

FAQ: New Jersey Law on PFAS in Firefighting Foam (P.L. 2023, c.243)

GENERAL OVERVIEW

What is this law about?

This law, which became effective on January 8, 2024, restricts the use, offering for sale, sale, manufacture, and distribution of Class B firefighting foam containing intentionally added PFAS in New Jersey beginning on January 8, 2026. PFAS (per- and polyfluoroalkyl substances) are harmful chemicals that persist in the environment and are linked to health risks.

What is Class B firefighting foam?

Foam designed to prevent or extinguish a fire in:

- Flammable liquids, combustible liquids, petroleum greases, tars, oils, oil-based paints, solvents, lacquers, alcohols, and flammable gases.

What does “intentionally added PFAS” mean?

PFAS chemicals added to a product or one of the product’s components to provide a specific characteristic, appearance, or quality or to perform a specific function.

This also includes any degradation byproducts of PFAS.

For additional information see [NJDEP| Per- and Polyfluoroalkyl Substances, \(PFAS\) | Home](#)

PLEASE NOTE: P.L. 2023, c. 243 may be subject to future amendment; in that event the Department will issue a revised FAQ.

KEY PROVISIONS & TIMELINES

What does P.L. 2023, c. 243 prohibit?

Beginning **two years after the effective date** of the law (i.e. January 8, 2026):

- No person may **use, sell, offer for sale, manufacture, or distribute for sale or use any** Class B firefighting foam containing intentionally added PFAS in New Jersey.

EXEMPTIONS

Are there any exemptions to the ban?

Yes. Exemptions include:

- Where required by federal law (e.g., 14 C.F.R. s.139.317).
- Fixed foam fire suppression systems for class B fires may use until January 8, 2028 (4 years exemption).
- Oil refineries and petroleum terminals may use until January 8, 2032(8 years exemption).

What is required for the temporary exemption for facilities using fixed foam fire suppression systems?

Fixed foam fire suppression system means: 1) an engineered or pre-engineered total flooding or local application system consisting of a fixed supply of extinguishing agent permanently connected for fixed agent distribution to fixed nozzles that are arranged to discharge an extinguishing agent into an enclosure, directly onto a hazard, or a combination of both; or 2) an automatic sprinkler system

These systems may continue using PFAS-containing foam for up to **4 years post-effective date** (i.e. January 8, 2028) if:

- The system is designed for 110% containment of any expected discharge volume.
- The facility reports usage to the Department of Community Affairs (“the Department”) and follows strict containment and disposal rules as established in section (2) of P.L. 2023, chapter 243.

What is required for the temporary exemption for oil refineries or petroleum terminals?

The statute does not contain a definition of oil refineries.

Petroleum terminal means: 1) a bulk liquid storage facility exclusively engaged in the merchant wholesale distribution of petroleum products, including liquified petroleum gas, which contains at least one storage tank containing petroleum products with a surface area of 120 square meters or greater; or 2) a facility engaged in the distribution of crude petroleum from extraction or processing facilities, which includes at least one storage tank containing crude petroleum with a surface area of 120 square meters or greater.

These facilities may use PFAS foam for up to **8 years post-effective date**, (i.e. January 8, 2032) if they comply with the following:

- Must report intended use to the Department no later than **2 years after the effective date of the Act (i.e. by January 8, 2026)**.
- Must report intent to transition a facility into a PFAS-free firefighting foam to the Department, no later than 90 days prior to the proposed transition date.
- The oil refinery or petroleum terminal reports any usage to the Department and follows strict containment and disposal rules as established in section (2) of P.L. 2023, chapter 243.

WAIVER PROCESS FOR EXTENSION FOR OIL REFINERIES/TERMINALS

Can oil refineries or petroleum terminals obtain a waiver to permit an extension of the deadline beyond January 8, 2032?

Yes, they may apply to the Department for a **waiver** to extend their 8-year exemption if the applicant provides:

- Clear and convincing evidence that there is no commercially available replacement that does not contain intentionally added PFAS and that is capable of suppressing fire for that specific use;
- Information on the amount of firefighting foam containing intentionally added PFAS stored, used, or released by the applicant on an annual basis;
- A detailed transition plan, including a timeline, to transition to firefighting foam that does not contain intentionally added PFAS chemicals; and
- A plan to meet the requirement to report the use of the foam to the Department within 5 business days after its use.
- A waiver shall not be granted if any other oil refinery or petroleum terminal is known to have transitioned to commercially available class B firefighting foam that does not contain intentionally added PFAS chemicals.

What are the waiver timelines?

- Oil refineries and petroleum terminals can apply for a waiver to extend the use for a period of up to two years. **An initial waiver may be extended for one additional consecutive term of up to two years, for a total of 4 years maximum.**
- Any oil refinery or petroleum terminal facilities that intend to apply for a waiver must submit a notice of intent no later than **5 years** after the law's effective date.
- No waivers are allowed beyond **12 years** after the law's effective date (i.e. January 8, 2038).

The Department is required to notify the waiver applicant of a decision within one year after the date the application is received. The facility would not be considered to be out of compliance during this review period.

USE, REPORTING & SAFETY MEASURES

What must oil refineries, petroleum terminals, and facilities using fixed foam fire suppression systems do when using class B firefighting foam containing intentionally added PFAS?

They must report usage to the Department **within 5 business days** and provide the following information:

- Identity of the foam
- Quantity of the foam used
- Total PFAS concentration
- Application for which the foam was used
- Duration of the fire

When using class B firefighting foam containing intentionally added PFAS, the operators of these facilities must:

- Not release PFAS chemicals directly to the environment, such as to unsealed ground, soakage pits, waterways, and uncontrolled dams.
- Fully contain all releases onsite.
- Implement containment measures such as controlled bunds and ponds that are impervious to PFAS chemicals and do not allow water used for firefighting, wastewater, runoff, or other wastes to be released to the environment.
- Safely dispose of all water used for firefighting, wastewater, runoff, and other wastes that prevents releases to the environment.
- Immediately report any release to the environment to the New Jersey Department of Environmental Protection (“NJ DEP”) through the NJDEP Hotline at 1-877-WARNDEP/1-877-927-6337.

- Maintain documentation of the measures taken to comply with these use requirements to be made available to any state or local official enforcing P.L. 2023, c.243, upon request.

RECALLS & MANUFACTURER DUTIES

What must manufacturers do under this law?

- A manufacturer of class B firefighting foam containing intentionally added PFAS in NJ was required to notify sellers, in writing, **by January 8, 2025**, about the provisions of P.L. 2023, c.243.
- A manufacturer that manufactures, sells, or distributes class B firefighting foam with intentionally added PFAS after January 8, 2025 is required to recall the product no later than **27 months** after the effective date of the law.
- A recall of the product shall include:
 - Safe transport and storage of recalled foam;
 - Documentation of amounts and locations of the class B firefighting foam containing intentionally added PFAS until the New Jersey Department of Environmental Protection formally identifies a safe disposal technology.

The obligation on a manufacturer to recall class B firefighting foam containing intentionally added PFAS within 27 months does not apply where that foam is being used either by: (i) a facility using a qualifying fixed foam suppression system for the extended period of up to four years, or (ii) an oil refinery or petroleum terminal for the extended period of up to 12 years (where a waiver has been obtained).

STORAGE AFTER BAN/EXEMPTION OR WAIVER EXTENSION ENDS

What happens to leftover PFAS foam after a facility's exemption or waiver extension ends?

The facility must:

- Safely store remaining class B firefighting foam containing intentionally added PFAS, including safe transport, until the New Jersey Department of Environmental Protection formally identifies a safe disposal technology.

- Maintain documentation of the amount and storage location and make it available to enforcement authorities.

ENFORCEMENT & PENALTIES

What are the consequences of violating this law?

Violations are considered **unlawful practices** under the New Jersey Consumer Fraud Act (P.L.1960, c.39) and violators are subject to:

- Fines;
- Legal actions; and
- Other remedies available under that Act.

The Division of Consumer Affairs within the NJ Attorney General's Office has enforcement authority under P.L.2023, c.243.

FIRE DEPARTMENT SUPPORT & STATE PROGRAM

Is the State helping fire departments dispose of banned foam?

Yes. The statute requires NJDEP to establish a program that provides for the collection and safe disposal of certain class B firefighting foams that are prohibited for use under the law. The purpose of the program is to ensure that the class B firefighting foams containing intentionally added PFAS are disposed of in a manner that protects the public health and the environment.

Under the program the NJ DEP shall:

- Collect and dispose of prohibited class B firefighting foam from participating fire departments at no cost to them; and
- Establish a procedure for fire departments to voluntarily opt in to the program.

NJDEP has conducted a survey of fire departments and is in the process of planning a collection program that is expected to commence in early 2026.

Participating fire departments are responsible for the cost for obtaining replacement firefighting foams that comply with P.L. 2023, c.243 and all other applicable state and federal laws. However, as noted below, they may be eligible for financial assistance.

Can fire departments get help paying for new PFAS-free foam?

Yes, if eligible. The statute requires NJDEP to establish a program for awarding grants that will fully reimburse eligible municipalities for the cost of replacement foam. To be eligible for such a grant, a municipality must meet certain requirements:

- A municipality having a population in excess of 40,000 persons and a population density of 3,000 persons per square mile, must demonstrate that the costs of replacing class B firefighting foam exceed **5%** of the fire department's annual operating expenses; and
- All other municipalities must demonstrate the costs of replacing class B firefighting foam exceed **2.5%** of the fire department's annual operating expenses.

The Legislature has appropriated a total of \$625,000 to fund this program.

OTHER COMMON QUESTIONS

Can mutual aid include PFAS foam?

Only if both facilities (giving and receiving aid) have a valid **waiver**. Such mutual aid is available for use by both oil refineries and petroleum terminals.

Are media companies liable for PFAS product advertisements?

No. The law **does not impose liability** on media outlets that advertise such products.

KEY DATES SUMMARY

Requirement	Deadline	No Later Than
Ban on PFAS foam use, sale, or manufacture	2 years after effective date	January 8, 2026
End of exemption for fixed systems	4 years after effective date	January 8, 2028
End of exemption for oil refineries/terminals	8 years after effective date	January 8, 2032
Waiver notice of intent (refineries/terminals)	5 years after effective date	January 8, 2029
Absolute final end of all waivers	12 years after effective date	January 8, 2036
Product recall deadline (manufacturers)	27 months after effective date	April 8, 2026