

## Maine Amends Notification Requirement in PFAS-Containing Products Law

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### Key Takeaways

- ◆ **What is happening?** Maine has enacted an [amendment](#) to the state's [statute](#) regulating the use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in products. Under the law as originally passed, manufacturers of products containing intentionally added PFAS were required to provide certain detailed information to the Maine Department of Environmental Protection (DEP) beginning January 1, 2023. The amendment extends this statutory deadline to January 1, 2025, and makes certain changes to the required substance of notifications. The amendment applies retroactively to January 1, 2023. The amendment does not alter the law's broad definition of PFAS, nor does the amendment alter the state's ban on non-exempt products containing intentionally added PFAS as of January 1, 2030.
- ◆ **What is the background?** Maine's original PFAS-containing products law was adopted in July 2021. Since then, Maine DEP has been developing, but has not yet finalized, regulations to implement the law. Maine DEP has acknowledged the difficulty in implementing the law's notification requirements. Thousands of companies have requested and received extensions to notification requirements beyond the statutory deadline.

### Summary of Key Provisions

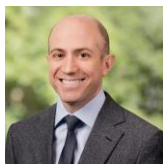
- ◆ **Reporting Deadline Extension.** The statutory deadline for manufacturers to notify Maine DEP of their products for sale in the state that contain intentionally added PFAS has been extended by two years from January 1, 2023 to January 1, 2025.
- ◆ **Additional Requirement to Report Estimate of Total Units Sold.** The amendment adds a requirement to report to Maine DEP an estimate of the total number of units of in-scope products sold annually in Maine or nationally.
- ◆ **New Methods of Reporting PFAS Amounts in Products Permitted.** Under the original law, the amount of each PFAS in products was to be identified by its chemical abstracts service (CAS) Number and reported as an exact quantity or as falling within a range approved by Maine DEP. The amendment now allows PFAS to be identified through a Maine DEP-approved description. The amendment also authorizes reporting the amount of total organic fluorine if the amount of each PFAS compound in a product is unknown. Additionally, PFAS reporting can now be based on supplier-provided information rather than through testing.



- ◆ **Exemption for Small Manufacturers.** The amendment exempts from the statute’s notification requirement a manufacturer that employs 25 or fewer people.
- ◆ **Exemptions Clarified for Packaging and Used Products.** An existing exemption for product packaging has now been clarified. Packaging is now explicitly exempt from the law’s notification requirements and material restrictions, except when the package “is the product of the manufacturer” (i.e., when the packaging is itself the product). The amendment also added an exemption from the notification and material restrictions for used products and used product components. This codifies an existing Maine DEP interpretation of the statute, which concluded that packaging and used products were out of the statute’s scope.
- ◆ **Amendment Applied Retroactively to January 1, 2023.** Because the notification deadline was extended to January 1, 2025, and that change was made retroactive, any legal liability for past failures to meet the original statutory notification deadline is likely extinguished.

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