

2021 PFAS Legislation ▶ in Maine

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SFIREG JWC Meeting

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Board of Pesticides Control

LD 264: Resolve, Directing the Board of Pesticides Control to Gather Information Relating to Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) in the State

- ▶ The full bill text is here:
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0185&item=3&snum=130>
- ▶ This bill was submitted in response to PFAS being found in a mosquito management product in Massachusetts.
- ▶ The original bill language was focused on PFAS in the formulation.
- ▶ During the 1st Regular Session of the 130th Maine Legislature, the focus of this bill expanded to address container fluorination and adjuvants.

LD 264 Section 1

Board of Pesticides Control to amend rules relating to registered pesticides

Resolved:

That the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall amend its rules governing the registration of pesticides in the State to require manufacturers and distributors to provide affidavits stating whether the registered pesticide has ever been stored, distributed or packaged in a fluorinated high density polyethylene container and to require manufacturers to provide an affidavit stating whether a perfluoroalkyl or polyfluoroalkyl substance is in the formulation of the registered pesticide.

LD 264 Section 2

Board of Pesticides Control to gather information relating to perfluoroalkyl substances

Resolved:

The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall conduct a study to determine if fluorinated adjuvants are being used or sold in the State. The board shall explore what is needed to regulate fluorinated adjuvants in the State and shall explore what is necessary to impose a prohibition on the distribution or application of pesticides or adjuvants containing perfluoroalkyl or polyfluoroalkyl substances in the State. The board shall develop a feasible definition of perfluoroalkyl or polyfluoroalkyl adulteration in a pesticide. The board shall submit a report based on the study with findings and recommendations to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2022. The joint standing committee may submit a bill to the 130th Legislature relating to the subject matter of the report.

Breaking it down

Amend	Amend rules to require manufacturers/distributors to provide affidavits stating whether the registered pesticide has ever been stored, distributed or packaged in a fluorinated high density polyethylene container.
Amend	Amend rules to require manufacturers to provide an affidavit stating whether a PFAS is in the formulation of the registered pesticide.
Study and report back	Study and report back on what is necessary to regulate fluorinated adjuvants.
Study and report back	Study and report back on what is necessary to impose a prohibition on the distribution or application of pesticides or adjuvants containing PFAS.
Develop	Develop a feasible definition of PFAS adulteration in a pesticide.

Affidavits

- ▶ Staff are currently working on rulemaking to incorporate affidavit requirements.
- ▶ Affidavits will address fluorination of HDPE containers and presence of PFAS in pesticide formulations.
- ▶ Staff are working to develop functionality in the existing electronic registration workflow to accommodate the affidavits as well as the confidential statement of formula.
- ▶ Program currently has the authority, through statute, to collect the confidential statement of formula for registered pesticides as needed.
- ▶ Rulemaking will establish requirement for all registration and registration renewal submissions.
- ▶ Rulemaking will not be completed prior to the beginning of 2022 registration renewal in Maine.

Regulating fluorinated adjuvants

- ▶ Staff are currently researching what is necessary to regulate adjuvants.
 - ▶ It appears that several states regulate them in the same or similar manner as pesticides.
 - ▶ Some states define adjuvants as pesticides.
- ▶ Staff recently worked with AAPCO to issue a survey on the regulation of adjuvants.
- ▶ Information collected will be incorporated into a report to be completed by January 15, 2022.
- ▶ The functionality developed for electronically collecting the confidential statement of formula could also be used to collect similar information for adjuvants.
- ▶ Adjuvants are likely to be impacted by LD 1503.

Prohibition on distribution/use of pesticides/adjuvants containing PFAS

- ▶ Prohibition of pesticides/adjuvants which include PFAS have also been addressed by LD 1503. These are slated to be prohibited from distribution in Maine by January 1, 2030.
- ▶ The full text of LD 1503 is here:
<https://mainelegislature.org/legis/bills/getPDF.asp?paper=HP1113&item=5&num=130>
- ▶ There is an exception process for PFAS use that is deemed “currently unavoidable”. This process is being managed by the Maine Department of Environmental Protection.
- ▶ What about the possible introduction of PFAS from container fluorination?

Definition of PFAS adulteration in a pesticide

- ▶ Maine has defined PFAS as “substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.”
- ▶ There already exists a diversity of definitions—the broadest definition of PFAS at EPA includes approximately 9,252 unique chemicals.
- ▶ How do states and registrants analyze for the diversity of PFAS that may be in the formulation?
- ▶ How do we determine field relevance?

Thank you!

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