

Environment & Energy

PFAS Bans, Restrictions Go Into Effect in States in 2023 (1)

By Zach Bright

Jan. 4, 2023, 6:00 AM; Updated: Jan. 4, 2023, 11:00 AM

- Maine's sweeping PFAS ban starts to take effect
 - Includes household products, firefighting foams
-

Laws and regulations restricting "forever chemicals" in more than a half dozen states are entering effect in 2023, including the start of a timeline for a first-in-the-nation ban on PFAS in all products in Maine.

The newly effective measures range from labeling requirements to bans of the substance in products including food packaging, firefighting foam, and personal care products.

Per- and polyfluoroalkyl substances (PFAS) are a class of chemicals that don't naturally break down, and so they accumulate in water, soil, and in the human body. Studies have shown that high levels increase the risk of cancer and other adverse health effects.



Video: PFAS: The 'Forever Chemicals'

Now in Effect

Maine

LD 1503 bans intentionally added PFAS from all products of any kind sold in the state, broken up with intermediate deadlines designed to allow industry to adapt.

The first mandate took effect Jan. 1, requiring a PFAS phaseout for rugs, carpets, and fabric treatments. The state law aims to ban the substance in products across the board by 2030, except when their use is unavoidable. The law's approach is similar to the "essential use" concept for PFAS restrictions in the EU.

More sweeping is a reporting requirement for all companies to report or make public the amount of and purpose of PFAS added to any products, with no exemptions yet granted by the state.

That's left many companies concerned about compliance, according to John Gardella—shareholder of CMBG3 Law—who said that uncertainty and confusion could arise over the state law's use of the words "intentionally added PFAS" and its exemption for "unavoidable" uses of the substances.

"In the perhaps not too distant future, when products liability lawsuits start—in other words, this particular consumer good caused me an ill health effect and therefore you need to compensate me—there's going to be a database full of potential targets for litigation," Gardella said.

New York

New York state implemented laws banning PFAS and a 1,4 dioxane—a synthetic chemical solvent found in products like detergents classified by the Environmental Protection Agency as a likely carcinogen.

"The implementation of new laws for chemicals in everyday household products is part of our state's ongoing commitment to protect communities," said Basil Seggos, commissioner for the state Department of Environmental Conservation.

Intentionally added PFAS in paper-based plates, cups, bowls and other food packaging cannot be sold in the Empire state after Dec. 31, 2022, under the Hazardous Packaging Act.

Starting Dec. 31, 2022, New York established a maximum allowable concentration of 2 parts per million of 1,4-dioxane in household cleaning and personal care products (a threshold which will be lowered to 1 ppm by the end of 2023) and 10 ppm limit for cosmetics.

Another rule began Jan. 1 to restrict asbestos, benzene, or tris (1,3-dichloro-2-propyl) phosphate—all classified as potentially harmful to human health by the EPA—intentionally added to children's products. Those include clothing, bedding, mattresses, and school supplies marketed to those below 12 years old.

California

Like New York, the Golden State's also had a ban on the sale and distribution of paper food packaging made with intentionally added PFAS enter effect.

That measure, AB 1200, also now requires cookware manufacturers to disclose PFAS and BPA (Bisphenol-A). The law prohibits misleading advertising that claims products are free of chemicals such as PFOA, or perfluorooctanoic acid, when they in fact include chemicals like PTFE, commonly known as Teflon.

That could mean big compliance challenges for paper, cardboard, and cookware manufacturers who may have not planned for the change, according to Buchalter attorneys John Epperson and Peter W. McGaw.

Pennsylvania

Drinking water standards passed at 2022's end by Pennsylvania's agencies are poised to become law and would limit the presence of PFOA to 14 parts per trillion (ppt) and PFOS to 18 ppt.

Awaiting the state attorney general's signature, the regulations would require municipalities and water providers to regularly monitor water for PFAS, and treat the water if it exceeds the accompanying thresholds.

"It's a pretty severe action taken by the state and honestly leads to—depending on the scope of the pollution—potentially significant cleanup cost," Gardella said. "It also can lead to litigation in the courts because the companies that are targeted may feel like there are other polluters."

Colorado

Colorado's HB20-1119 has already prohibited the use of class B foams with intentionally added PFAS in certain aircraft hangars, starting Jan. 1.

That law requires the state's solid and hazardous waste commission to create PFAS foam capture and disposal standards, as well as registration rules for facilities like fire departments that use or store PFAS in operations.

By July 1

Another California law, AB 652, is set to enter effect in the mid-year. It will ban the sale and distribution of new children's products containing PFAS, requiring the use of the "least toxic alternative."

It excludes electronic products and internal components of any products that wouldn't come into contact with a child's skin or mouth.

Hawaii's HB1644 will also ban the manufacture, distribution, and sale of certain food packaging—wraps, liners, plates, food boats, and pizza boxes—that contain PFAS.

The law also prohibits by the same date class B firefighting foams that contain PFAS. Such foams are used to extinguish gasoline, oil, and jet fuel.

Public water utilities in Rhode Island under SB 2298 will have to regularly monitor for six PFAS: PFOA, PFOS, PFHxS, PFNA, PFHpA, and PFDA. PFAS in drinking water is also capped at a concentration of 20 ppt.

If PFAS levels exceed that limit, utilities are required under the law to provide potable water to customers through other means necessary until monitoring results show that those levels are lower.

And Vermont's S.20 will ban intentionally added PFAS from food packaging, residential rugs and carpets, and ski wax.

(Adds in fifth paragraph that Maine's law has an exemption for essential use.)

To contact the reporter on this story: Zach Bright at
zbright@bloombergindustry.com

To contact the editor responsible for this story: Renee Schoof at
rschoof@bloombergindustry.com

Topics

environmental reporting
personal use product safety
product labeling
chemical product safety
PFAS

© 2023 Bloomberg Industry Group, Inc. All Rights Reserved