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PFAS: United States Key Regulatory Developments

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01. About The Author



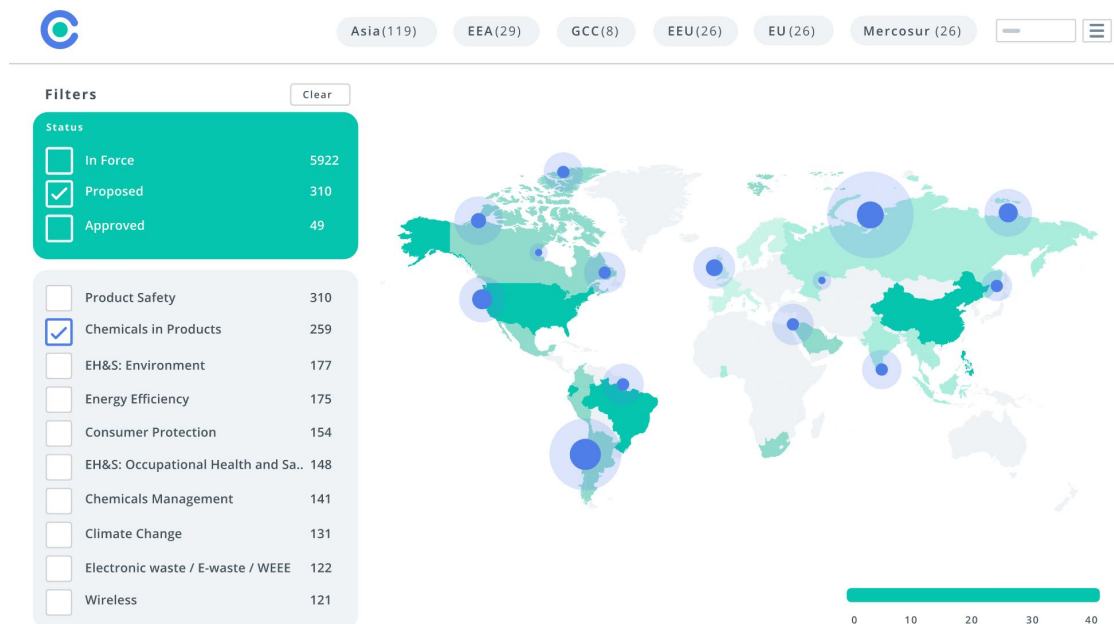
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Victoria is a Senior Regulatory Compliance Specialist with the Global Regulatory Compliance team specializing in the topics of Chemicals in Products and Energy Efficiency for the USA.

Before joining Compliance & Risks in 2008, Victoria was a senior legal analyst at major California law firms in complex/significant litigation on intellectual property, labor class action, and environmental law; and was the operations manager for a software company.

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03. Overview

As we review the legislation of chemicals in the months moving forward in 2025, we find many US states with proposed new and amending legislation and regulation of "Perfluoroalkyl and Polyfluoroalkyl substances", or "PFAS".

PFAS is known as a "forever chemical" in that it does not break down and can persist for decades.

PFAS is known to industry, and somewhat increasingly to consumers, to be widely used, and has been found in many consumer products including EEE (electronics), appliances, semiconductors; and in recent months bills and rules on PFAS have focused on a particular set of household products: apparel; carpets and rugs; cleaning products; cookware; cosmetics; dental floss; textiles, fabric treatments; children's (juvenile) products; menstrual products; ski wax; packaging; upholstered furniture - and in manufacturing - for its nonstick, repellant, and water resistant properties. Environmental rules also cover PFAS air and water releases.

This whitepaper is an overview of regulation and legislation of PFAS in the US and its states. It provides an update on legislation and rules affecting product manufacturing, sale, distribution, and new registration and reporting requirements. It covers legislation that was enacted, bills proposed, and the status of statutes and rules.



04. US Federal Regulations

USA: Toxic Substances Control Act (TSCA) Rules, 40 CFR Subchapter R (Parts 700-799), 1980 and Other - Amendment - (on updates to new chemicals regulations under TSCA) Final Rule, 89 FR 102773, 2024

In December 2024, the Environmental Protection Agency (EPA) finalized amendments to the regulations that govern the Agency's review of new chemicals under the Toxic Substances Control Act (TSCA) to improve efficiency and align with the 2016 bipartisan TSCA amendments under the *Frank R. Lautenberg Chemical Safety for the 21st Century Act*.

The final rule ensures that new per- and polyfluoroalkyl substances (PFAS) and other persistent, bioaccumulative, and toxic chemicals are always subject to the full, robust safety review process prior to manufacture by eliminating their eligibility for a low volume exemption (LVE) or low release and exposure exemption (LoREX).

This rule amends the regulations by specifying that EPA must make one of the five statutory determinations for each premanufacture, significant new use and microbial commercial activity notice before the submitter may commence manufacturing or processing the new chemical substance.

The rule updates the regulations to list the actions required in association with each of those determinations.

The rule also makes several other changes to add efficiencies to the new chemicals review process, including clarifying the level of detail needed in new chemical notices and amending the procedures for EPA's review of notices that have errors or are incomplete.



USA: Toxic Chemical Release Reporting, Rule, 40 CFR 372, 1988 - Amendment - (on addition of nine (9) PFAS chemicals) Final Rule, 90 FR 573, January 2025

The EPA is updating the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA).

This action updates the regulations to identify nine per- and polyfluoroalkyl substances (PFAS) to be reported pursuant to the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA). EPA has found nine chemicals that meet the requirements of this part of the FY2020 NDAA and have an identity not claimed as CBI.

The nine chemicals are:

1. Ammonium perfluorodecanoate (PFDA NH₄) (3108-42-7)
2. Sodium perfluorodecanoate (PFDA-Na) (3830-45-3)
3. Perfluoro-3-methoxypropanoic acid (377-73-1)
4. Fluorotelomer sulfonate acid (27619-97-2)
5. Fluorotelomer sulfonate anion (425670-75-3)
6. Fluorotelomer sulfonate potassium salt (59587-38-1)
7. Fluorotelomer sulfonate ammonium salt (59587-39-2)
8. Fluorotelomer sulfonate sodium salt (27619-94-9)
9. Acetic acid, [(γ-ω-perfluoro-C8-10-alkyl)thio] derivs., Bu esters (3030471-22-5)



05. Enacted US State Bills

California (USA): PFAS Testing and Enforcement for Juvenile Products, Food Packaging and Textile Articles, Assembly Bill 347 Enacted, 2024

On September 29, 2024 the California Legislature adopted **AB 347** on PFAS in relation to the covered products of juvenile products, textile articles, and food packaging, effective **January 1, 2025**.

The law requires manufacturers of these products, on or before July 1, 2029, to register with the Department, pay a registration fee, and provide a statement of compliance regarding the prohibition of PFAS.

The Department of Toxic Substances Control (DTSC) is required by statute to adopt regulations of enforcement of prohibitions on use of PFAS, by **January 1, 2029** and to enforce compliance as of **July 1, 2030**. DTSC is required to test products and rely on third-party testing for compliance with prohibitions on use of PFAS, and must issue notice of violations of PFAS prohibitions in products.

California (USA): Prohibition of Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) in Menstrual Products, Assembly Bill 2515 Enacted, 2024

This bill, California AB 2515, now a statute as of **January 1, 2025**, similarly prohibits manufacturing, distributing, selling, or offering for sale in the state any menstrual products containing regulated PFAS.

The statute requires the Department of Toxic Substances Control to adopt regulations on or before **January 1, 2029**; and to require, on or before **July 1, 2029**, manufacturers of a menstrual product to register with DTSC.

The statute also requires from DTSC, as of **January 1, 2027**, testing and certain measures by adopting "a [PFAS] limit determined by DTSC" as measured in total organic fluorine; and to publish on its website a list of accepted methods of testing for regulated PFAS in menstrual products. DTSC is authorized to verify alleged violations from consumers and businesses, etc. Violation of the provisions of this statute is punishable by a civil and administrative penalty.

Colorado (USA): Prohibitions on Products Containing Intentionally Added Perfluoroalkyl and Polyfluoroalkyl Chemicals, Senate Bill 24-081 Enacted, 2024

The act, Senate Bill 24-081, amends current Colorado law by its prohibition of outdoor apparel that contains PFAS, after **January 1, 2025**, unless it carries a disclosure. In the *product phase-out timeline*, banning sale or distribution of PFAS in cookware, dental floss, menstruation products and ski wax, and cleaning products that are not medical floor maintenance products, regardless of a disclosure, are prohibited as of **January 1, 2026**.

And as of **January 1, 2028**, the Act repeals the disclosure requirement and bans the sale or distribution of medical floor maintenance products, textile articles, outdoor apparel for severe wet conditions, and food equipment intended primarily for use in commercial settings; and on **January 1, 2026**, installation of artificial turf containing intentionally added PFAS, in any property in the state, is also prohibited.

Connecticut (USA): Use of PFAS in Certain Products, Senate Bill 292 Enacted, 2024

Much in line with the Colorado statute, the Connecticut statute also allows, and then phases out, a list of products similar to those with intentionally added PFAS, if the manufacturer of the product has given prior notification.

As of **January 1, 2026**, distribution, sales or offer of any new or not-previously-used outdoor apparel for severe wet conditions that contains PFAS is prohibited, unless the product carries a disclosure of "Made with PFAS chemicals", including online listing. On **July 1, 2026**, the same restrictions are applicable to:

- A. Apparel;
- B. Carpets or rugs;
- C. Cleaning products;
- D. Cookware;
- E. Cosmetic products;
- F. Dental floss;
- G. Fabric treatments;
- H. Children's products;
- I. Menstruation products;
- J. Textile furnishings;
- K. Ski wax; or
- L. Upholstered furniture.

In addition, a listed product that contains intentionally added PFAS and is a component of another product must be labeled.

Following through the phase-out, on and after **January 1, 2028**, the products listed in addition to turnout gear, and outdoor apparel for severe wet conditions, are prohibited from manufacture, sales or distribution, any of which contain intentionally added PFAS. Connecticut Senate Bill 292 entered into force on October 1, 2024.

New Hampshire (USA): Prohibiting Certain Products with Intentionally Added PFAS, House Bill 1649 Enacted, 2024

New Hampshire's enacted House Bill 1649-FN restricts the use and sale of per-and-polyfluoroalkyl substances, covering similarly listed consumer products. On and after **January 1, 2027**, certain products are prohibited from sale, offer or distribution or for promotional purposes, which are: carpets or rugs, cosmetics, textile treatments, feminine hygiene products, food packaging and containers, juvenile products, upholstered furniture, and textile furnishings.

The statute requires certificates of compliance from manufacturers or suppliers on request, attesting their products do not contain regulated PFAS. (Exemptions exist for products with recycled content or were manufactured before the ban). Notification that the sale of the product is prohibited, and provide the department with a copy of the notice.

The statute authorizes the Department of Environmental Services to enforce restrictions, and to participate in a multi-jurisdictional clearinghouse regarding manufacturer obligations; the clearinghouse may maintain a useful database of all products containing PFAS.

The bill entered into force partially on **August 2, 2024**, with Sections 4 to 9, & 14 taking effect on **October 1, 2024**.

Vermont (USA): Regulating Consumer Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) and Other Chemicals, Senate Bill 25 Enacted, 2024

This Vermont statute, SB 25, is an amending statute and covers in individual sections the similar set of household products, beginning with cosmetics and menstrual products, carpets, cookware, textiles, PPE and food packaging. "A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product to which the following chemicals or chemical classes have been intentionally added in any amount" followed by a list of 17 chemicals including PFAS.

The date of entry into force for consumer products is **January 1, 2026**; and in **July 2028**, the definition of Regulatory PFAS is amended.



06. Proposed US State Bills & Regulation

Maine (USA): Reporting Requirements and Prohibitions: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS), Draft Rule, Chapter 90, December 2024

Introduced **December 2024**, Maine's Department of Environmental Protection (DEP) is proposing a new rule, Chapter 90, to establish the criteria for currently unavoidable uses (CUUs) of intentionally added PFAS in products, as well as to implement sales prohibitions and notification requirements for products that contain intentionally added PFAS, that have been determined to be a currently unavoidable use.

Minnesota proposed a similar rule last year.

New York (USA): PFAS as a Toxic Air Pollutant, Senate Bill 1493, 2025

On **January 10, 2025**, the New York State Senate proposed Bill 1493 regarding establishing the ability of the Department of Environmental Conservation (DEC) to regulate per- and polyfluorinated substances (PFAS) emissions as a toxic air pollutant.

The key points of this proposal are:

The Bill designates PFAS as a hazardous air contaminant, requiring DEC to regulate its emissions. The program will prioritize monitoring facilities situated in disadvantaged and impacted communities. A public notification system will be included in the program, and quarterly reports summarizing the measurements will be made public.

If enacted, this Bill would enter into force 180 days after it becomes law.

New York (USA): Repealing Provisions Relating to the Prohibition of PFAS in Apparel and Outdoor Apparel, Assembly Bill A4033, January 2025

Assembly Bill A4033, introduced on **January 30, 2025**, proposes to repeal Section 37-0121 of the Environmental Conservation Law, which would prohibit the use of perfluoroalkyl and polyfluoroalkyl substances in apparel and outdoor apparel for severe wet conditions, and prohibits the sale or offer for sale of apparel containing PFAS as of **January 1, 2027**, and sale of outdoor apparel for severe weather conditions on **January 1 2028**.

If enacted, the amendment is proposed to take effect immediately.

Oregon (USA): Prohibiting the Sale of Certain Products Containing PFAS, House Bill 3512, February 2025

This proposed act would prohibit the distribution or sale of certain covered products containing intentionally added perfluoroalkyl or polyfluoroalkyl substances. It requires a manufacturer of covered products to provide a certificate of compliance to persons that sell or distribute covered products in this state.

The prohibition would apply to:

- Apparel;
- Carpets and rugs;
- Children's products;
- Cooking pans;
- Home textiles;
- Menstrual cup;
- Packaging;
- Refrigerators;
- Room air cleaners and purifiers;
- Textiles;
- Upholstery and furnishings.

If enacted this bill would take effect on **January 1, 2027**.

Vermont (USA) Phaseout of Consumer Products Containing Added PFAS, House Bill 238, February 2025

On **February 18, 2025**, the House of Representatives proposed HB 238 and would phase out, and eventually prohibit, the manufacture, sale, or distribution of consumer products that contain added perfluoroalkyl and polyfluoroalkyl substances (PFAS). The bill would authorize enforcement of the requirements for consumer products containing PFAS.

Proposed product phaseouts would prohibit a manufacturer from manufacturing, selling, or distributing for sale the following consumer products if they contain intentionally added PFAS in any amount:

- Artificial turf;
- Cleaning products;
- Cookware;
- Juvenile products;
- Rugs and carpets; or
- Ski wax [among other products].

Manufacturers would be prohibited from producing, selling, and distributing textiles or textile articles to which regulated PFAS have been intentionally added in any amount. The restriction of PFAS in consumer products would take effect on **January 1, 2026**, with additional dates.

New Mexico (USA): Per- and Polyfluoroalkyl (PFAS) Substances Protection Act, House Bill 212, January 2025

On January 29, 2025, New Mexico proposed HB 212 to regulate PFAS in products.

Starting **January 1, 2027**, manufacturers would be banned from selling PFAS-containing cookware, food packaging, dental floss, juvenile products, and firefighting foam.

From **January 1, 2028**, this ban would expand to include carpets, cleaning products, cosmetics, fabric treatments, feminine hygiene products, textiles, textile furnishings, ski wax, and upholstered furniture.

By **January 1, 2032**, products with intentionally added PFAS would be banned unless deemed a "currently unavoidable use" by the Environmental Improvement Board.

Manufacturers must report product information, including PFAS content and usage, to the New Mexico Department of Environment. Failure to provide information or if testing reveals undisclosed PFAS, the manufacturer must provide to the Department, within 30 days, the necessary information required.

Massachusetts (USA) PFAS in Products, House Bill 2450, Senate Bill 1504, 2025

Manufacturers, distributors, wholesalers, and retailers would be restricted from selling consumer products that the department has identified for restriction, including priority products, to which PFAS is intentionally added.

"Priority products" are described as: any child passenger restraint, children's product, cookware, fabric treatment, personal care products, rugs and carpets, textile, textile furnishings, or upholstered furniture.

However, the restriction would not apply if the departments, Environmental Protection, and Toxics Use Reduction Institute have determined that use of PFAS in the product is a currently unavoidable use and have granted temporary exemption(s) at intervals of up to 4 years.

Montana (USA): Regulating the Sale of Certain Products Containing PFAS, House Bill 290, 2025

Section 1(1) would state that from **January 1 2028**, a person may not manufacture, sell, or offer for sale in the state any covered product that contains intentionally added PFAS. *"Covered products"* include: cosmetics; juvenile products; and menstrual products.

Manufacturers of covered products would be required to provide persons that offer the product for sale in the state with a certificate of compliance stating that the covered product is in compliance with the requirements of this section.



07. Conclusion

The aim of this paper is to provide an updated overview of existing and proposed regulatory developments, over the last two quarters, on PFAS in consumer products at the US and state level.

Product regulation regarding PFAS has been expanding in the United States, as compliance requirements of reporting, restriction, prohibition, and labeling become increasingly common and complex across multiple states.

This is bolstered by action at the federal level where the US Environmental Protection Agency (EPA) announced in June 2023 its framework for addressing new uses of PFAS to ensure that, before these chemicals enter the market, EPA would undertake an extensive evaluation to confirm the chemicals pose no harm to human health and the environment; and the 2023 issuance of the PFAS Reporting and Recording Rule affected most manufacturers and moved US chemicals into prominence.

PFAS has become one of the key topics impacting business and is expected to continue. Compliance & Risks continues to monitor and document these developments.

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COUNTRIES COVERED

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REGULATIONS