

**BLOGS**

Drinking Water;Legislative Developments;Personal Care &amp; Cosmetics

## Maryland, Maine and Vermont Advance PFAS Legislation

Three northeastern states are among those that have recently taken legislative action to address PFAS in consumer products and the environment. Maryland recently banned 13 different PFAS and their salts from being sold in cosmetic products within the state. Vermont recently passed an even stricter law prohibiting the sale of several categories of commercial products containing PFAS. Finally, Maine has established a limit of 20 parts per trillion for six types of PFAS found in drinking water, well below EPA's 70 parts per trillion advisory level for PFOS and PFOA, while also extending the statute of limitations for certain PFAS related claims to six years. The recent actions by Maryland, Vermont, and Maine are representative of the increasing number of states which have enacted or are in the process of enacting bans or limits on PFAS.

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### Related Services

[PFAS \(per- and polyfluoroalkyl substances\)](#)

### Maryland Bans PFAS in Cosmetic Products

Maryland recently enacted [H.B. 643](#), a law to prevent certain substances from being included in cosmetic products sold within the state. The new law will take effect on January 1<sup>st</sup>, 2025 and will prohibit businesses from "*knowingly* manufacturing, selling, delivering, holding, or offering for sale in the State a cosmetic product that contains certain ingredients" including thirteen PFAS chemicals or any salts of the named PFAS. Two of the PFAS included in the ban are PFOA and PFOS, the most prevalent and widely studied of PFAS substances. Maryland's new ban also includes eleven other chemicals such as mercury and formaldehyde as well as two phthalates. Notably, the law exempts cosmetics containing PFAS where the product was manufactured intending to comply with the law and contains a trace quantity of a banned ingredient due to an impurity, the manufacturing process, or because of storage and packaging.

Maryland's H.B. 643 is similar to a 2020 California law that both restricts the same chemicals and takes effect the same day in 2025, which Maryland state legislature staff says will help industry comply with the law. Maryland's' law also targets only the PFAS chemicals listed in the ban and not the entire class of PFAS compounds that includes thousands of substances.



## Vermont Ban on PFAS In Certain Consumer Products

Vermont recently passed [S20](#), which will take full effect in 2023. The law bans all perfluorinated chemicals in categories of products such as firefighting foam and protective equipment, carpets and rugs, food packaging, ski wax, and stain-resistant treatments. Vermont's law uses a class based approach to restrict all PFAS chemicals in the product categories identified in the law.

Beginning July 1, 2023, S20 prohibits all manufacturers, suppliers, or distributors from manufacturing, selling, or distributing food packaging "to which PFAS have been intentionally added and are present in any amount." By July 1, 2023, rugs, carpets, and ski wax products may also not contain intentionally added PFAS chemicals.

## Maine Drinking Water Standards for PFAS

On June 21, 2021, Governor Janet Mills signed one of the country's most stringent standards for PFAS in drinking water, [L.D. 129](#). The law establishes a limit of 20 parts per trillion for six types of PFAS found in drinking water. This standard is significantly lower than EPA's 70 parts per trillion advisory level for PFOS and PFOA.

Maine's new law also requires all public water utilities, as well as schools and daycare facilities using private wells, to test for all regulated PFAS chemicals and PFAS included in the list of analytes in the standard laboratory methods established by the EPA by the end of 2022. These facilities would also be required to take steps necessary to address any elevated levels of PFAS if detected.

[L.D. 363](#), another law involving PFAS, was signed by Mills on June 22. The law extends the statute of limitations for PFAS to six years. Under the new law, a suit must be brought within six years after a plaintiff discovers or should have discovered the harm caused by PFAS. Importantly, the law preserves the existing two-year statute of limitations for governmental entities, which would presumably include publicly owned treatment works in a state that has dealt with issues from land application of biosolids.

## Other State PFAS Actions

Maryland, Vermont, and Maine are representative of increasing state action on the use of PFAS and of a number of states which have enacted or are in the process of enacting bans on broad categories of PFAS containing products. Environmentalists have pushed for state-level action on PFAS due to what they believe is the absence of swift federal action under the Toxic Substances Control Act or other federal regulatory programs. At the same time, industry groups have voiced concern over potential complications with the state laws, such as short timeline for implementation. For example, the American Chemistry Council has expressed concern that several state-level actions, including Vermont's 2023 compliance date, conflict with the Food and Drug Administration's voluntary phase out of PFAS from food packaging by 2024. In light of the increasing state regulatory scrutiny, a growing number of major retailers have preemptively adopted policies to voluntarily phase out PFAS substances from their food packaging and other products. At least eighteen food retailers have already either reduced or removed PFAS from their food packaging.

In 2020, state legislatures considered over 180 bills involving PFAS and at least 15 states enacted 27 bills focused on efforts regulating PFAS including California, Colorado, Indiana, Connecticut, Michigan, Minnesota, New Jersey, New York, Washington, and Wisconsin. Industry is well advised to stay apprised of the rapidly evolving PFAS regulatory environment.