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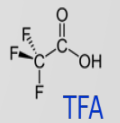
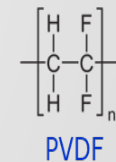
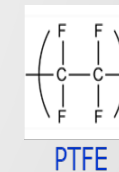
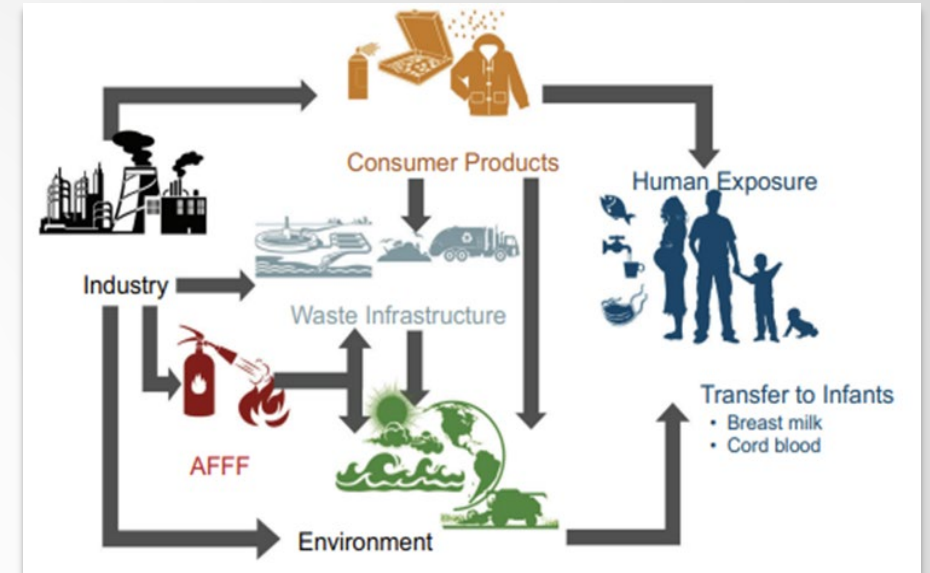
Innovative. Integrated. Industry-Focused.

# AHFA Webinar Series: Update on State PFAS Regulations

October 7, 2024

# PFAS – What Are They?

- Large class of per- and polyfluorinated substances
- As many as 14,000 chemicals with very different properties
  - Focus to date has been only on a few (esp. 8+ carbons): PFOA/C8, PFOS
- Definitions of PFAS vary in U.S. and abroad
- Commonly known as “forever chemicals”
- Useful properties:
  - Stable
  - Water-repellant
  - Oil- and grease-repellant
  - Heat-repellant
- Concerns: whether they bioaccumulate, are persistent, and have adverse health or environmental effects



# Forever Chemicals... Forever In the News

GOVT. STUDY: NEARLY HALF OF TAP WATER IN U.S.  
IS CONTAMINATED WITH "FOREVER CHEMICALS"

The New York Times

*E.P.A. Says 'Forever Chemicals' Must  
Be Removed From Tap Water*

The New York Times Magazine

## 'Forever Chemicals' Are Everywhere. What Are They Doing to Us?

PFAS lurk in so much of what we eat, drink and use. Scientists are only beginning to understand how they're impacting our health — and what to do about them.



Maine bans toxic 'forever chemicals'  
under groundbreaking new law

State is the first to enact a broad ban of PFAS compounds, which are found in everything from cosmetics to cookware

PFAS Strategic Roadmap:  
EPA's Commitments to Action  
2021-2024

Minnesota reduces acceptable  
'forever chemicals' levels below  
detectability

By Corin Hoggard | Published January 16, 2024 5:20pm CST | Health | FOX 9

California announces bold public health goals  
for PFOA and PFOS in drinking water

Court rules against Michigan's restrictions on PFAS in water

PFAS Georgia Rulings Open Door To Downstream Liabilities

EPA drastically slashes  
recommended limits for  
dangerous 'forever chemicals'



# State Regulation of PFAS

More than 20 states have enacted laws restricting and/or regulating various PFAS

## Enacted laws to regulate PFAS regarding:

- Consumer products
  - Apparel, textiles, children's products, food packaging, cosmetics,
- Air emissions; drinking water standards
- Liability for contamination

## Trends:

### Prohibition and Reporting

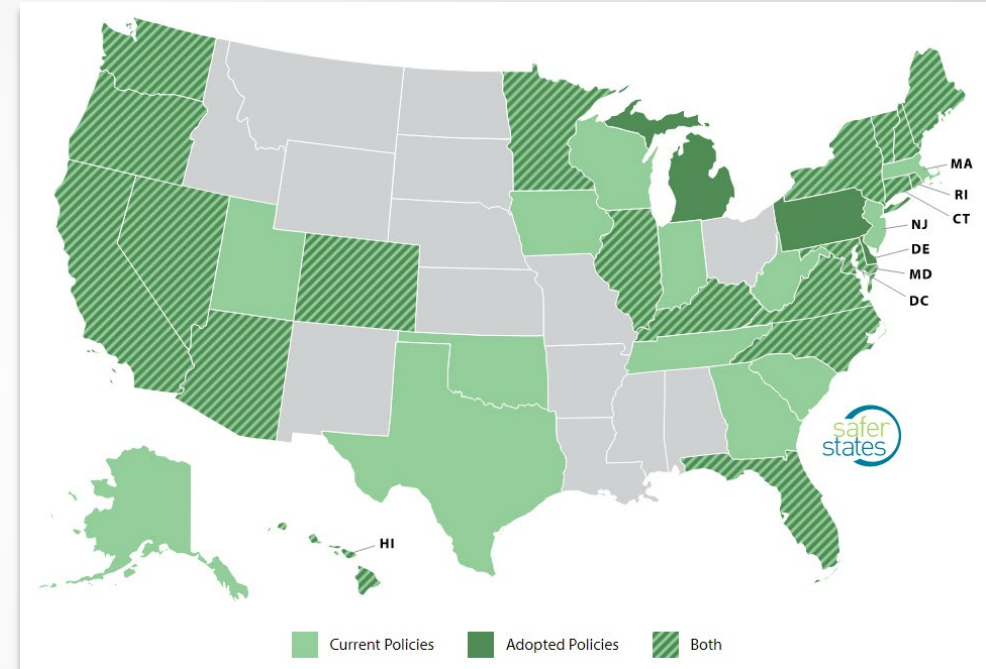
- Prohibits intentionally added PFAS in cosmetics, textiles, apparel, children's products, food packaging, etc.
- Warnings on other kinds of products (e.g. cookware)
- Requires reporting on PFAS content

### Drinking water standards

- Prior to standards recently established by EPA, many proposed bills set maximum contaminant levels for various PFAS substances

### Recyclability and Compostability

- California law prohibits claims of recyclability or compostability for products that contain above a certain threshold of organic fluorine



Source: Safer States, <https://www.saferstates.com/toxic-chemicals/pfas/>

# Standard Definitions

- **Perfluoroalkyl and polyfluoroalkyl substances or PFAS** means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- **Intentionally added PFAS** means PFAS added to a product or one of its product components to provide a specific characteristic, appearance or quality or to perform a specific function.
- **Textile furnishings** means textiles of a type customarily used in households and businesses, including draperies, floor coverings, furnishings, bedding, towels, and tablecloths.
- **Upholstered furniture** means any article of furniture that is:
  - designed for sitting, resting, or reclining; and
  - wholly or partially stuffed with filling material but
  - NOT in vehicles, planes, etc.
- **Carpet or rug** means a fabric marketed or intended for use as a floor covering.

# California

## Safer Consumer Products – Rugs and Carpets –

### Priority Product Notification & Follow up - (12/28/2021)

Carpets and rugs - any consumer product made from natural or synthetic fabric intended to be used as a floor covering inside commercial or residential buildings, including carpeted door mats BUT NOT:

- (A) Carpets and rugs intended solely for outdoor use;
- (B) Carpets and rugs intended solely for use inside airplanes, trains, ships automobiles, light duty trucks, vans, buses, or any other vehicles, as well as aftermarket or replacement parts marketed solely for use in vehicles;
- (C) Resilient floor coverings;
- (D) Artificial turf;
- (E) Wall hangings and coverings;
- (F) Table mats; and
- (G) Camping sleeping mats.

Submit either a:

- Chemical Removal Intent/Confirmation Notification
- Product Removal Intent/Confirmation Notification
- Product-Chemical Replacement Intent/Confirmation Notification, or
- Preliminary Alternatives Analysis Report



# California

## Ban on PFAS on Textile Articles – 1/1/2025

Textile articles include draperies,  
shower curtains, furnishings, upholstery

“Regulated PFAS” is

PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including the PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

OR The presence of PFAS in a product or product component at or above the following thresholds, as measured in total organic fluorine:

- (A) Commencing January 1, 2025, 100 parts per million.
- (B) Commencing January 1, 2027, 50 parts per million.



# Colorado

- Ban on PFAS in carpets and rugs – January 1, 2024
- Ban on PFAS in indoor textile furnishings and upholstered furniture – January 1, 2025
- Ban on PFAS on outdoor textile furnishings and upholstered furniture – January 1, 2027





# Connecticut

- PFAS Disclosure Requirements and Warning Labels on carpets, rugs textile furnishings and upholstered furniture— July 1, 2026
- Ban on PFAS in textile furnishings and upholstered furniture - January 1, 2028



# Maine

- Ban on PFAS in carpet and rugs – January 1, 2023
- Ban on PFAS in textile articles and upholstered furniture – January 1, 2026
- Reporting no longer necessary unless “currently unavoidable use.”



# Maryland

- Ban on PFAS in carpets and rugs – January 1, 2024
- Manufacturers selling rugs and carpets in Maryland are required to establish a certificate of compliance attesting that the products offered for sale in Maryland are in compliance and produce it upon request by the Department.



# Minnesota

- Ban on PFAS in carpets and rugs, textile furnishings, upholstered furniture – January 1, 2025.
- Reporting of products with PFAS by January 1, 2026.
- Ban on all products with intentionally added PFAS - January 1, 2032.



# New Hampshire

- Ban on PFAS in upholstered furniture and textile furnishings - January 1, 2027
- Perfluoroalkyl and polyfluoroalkyl substances' or 'PFAS' – as defined in 40 CFR 705.3





# New York

- Ban on carpets containing PFAS – December 31, 2026
- Carpet Collection program – to be implemented by July 1, 2026



# Rhode Island

- Ban on PFAS in carpets, rugs, and textile articles – January 1, 2027
- Prohibition on PFAS includes the use of PFAS as a processing agent, mold release agent or intermediate where PFAS is detected in the final covered product.



# Vermont

Original ban on PFAS in carpets and rugs – July 1, 2023

Textile Articles – Jan. 1, 2026

Prohibition on PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product,

or

the presence of PFAS in a product or product component at or above 100 parts per million, as measured in total organic fluorine. (drops to 50 ppm on Jul. 1, 2027)



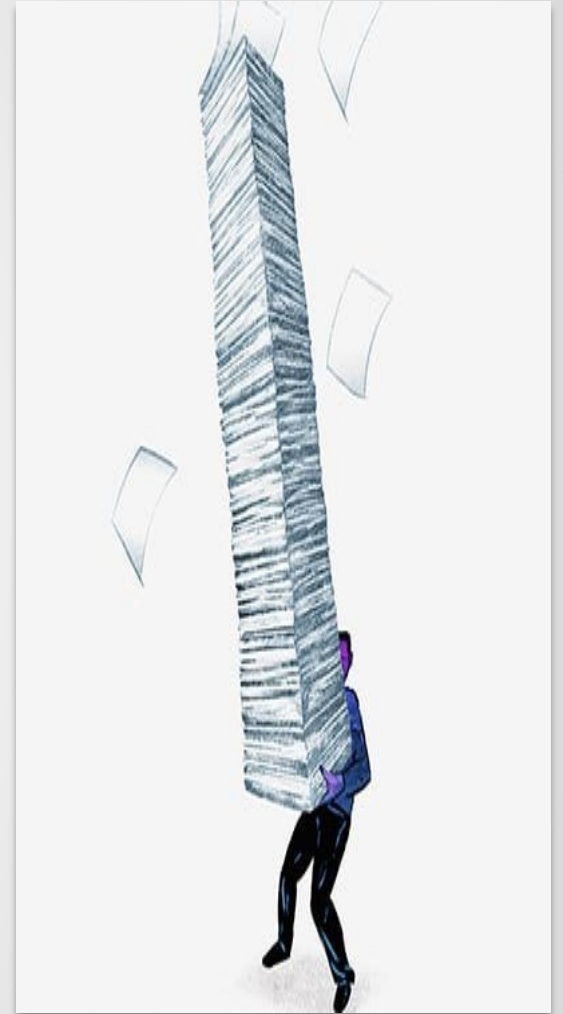
# Washington

- Report on PFAS in outdoor leather and textile furnishings- due January 31, 2025
- Ban on PFAS in carpets and rugs – January 1, 2025
- Ban on PFAS in indoor leather/textile furnishings – January 1, 2026



# Key Takeaways From Federal & State Regulation of PFAS

- No universally recognized definition of PFAS
  - Many states, however, are regulating PFAS as a class to the extent feasible
  - Most states define as “one fully fluorinated carbon atom”
- High variability in regulations
  - Varying definitions of key terms
  - Guidelines vs. enforcement
  - Restrictions vs. bans
  - Differing deadlines
- Regulations for consumer and commercial products
  - Manufacturers, and possibly retailers, are required to know the chemistry of their products and product components
  - May require alternative chemicals to be used
  - Regulated “products” often include “commercial or industrial use” products





# How To Address Challenges

Supplier compliance  
certifications

Indemnifications

Know your marketplace

Understand intersection  
of marketing claims and  
regulation

# Questions?

# Thank you!



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For questions or additional information, please contact [judah.prero@arnoldporter.com](mailto:judah.prero@arnoldporter.com) and sign up for our comprehensive update, [The Chemical Compound](#)

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