Maine Amends Its PFAS Statute, Exempting Certain Product Categories from the Sales Prohibition and Eliminating the General Notification Requirement

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On April 16, 2024, Governor Janet Mills (D) signed LD 1537, amending An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution. On May 20, 2024, the Maine Department of Environmental Protection (MDEP) updated its "PFAS in Products" web page to reflect the amendments, which include eliminating the general notification requirement that was scheduled to take effect **January 1, 2025**. The legislation also creates new sales prohibitions for products with intentionally added per- and polyfluoroalkyl substances (PFAS) with varying effective dates, exempts certain product categories from the prohibitions, and establishes a new reporting program for those product categories that receive a currently unavoidable use (CUU) determination from MDEP. According to the MDEP web page, the sales prohibitions on products containing intentionally added PFAS include:

Effective Date	Product Category
January 1, 2023	• Carpet or rug • Fabric treatment
January 1, 2026	• Cleaning product • Cookware product • Cosmetic product • Dental floss • Juvenile product • Menstruation product • Textile articles (with exception) • Ski wax • Upholstered furniture • Products listed that do not contain intentionally added PFAS but are sold, offered for sale, or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS
January 1, 2029	• Artificial turf

	• Outdoor apparel for severe wet conditions unless accompanied with the disclosure "Made with PFAS chemicals"
January 1, 2032	• Any products containing intentionally added PFAS sold in Maine unless the use of PFAS in the product is a CUU • Products that do not contain intentionally added PFAS but that are sold, offered for sale, or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS
January 1, 2040	• Cooling, heating, ventilation, air conditioning or refrigeration equipment • Refrigerants, foams or aerosol propellants

Product categories exempt from sales prohibition include:

- Product for which federal law governs the presence of PFAS;
- Packaging;
- Used product or used product component;
- Firefighting or fire-suppressing foam;
- Medical devices, drugs, etc., and products regulated by the U.S. Food and Drug Administration (FDA);
- Veterinary products regulated by FDA, the U.S. Department of Agriculture (USDA), or the U.S. Environmental Protection Agency (EPA);
- Products developed for public health, environmental, or water quality testing;
- Products required to meet standards or requirements of the U.S. Department of Transportation (DOT), the Federal Aviation Administration (FAA), the National Aeronautics and Space Administration (NASA), the U.S. Department of Defense (DOD), or the U.S. Department of Homeland Security (DHS);
- Motor vehicles and motor vehicle equipment;
- Watercraft;
- Semiconductors, including equipment and materials used in manufacturing;
- Non-consumer laboratory equipment or electronics; and
- Equipment directly used in the manufacture or development of the above-exempted products.

MDEP states that based on the newly amended law, it is currently redrafting the previously proposed rule chapter 90. According to MDEP, the revised proposal will provide details on program implementation and outline criteria required for CUU proposals applicable to the upcoming sales prohibitions. MDEP notes that with the elimination of the general reporting requirement, CUU proposals are now applicable only to those product categories prohibited for sale. MDEP expects to release the revised draft chapter 90 for public review and comment in **mid-summer 2024**.

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