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PFAS UPDATE: MAINE PFAS REPORTING DEADLINE EXTENDED TO JANUARY 1, 2025

Jun 13, 2023

SUMMARY

On June 8, 2023, Governor Mills executed [LD 217](#) which extends the deadline for reporting products that are sold in Maine that contain intentionally added PFAS materials to January 1, 2025. The law also clarifies some of the reporting requirements and includes an exemption for small businesses.

Maine's [original PFAS law](#), passed in 2021, requires businesses to disclose the nature and purpose of all intentionally added PFAS compounds in products sold in Maine by January 1, 2023. Although the Maine Department of Environmental Protection ("DEP") granted extensions to over [2,500 businesses](#), the Maine Chamber of Commerce and various businesses have continued to advocate for a global extension and additional revisions to specific requirements of the law. Accordingly, [LD 217](#) was recently enacted to clarify and amend Maine's original law.

REVISIONS UNDER THE NEW LAW

We have examined the requirements in the original law in a previous [client alert](#), but the new law includes the following material changes:

- **New Disclosure Deadline.** The disclosure deadline is extended by two years to *January 1, 2025*.
- **Product Sales Estimates.** The mandatory disclosures now need to include an estimate of the total number of the units of the product sold annually in Maine or nationally. This new requirement may have significant implications as a driver for potential litigation, and raises questions regarding how businesses can meet their disclosure requirements, while still protecting their confidential business information.
- **Flexibility in Reporting PFAS.** The original rule required manufacturers to report each intentionally added PFAS by CAS number, and to submit the concentration of each specific PFAS compound. The new law introduces some flexibility and allows businesses to report the

amount of total organic fluorine (“TOF”) if the amount of the specific PFAS compounds are not known. Manufacturers can base this information either on laboratory testing results or on information provided by a supplier.

- **Small Business Exemption.** The notification requirements do not apply to a manufacturer that employs 25 or fewer people.
- **Used Products Exemption.** Used products or used product components are exempt from the requirements of the law.
- **Retroactive.** The new law, and particularly the extension of the original reporting date, applies retroactively to January 1, 2023.

CONCLUSION

Maine was the first state in the nation to implement this type of sweeping PFAS disclosure law, and the numerous extensions, clarifications, and now amendments that have been necessary to emphasize the complexity of implementing this ambitious law. In the meantime, [Minnesota](#) has recently enacted a similarly structured law that includes even more aggressive requirements, demonstrating that the challenges faced in Maine are unlikely to slow the passage of new laws and regulations on PFAS in consumer products across the country.

For more information on PFAS compounds and related matters, please visit our [PFAS webpage](#). If you have a question about any proposed bills, contact Tom Lee, John Kindschuh, Emma Cormier, or any other member of our PFAS team at Bryan Cave Leighton Paisner LLP.

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