

2022 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.

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 continue to work on rulemaking to incorporate affidavit requirements.
- ▶ Affidavits will address container fluorination and PFAS in pesticide formulations.
- ▶ Staff have developed functionality in the existing electronic registration workflow to accommodate the affidavits and the confidential statement of formula (CSF).
- ▶ Staff anticipate requiring submission of affidavits and CSFs as a part of the 2023 registration renewal and all new registrations.

Prohibition on distribution/use of pesticides/adjuvants containing PFAS

- ▶ Prohibition of pesticides/adjuvants which contain PFAS have also been addressed by Title 38 § 1614 (LD 1503). These are slated to be prohibited from distribution in Maine by January 1, 2030.
- ▶ The full text of Title 38 § 1614 is here:
<https://legislature.maine.gov/statutes/38/title38sec1614.html>
- ▶ Title 38 §1 614 includes an exemption process for categories of products with PFAS use deemed “currently unavoidable use”. This exemption process is being managed by the Maine Department of Environmental Protection and will be implemented through rulemaking.
- ▶ It is unclear if/how this law will impact container fluorination.

Regulating fluorinated adjuvants, etc.

- ▶ LD 2019—An Act to Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances
 - ▶ <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1501&item=1&snum=130>
- ▶ Introduced as a Committee bill during the 2nd Session of the 130th Maine Legislature following staff reporting on LD 264.
- ▶ This bill introduced several concepts:
 - ▶ Giving the BPC authority to regulate adjuvants in the same manner as pesticides
 - ▶ Adding an additional layer of regulation for pesticides beyond Title 38 Section 1614 by prohibiting sale or distribution of pesticides with intentional added PFAS starting January 1, 2030 **but with no exemption process.**
 - ▶ The original bill text also gave the BPC authority to regulate pesticide containers and directed the BPC to conduct rulemaking to implement this authority.
- ▶ Voted out of Committee with a 9 to 4 majority ought not to pass.
- ▶ On Thursday, April 7, the Maine House voted in support of the minority report.
 - ▶ <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1501&item=2&snum=130>
- ▶ Next: Headed to the Maine Senate for a vote sometime in the next few weeks.

Anticipated possible impact of LD 2019

- ▶ Maine will begin regulating adjuvants as pesticides beginning in the calendar year 2023.
- ▶ Beginning January 1, 2030, pesticides containing at least one fully fluorinated carbon atom will be prohibited from distribution—with no exemptions.
- ▶ To anticipate impact, staff have conducted a cursory review of pesticide active ingredients and identified at least 65 active ingredients representing approximately 1500 pesticide products that match this definition.
- ▶ Products identified include those commonly used in agriculture, structural pest management, vector control, etc.

Thank you!

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