduction Program (38 MRS § 2324)) is also assisting with implementation of the PFAS in Products Program. Significant staff time is also provided by two members of the Commissioner's Policy Unit, with frequent legal counsel and document review provided by an Assistant Attorney General.

Rule Development

In early 2022, Department staff developed concept draft rule Chapter 90 to implement statutory requirements established in PL 2021, c. 477 (July 2021). The Department then held a stakeholder engagement meeting in June 2022, resulting in the submission of 46 written comments. Based on the substantive comments received from this outreach effort, a second virtual stakeholder

engagement meeting was held in October 2022 for review of a modified version of concept draft rule Chapter 90. This second stakeholder meeting was attended by more than 500 interested parties from across the globe, which generated 45 written comments. By the end of 2022, Department staff completed draft rule Chapter 90 and began the routine technical rulemaking process with the Board of Environmental Protection (“Board”).

The Board voted to post draft rule Chapter 90 on January 19, 2023, and held a public hearing on April 20, 2023. At the close of the comment period on May 19, 2023, 56 stakeholders had testified and/or provided written comment.

Simultaneously during the rule development period, the Department was working with the New England Waste Management Officials Association’s (NEWMOA) Interstate Chemicals Clearinghouse (IC2) to develop an online reporting system capable of managing the many thousands of notifications expected from manufacturers whose products sold, distributed, or offered for sale in Maine would contain intentionally added PFAS at the January 1, 2023, reporting deadline. However, the system needed to be designed to accommodate reporting details in the rule that was under development. Whereas no adopted rule was in place before the statutory deadline for reporting, development of an online reporting system was delayed, resulting in regulated manufacturers submitting required information to Department staff through email or in paper form to meet this legal requirement. At that time, the Department received 68 preliminary reports of the use of intentionally added PFAS in various formats (electronic and paper). Staff review of these preliminary reports found numerous inconsistencies in the level of detail provided. Without a rule in place to provide clarifying details, the Department received multiple requests for confidentiality, reports that misunderstood information requirements, and reports that supplied information that was not within the scope of the program.

Because the timing of rulemaking in 2023 overlapped with the statutory requirement to begin collecting intentionally added PFAS use reports from regulated manufacturers, the Department provided an extension of the January 1, 2023, notification deadline to requesting businesses. Manufacturers from across the globe submitted extension requests to Department staff. The Department approved more than 2,500 reporting extensions. During this time, Department staff responded to numerous information requests from several types of interested stakeholders,

including regulated manufacturers concerned about meeting compliance criteria in the absence of an adopted rule, advocacy groups concerned about whether manufacturers would be compliant without the details of an implementation rule, and media who were interested in understanding the complexities of this first-of-its-kind law given the general sense of confusion surrounding program requirements.

Also at the same time, the Legislature was considering substantive changes to the program's governing statute proposed in L.D. 217, *An Act to Support Manufacturers Whose Products Contain Perfluoroalkyl and Polyfluoroalkyl Substances*. On June 8, 2023, the Legislature amended the statute to move the reporting requirement deadline forward two years (from January 2023 to January 2025) (PL 2023, c. 138), among other changes. This provided the Department with additional time to establish an online reporting system that could accept the thousands of anticipated notifications of regulated products sold in Maine containing intentionally added PFAS.

The following year, the program's governing statute was more comprehensively amended by PL 2023, c.630 *An Act to Support Manufacturers Whose Products Contain Perfluoroalkyl and Polyfluoroalkyl Substances*. These legislative changes eliminated the general notification requirement that was scheduled to take effect on January 1, 2025, and created several new sales prohibitions for specific product categories with intentionally added PFAS with varying effective dates. The amended statute also added specific exemptions related to the prohibitions and narrowed the reporting requirement only to those product categories that receive a currently unavoidable use determination.

The Department revised the previously proposed rule to align with changes in the statute, including establishing criteria for a first-of-its-kind decision making process for currently unavoidable use. Based on Maine's statutory definition of "essential for health, safety and the functioning of society" (38 M.R.S. § 1614(1)(B-1)), the Department created comprehensive criteria for those proposing CUU exemption for their regulated product. The Department distributed a revised concept draft rule and held a stakeholder engagement meeting in August 2024. The Department received 44 substantive comments on the concept draft.

Based on stakeholder input, the Department made changes to the concept draft rule, and on December 19, 2024, asked the Board of Environmental Protection to begin formal rulemaking for rule Chapter 90. A public hearing was held on January 16, 2025. From the rule's January 2025 public comment period, the Department received and reviewed 57 comments totaling 419 pages. Based on comments received, the draft rule was amended by correction of typos, elimination of superfluous language, and the addition of clarifying language. No substantive changes to the draft rule were necessary. On April 7, 2025, the Board voted to adopt rule Chapter 90. Final adoption of program implementation details enabled the Department to put program tools in place, such as online forms and an expansion of the program webpage with information important to the regulated community for compliance.

The final rule established criteria and a process for Department staff to process and review CUU requests, and to propose CUU determinations for decisions by the Board of Environmental Protection through rulemaking. This included timelines for submitting CUU requests related to product categories subject to pending or passed prohibition dates. In order to manage the potential volume of CUU submissions within existing staff resources, Chapter 90 limits the categories of products for which a CUU will be considered by the Department to those that will be subject to prohibition no later than 5 years from the date of the submission (e.g., the Department will not consider CUU submissions from manufacturers of refrigeration equipment subject to a January 1, 2040 prohibition until January 1, 2035).

Recognizing that it was not possible to adopt CUU determinations for products subject to the January 1, 2026, sales prohibitions using the rule's general timeline for CUU submissions, Chapter 90 also established a June 1, 2025, deadline for submission of CUU proposals relative to those product categories.

Currently Unavoidable Use

The main objective of Maine law *Products Containing PFAS*, 38 M.R.S. §1614, is to reduce the potential for environmental contamination by, and human exposure to, perfluoroalkyl and polyfluoroalkyl substances (PFAS) by eliminating their non-essential use in products. Where the use of PFAS is critical to a product that is determined to be “essential for health, safety or the functioning of society,” and for which alternatives are not reasonably available, the Legislature

has provided for CUU determinations by the Department through routine technical rulemaking. “Essential for health, safety or the functioning of society” is defined in Maine law as:

“a use of a PFAS in a product when the function provided by the PFAS is necessary for the product to perform as intended, such that the unavailability of the PFAS for use in the product would cause the product to be unavailable, which would result in: (1) A significant increase in negative health outcomes; (2) An inability to mitigate significant risks to human health or the environment; or (3) A significant disruption of the daily functions on which society relies.” (38 M.R.S. § 1614(1)(B)).

In April 2025, the Department established an online submission form for CUU proposals and a notification form for those product manufacturers or distributors wishing to utilize a CUU determination. This mechanism guides users through a series of questions that form important data points for the Department, as established in rule Chapter 90. Working with an already established software vendor within the Department in an all-hands-on-deck approach, both the online CUU proposal and notification forms were created and made available to the public within weeks, rather than the months or even years typical for development and launch of such a system.

The Department received 11 CUU proposals by June 1, 2025. Department staff undertook a detailed review of those proposals, weighing the information presented by each submitter against the statutory definition of “essential for health, safety, and the functioning of society.” Specific consideration was given to the impact of the product on society and the function of PFAS chemicals within the product compared to existing, reasonably available alternatives. When the absence of the product from the marketplace would pose a risk to the population based on its purpose and a lack of reasonably available alternatives, the Department found that a time-limited CUU designation would be consistent with statutory intent. On July 17, 2025, the Department initiated rulemaking by recommending that the Board approve a CUU designation for 2 of the 11 proposals received as an amendment to rule Chapter 90.

During the CUU rulemaking comment period, the Department received and responded to 26 comments from a variety of stakeholders. No changes to the proposed rule were made based on comments received. On October 2, 2025, the Board voted to adopt the two CUU proposals recommended by the Department. Those two approved CUU designations in rule Chapter 90 are

the following:

- 1) The use of PFAS in a cleaning product container internal cartridge valve within the HTS classification 3926.90.4510, which are used in the industrial sector with the NAICS codes 561210 and 561720 is a currently unavoidable use until January 1, 2031.
- 2) The use of PFAS in a cleaning product container vented cap liner within the HTS classification 3921.19.0000, 7607.20.5000, and 3923.50.0000, which are used in the industrial sector with the NAICS code 322299 is a currently unavoidable use until January 1, 2031.

The Department anticipates that additional and revised CUU proposals will be submitted for products subject to the January 1, 2026, sales prohibition. Each new CUU proposal submitted will be reviewed with careful consideration of statutory and rule criteria. To plan for the 5 to 6 month period necessary to complete all routine technical rulemaking procedures for CUU determinations, the Department intends to combine future CUU specific proposals into a single, annual rulemaking event to be completed before the end of each calendar year.

Future CUU Submissions

With the first phase of rule implementation complete, there are some aspects of rule Chapter 90 that, if clarified, would benefit the regulated community and program staff. These include, but are not limited to, requiring more detailed assessments of alternatives, requiring original documentation for statements and claims made within a CUU proposal, adding clarity regarding where a product is used, requesting images of the product and its components for which there is a CUU proposal, and clarifying the resubmission process.

The Department found that CUU proposals often included statements about alternatives to the PFAS used that lacked specificity. To avoid approving or disapproving CUU determinations based on broad, unsupported statements, the Department intends to request supporting assessments regarding alternatives to PFAS that have been considered and found unfeasible as replacements. During the first CUU submission process, proposals often contained statements on various aspects of the proposal without supporting documentation. The Department intends to

modify proposal requirements to ensure that submittals include supporting records for claims made within.

Because there was some confusion about the requirement to provide product specific HTS (Harmonized Trade System)¹⁵ or GPC (Global Product Code)¹⁶ codes that may not have accurately described where the product is used, the Department intends to clarify this data point also. The purpose of this information stems from the Department's need to understand how and where the product is intended to be used. This allows for more accurate compliance tracking.

In some instances, the written description of the product did not suffice in providing an understanding of the product itself or its component. Future submissions will be required to include an image of the item for which a CUU is being requested to provide a clearer understanding of the product, how it functions, and illustrate the necessity of PFAS used.

Lastly, some confusion has been created regarding the resubmittal process for CUU proposals that are disapproved by the Board. The Department has gained insight into the level of administrative burden that would be created if every CUU proposal that is denied approval were to be resubmitted for rulemaking with minimal change from its original form. For this reason, the Department is considering a requirement that specifies any resubmitted CUU must include a significant change of information compared to its originally submitted proposal. This will ensure that CUU rulemaking moves forward with new information that may change the outcome of the Board's decision.

The Department acknowledges that its recent CUU rulemaking was a first-time process that will benefit from improvement. To that end, the Department is developing a guidance document describing expectations of a CUU proposal for successful Board determination and the decision-making process. This guidance will provide clarity and predictability for both the regulated community and Department staff.

¹⁵ <https://hts.usitc.gov/>

¹⁶ <https://gpc-browser.gsl.org/>

Compliance Assistance

Department staff have received numerous questions about the applicability of Maine's PFAS in Products law to particular products, which has required considerable staff time to develop consistent interpretations and guidance due to the multitude of differences between products, particularly considering their components. This includes frequent consultation with Assistant Attorney Generals from the Maine Attorney General's Office and with other states, as described previously in this report. In particular, the Department has grappled with nuanced questions regarding prohibitions on intentionally added PFAS in cookware, fluorinated containers, and outdoor apparel.

Cookware

38 M.R.S. §1614 (5)(B-1)(2) prohibits the sale of a cookware product containing intentionally added PFAS beginning January 1, 2026. "Cookware product" is defined at 38 M.R.S. §1614 (1)(A-10):

"Cookware product" means a durable houseware product intended to be used to prepare, dispense or store food, foodstuffs or beverages, including, but not limited to, a pot, pan, skillet, grill, baking sheet, baking mold, tray, bowl and cooking utensil.

This is the same definition in Minnesota's statute, where the prohibition on the sale of a cookware product containing intentionally added PFAS began January 1, 2025. The Department has coordinated closely with program staff at the Minnesota Pollution Control Agency to provide consistent compliance assistance to manufacturers of products that may be subject to prohibition in both states.

1. The Department has received many questions regarding the applicability of the cookware prohibition to common kitchen appliances. The Department has determined that aspects of certain kitchen appliances meet this definition based on their ability to hold and store food, with particular focus on those areas of the appliance that are in direct contact with food. For instance, a refrigerator with a water and ice dispenser that contains intentionally added PFAS meets the current definition of cookware due to those components, and is, therefore, regulated by the 2026 sales prohibition. However, a refrigerator without these added amenities would not be captured by the current definition of cookware and is,

therefore, not regulated under the 2026 sales prohibition.

2. The statutory definition of cookware product includes terminology that is location specific - “houseware product”. The Department has determined this applies to products that are primarily designed and/or marketed for use in a residential setting (i.e., “house”). Secondary or occasional use of a regulated cookware product in a commercial, institutional or industrial setting does not exclude the product from applicability of the sales prohibition (e.g., an 8-cup coffee maker used in an office breakroom). Statute also includes houseware products intended to “dispense or store food, foodstuffs or beverages” within the definition of cookware product. Therefore, the Department has determined that reusable water bottles, whether remaining in a household or used outside of a household location, are also regulated as cookware and subject to the 2026 sales prohibition if made with intentionally added PFAS.
3. The Department has received questions regarding the applicability of the cookware product prohibition to products that do not involve heat, because the generally understood definition of “cook” (verb) means to prepare food with heat. The statutory definition of cookware product includes product types that are not commonly used for cooking – tray and bowl. The Department has, therefore, determined that the definition of cookware product in Maine law is not limited only to products used to prepare food with heat. Without limiting the cookware product category to only those products and product components designed for use with heat, the cookware product category can logically include products such as food and beverage storage containers.

Fluorinated Container

One distinct difference between the scope of Maine’s prohibitions and those of other states with similar product categories (i.e., Minnesota and California) is the prohibition in Maine on selling any product in a prohibited product category that may not, itself, contain PFAS but that is contained within a container that contains intentionally added PFAS. The Department closely examined how to interpret this prohibition, particularly how to determine what is a container. The Department has determined that a component of a container that contains intentionally added PFAS must come into contact with the product it contains in order for it to trigger the prohibition.

Manufacturers have provided information indicating that PFAS may be intentionally added to components of containers such as valves, gaskets, orifices, vents that serve to safely contain or dispense products such as fuels, gases, and specialty chemicals. Rule Chapter 90 provides detail to assist manufacturers with identifying affected containers, and for requesting a currently unavoidable use determination for products that are essential for health, safety or the functioning of society.

Outdoor Apparel

“Textile articles” containing intentionally added PFAS are prohibited beginning January 1, 2026, except that “outdoor apparel for severe wet conditions” containing intentionally added PFAS is prohibited beginning January 1, 2029, unless the apparel is accompanied by a disclosure that it contains PFAS (similar to the January 1, 2025, prohibition in California).

"Outdoor apparel for severe wet conditions" is defined at 38 M.R.S. §1614 (1)(E-3):

"Outdoor apparel for severe wet conditions" means a clothing item that is an extreme and extended use product designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions to protect the health and safety of the user and that are not marketed for general consumer use, including, but not limited to, such extreme and extended use products designed for offshore fishing, offshore sailing, whitewater kayaking and mountaineering.

This product category is limited to apparel “designed for outdoor sports experts”, including “products designed for offshore fishing.” (38 M.R.S. §1614 (1)(E-3)). The Department has determined that this prohibition is limited to apparel used for sports, and that “offshore fishing” in this context refers to sport fishing, as distinguished from commercial fishing.

Recommendations

The Department is not recommending any legislative changes to 38 M.R.S. §1614 in 2026. This section of statute has been amended twice since originally enacted in 2021, with the implementing Department rule finally adopted in 2025. The Department has identified opportunities to clarify applicability of the statutory prohibitions and exemptions, and the process for evaluating requests for CUU designations, through the rulemaking authority of the Board. The Department will

develop revisions to rule Chapter 90 in 2026 and guidance materials to assist manufacturers with compliance.

The Department anticipates that there will be manufacturers with products subject to the sales prohibition on January 1, 2026, who have not yet identified their product as prohibited. The Department recognizes that, for some products, applicability determinations require a very detailed analysis of statutory language, legislative history, and implementation of similar language in other jurisdictions. The Department will use its existing statutory authorities for compliance and enforcement to ensure that the objectives of the statute are fulfilled. The Department will also incorporate any feedback and guidance from the Environment and Natural Resources Committee's review of this report in its development of rule revisions, guidance, and ongoing applicability determinations.

Appendix A

State Labeling Requirement for Products Containing Intentionally Added PFAS

	2024	2025	2026	2027	2029
California	Cookware [AB1200]	Outdoor apparel for severe wet conditions [AB1817]			
Colorado		Outdoor apparel for severe wet conditions [SB2481]			
Connecticut			Apparel, Carpet or rug, Cleaning product, Cookware, Cosmetic, Dental floss, Fabric treatment, Children’s products, Menstruation product, Textile furnishing, Ski wax, Upholstered furniture, Turnout gear, Outdoor apparel for severe wet conditions [SB292]		
Maine					Outdoor apparel for severe wet conditions [38 M.R.S. §1614]
New Mexico				Any product [HB212]	
Rhode Island					Outdoor apparel for severe wet conditions [S2152]
Vermont			Firefighter station gear [S25]		

State Reporting Requirement for Products Containing Intentionally Added PFAS

	2026	2027	2029
California			Juvenile products, Textile articles, Food packaging [AB347]
Connecticut	Apparel, Carpet or rug, Cleaning product, Cookware, Cosmetic, Dental floss, Fabric treatment, Children’s products, Menstruation product, Textile furnishing, Ski wax, Upholstered furniture [SB292]		
Minnesota	Any product [MN §116.943]		
New Mexico		Any product [HB212]	

State Sales Prohibitions on Products Containing Intentionally Added PFAS

	2023	2024	2025	2026	2027	2028	2029
California		Cookware [AB1200]	Cosmetics [AB2771], Feminine hygiene products [AB2515], Textile articles ≥ 100 ppm TOF [AB1817]		Textile articles ≥ 50 ppm TOF [AB1817]	Outdoor apparel severe wet conditions [AB1817]	
Colorado		Carpet or rug, Fabric treatments, Juvenile products, Oil and gas products [HB221345]	Cosmetics, Indoor textile furnishings, Indoor upholstered furniture [HB221345]	Cleaning products, Cookware, Dental floss, Menstruation products, Ski wax, Artificial turf [HB221345]	Outdoor textiles furnishing, Outdoor upholstered furniture [HB221345]	Cleaning products for floor maintenance used in hospital/medical settings, textiles, outdoor apparel for severe wet conditions [HB221345]	
Connecticut				Apparel, Carpet or rug, Cleaning product, Cookware, Cosmetic, Dental floss, Fabric treatment, Children’s products, Menstruation product, Textile furnishing, Ski wax, Upholstered furniture [SB292]		Apparel, Carpet or rug, Cleaning products, Cookware, Cosmetics, Dental floss, Fabric treatment, Children’s products, Menstrual products, Textile furnishings, Ski wax, Upholstered items, [SB292]	
Maine		Carpet or rug, Fabric treatment, Fluorinated containers [38 M.R.S. §1614]		Cleaning product, Cookware product, Cosmetic product, Dental floss, Juvenile product, Menstruation product, Textile articles, Ski wax, Upholstered			Artificial turf [38 M.R.S. §1614]

State Sales Prohibitions on Products Containing Intentionally Added PFAS

	2023	2024	2025	2026	2027	2028	2029
				furniture, Fluorinated containers [38 M.R.S. §1614]			
Maryland	Carpet or rug [SB273]	Playground surfacing material [HB1147]					
Minnesota			Cleaning product, Cookware, Cosmetic, Dental floss, Juvenile product, Menstruation product, Textile articles, Ski wax, Upholstered furniture [MN §116.943]				
New Hampshire					Carpet or rug, Cosmetics, Fabric treatment, Menstruation product, Juvenile products, Textile furnishing, Upholstered furniture [HB1649]		
New Mexico					Cookware, Dental floss, Juvenile product [HB212]	Carpet or rug, Cleaning product, Cosmetic product, Fabric treatment,	

State Sales Prohibitions on Products Containing Intentionally Added PFAS

	2023	2024	2025	2026	2027	2028	2029
New York						Menstruation product, Textile articles, Ski wax, Upholstered furniture [HB212]	
			Apparel [S.1322]			Outdoor apparel for severe wet conditions [S.1322]	
Rhode Island					Artificial turf, Carpet or rug, Cookware, Cosmetics, Fabric treatment, Juvenile products, Menstrual products, Ski wax [S2152]		
Vermont				Carpet or rug, Aftermarket stain and water-resistant treatments [VT1682], Ski wax [VT1692]	Cleaning products, Dental floss, Fluorinated containers [S25]	Cookware [S25]	PPE, Respirators [S25]

State Sales Prohibitions on Products Containing Intentionally Added PFAS

	2030	2032	2040
California	Juvenile products, Textile articles, Food packaging [AB347]		
Illinois		Cosmetic products, Dental floss, Juvenile product, Menstrual products, Intimate apparel [HB2516]	
Maine		Any product and products in fluorinated containers [38 M.R.S. §1614]	Cooling, heating, ventilation, air conditioning or refrigeration equipment, refrigerants, foams or aerosol propellants [38 M.R.S. §1614]
Minnesota		Any product [MN §116.943]	
New Mexico		Any product [HB212]	
Vermont		Any product and products in fluorinated containers [S25]	