

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1502 - L.D. 2020

**An Act To Implement Recommendations Regarding the Regulation of
Firefighting or Fire-suppressing Foams to Which Perfluoroalkyl and
Polyfluoroalkyl Substances Have Been Intentionally Added**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §424-C, sub-§4, as enacted by PL 2021, c. 449, §1, is amended to read:

4. Manufacture, sale and distribution prohibited. Beginning January 1, 2022, a person may not manufacture, sell, offer for sale, distribute for sale or distribute for use in the State a firefighting or fire-suppressing foam to which PFAS have been intentionally added, except when:

A. Such foam is manufactured, sold or distributed for use at an oil terminal facility in the State. As used in this paragraph, "oil terminal facility" has the same meaning as in section 542, subsection 7.

This paragraph is repealed January 1, 2025; ~~or~~

B. Such foam is manufactured, sold or distributed for use at an airport in the State, as long as the foam is required by federal law or regulation to be used at airports for firefighting or fire-suppressing purposes, including, but not limited to, as required by 14 Code of Federal Regulations, Section 139.317 as that section existed on January 1, 2021. If, on or after January 1, 2022, no federal law or regulation requires the use of such foam at airports for firefighting or fire-suppressing purposes, the exception in this paragraph to the prohibition in this subsection does not apply; ~~or~~

C. Such foam is manufactured, sold or distributed for a marine defense application and the use of the foam is required by the United States Department of Defense.

A person that manufactures for sale or distribution in the State a firefighting or fire-suppressing foam shall, upon the request of the department, provide the department with a certificate of compliance certifying that the foam does not contain intentionally added PFAS or is excepted from the prohibition in this subsection under paragraph A, B or C.

Sec. 2. 38 MRSA §424-C, sub-§5, as enacted by PL 2021, c. 449, §1, is amended to read:

5. Notice and recall. Except as provided in subsection 4, paragraph A ~~or~~ B or C, on or before January 1, 2022, a person that manufactures firefighting or fire-suppressing foam to which PFAS have been intentionally added and, prior to January 1, 2022, sold, offered for sale or distributed such foam for sale or use in the State shall:

A. Provide written notification regarding the prohibition in subsection 4 to any person in the State that, prior to January 1, 2022, received such foam from the manufacturer for sale, distribution or use in the State; and

B. Issue a recall of all such foam, which must include a process by which a person in the State that received such foam will be reimbursed by the manufacturer for the recalled foam.