

# PFAS Regulation for Flexible Food Packaging Fact Sheet

Six states have adopted laws that focus on regulating the intentional use of perfluoroalkyl and polyfluoroalkyl (PFAS) in flexible food packaging that will begin to take effect between the end of 2022 and the beginning of 2024. These regulations do not equate to a total ban on the use of PFAS. Processing aids (fluorinated PPA) play a unique and highly beneficial role in the manufacture of films used as packaging, including food packaging, and alternative chemicals do not exist in the quantity and qualities necessary to replace fluorinated PPA.

Additionally, fluorinated PPA positively contributes to the creation and use of sustainable packaging by improving material flow and their role in the conversion of recycled content. FPA has and continues to work diligently to ensure that legislation reflects the importance of fluorinated PPA and the necessity to excuse them from any ban. FPA has also worked to make sure that legislation appropriately defines both “PFAS” and the “intentional addition” of PFAS to keep regulations clear-cut. Below is a brief summary of the laws in each state and when they will take effect.

## **MAINE: LD 1433 (adopted 06/13/2019)**

LD 1433 prohibits the sale of food packaging to which PFAS has been intentionally introduced in any amount greater than an incidental presence. If no safer alternative to the use of PFAS exists in sufficient quantity and at comparable costs, such as is the case for processing aids, then the use may not be prohibited. [This regulation took effect on January 1, 2022.](#) Should a “safer alternative” be determined by the Maine Department of Environmental Protection, 2 years notice must be given before any prohibition can take effect.

***Intentionally added:*** Deliberate use of a regulated metal or other regulated chemicals in the formation of a package or packaging component when its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality. The use of a regulated metal or other regulated chemicals as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, when the incidental retention of a residue of the metal or chemical in the final package or packaging component is neither desired nor deliberate, is not considered intentional introduction. The use of recycled materials as feedstock for the manufacture of new packaging materials, when a portion of the recycled materials may contain amounts of the regulated metals or other regulated chemicals, is not considered an intentional introduction.

## **NEW YORK: S 8817 (adopted 12/2/2020)**

S 8817 prohibits the distribution, selling, or offer of the sale of food packaging containing PFAS substances as intentionally added chemicals. Processing aids necessary to the manufacturing, forming, printing, or distribution process and for which there is no feasible alternative to the use may be granted an exemption. [This regulation will take effect on December 31, 2022.](#)

***Intentionally added:*** A chemical in a product that serves an intended function in the product component.

#### **CALIFORNIA: SB 343 (adopted 10/05/2021)**

SB 343 prohibits the distribution, sale, or offering of the sale of food packaging that contains PFAS, at or above 100 parts per million. This includes PFAS components of intentionally added chemicals and PFAS that result when an added chemical breaks down. [This law takes effect on January 1, 2023.](#)

***Intentionally added:** California's definition is pending implementing regulation.*

#### **VERMONT: S 20 (adopted 05/18/2021)**

Under S 20, a manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added in any amount. If no safer alternative to the use of PFAS exists in sufficient quantity and at comparable costs, such as is the case for processing aids, then the use may not be prohibited. Should a "safer alternative" be determined by the Vermont Department of Health, 2 years notice must be given before any prohibition can take effect. [This regulation will take effect on July 1, 2023.](#)

***Intentionally added:** The addition of a chemical in a product that serves an intended function in the product component.*

#### **CONNECTICUT: SB 837 (adopted 07/13/2021)**

SB 837 prohibits the inclusion of PFAS in food packaging if it is intentionally introduced. Processing aids necessary to the manufacturing, forming, printing, or distribution process and for which there is no feasible alternative to the use may be granted an exemption by the commissioner. [This regulation will take effect on December 31, 2023.](#)

***Intentionally added:** Deliberately utilized regulated metal or PFAS in the formulation of a package or packaging component where the continued presence of such metal or PFAS is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality.*

#### **MINNESOTA: SF 20 (adopted 06/25/2021)**

SF 20 prohibits the inclusion of PFAS in food packaging if it is intentionally introduced. Processing aids necessary to the manufacturing, forming, printing, or distribution process and for which there is no feasible alternative to the use may be granted an exemption by the commissioner. [This regulation will take effect on January 1, 2024.](#)

***Intentionally added:** PFAS has been deliberately added during the manufacture of a product where the continued presence of PFAS is desired in the final package or packaging component to perform a specific function.*

#### **RHODE ISLAND: SB 2044 (adopted 6/29/2022)**

SB 2044 prohibits food packaging to which PFAS have been intentionally added in any amount from being manufactured, knowingly sold, or distributed in Rhode Island. [The law will take effect on January 1, 2024.](#) This law does not include an exemption for processing aids. FPA will be working diligently to amend this legislation to include an exemption during Rhode Island's next legislative session.

***Intentionally added:** The act of deliberately utilizing a regulated metal in the formation of a package or packaging component where its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality.*