

Class B Firefighting Foam Policy

Procedure for Application of P.L. 2023, c. 243

Policy Number: FDS-01-2026

Effective Date: March 10, 2026

Authority: New Jersey Public Law 2023 Chapter 243

Responsible Office: New Jersey Department of Community Affairs

1. Purpose

P.L. 2023, Chapter 243, which became effective 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 January 8, 2026. PFAS (per- and polyfluoroalkyl substances) are chemicals that persist in the environment and have been linked to adverse human health and environmental impacts.

This policy establishes standardized procedures for the submission, review, tracking, and determination of notices and waiver requests that must be filed with the Commissioner pursuant to P.L. 2023, Chapter 243.

2. Scope

This policy applies to all oil refineries and petroleum terminals within the State of New Jersey that are subject to the statutory prohibition on the use of Class B firefighting foam containing intentionally added PFAS and that seek to continue its use beyond January 8, 2026.

In addition, the reporting requirements set forth in Section 13 apply to entities using a fixed foam fire suppression system as described in Section 3(b).

3. Exemptions to the Ban

The following uses are exempt from the statutory prohibition:

- a)** The sale, manufacture, distribution, or use of Class B firefighting foam for which the inclusion of PFAS is required by federal law.
- b)** The owner or operator of a facility that uses a fixed foam fire suppression system designed for 110 percent containment of any expected discharge volume for Class B fires

may continue to use such foam for four years after the effective date of the prohibition, until January 8, 2028.

c) The owner or operator of an oil refinery or petroleum terminal may use Class B firefighting foam containing intentionally added PFAS for fire suppression on:

- a storage tank for combustible or flammable liquids with a surface area of 120 square meters or greater; or
 - a fuel-in-depth pool until eight years after the effective date of the prohibition, January 8, 2032.
-

4. Definitions

PFAS

Perfluoroalkyl and polyfluoroalkyl substances.

Waiver

A formal request submitted to the Department seeking temporary continued use of Class B firefighting foam containing intentionally added PFAS beyond the statutory phase-out period.

Applicant

An oil refinery or petroleum terminal submitting a waiver request.

Oil Refinery

The statute does not define the term “oil refinery.”

Petroleum Terminal

1. A bulk liquid storage facility exclusively engaged in the merchant wholesale distribution of petroleum products, including liquefied petroleum gas, that contains at least one storage tank holding 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 that includes at least one storage tank containing crude petroleum with a surface area of 120 square meters or greater.

Review Committee

Designated staff of the Department responsible for reviewing waiver applications.

Commissioner

The Commissioner of the Department of Community Affairs.

5. Notification to the Commissioner

The owner or operator of an oil refinery or petroleum terminal that intends, pursuant to N.J.S.A. 56:8-229d, to continue the use of Class B firefighting foam containing intentionally added PFAS after January 8, 2026 shall disclose this information to the Commissioner no later than that date.

If the owner or operator subsequently intends to transition a facility to PFAS-free firefighting foam, the owner or operator shall notify the Commissioner no later than 90 days prior to the proposed transition date.

Notifications shall be submitted to:

ATTN: PFAS Reporting
NJ Department of Community Affairs
101 South Broad St
PO Box 809
Trenton, NJ 08625

or via email at:
pfas@dca.nj.gov

6. Waiver Intent Notification

Owners or operators of an oil refinery or petroleum terminal may apply to the Commissioner for a waiver to extend the eight-year period described in Section 3(c).

An owner or operator that anticipates applying for such a waiver shall submit a notice of intent to the Commissioner no later than January 8, 2029.

Notifications shall be submitted to:

ATTN: PFAS Reporting
NJ Department of Community Affairs
101 South Broad St
PO Box 809
Trenton, NJ 08625

or via email at:
pfas@dca.nj.gov

7. Waiver Application

a) An owner or operator of an oil refinery or petroleum terminal that has complied with Sections 5 and 6 may apply to the Commissioner for a waiver to extend the eight-year period.

b) A waiver application shall be submitted as follows:

Electronically via email:
pfas@dca.nj.gov

By mail to:

ATTN: PFAS Reporting
NJ Department of Community Affairs
101 South Broad St
PO Box 809
Trenton, NJ 08625

c) Applicants shall receive confirmation of receipt within five business days.

8. Waiver Criteria

a) The Commissioner may grant a waiver if the applicant provides:

(i) clear and convincing evidence that no commercially available PFAS-free replacement foam exists that is capable of suppressing fire for the specific use;

(ii) information on the amount of firefighting foam containing intentionally added PFAS stored, used, or released by the applicant on an annual basis;

(iii) a detailed transition plan, including a timeline, for transitioning to firefighting foam that does not contain intentionally added PFAS chemicals; and

(iv) a plan for meeting the reporting requirements for the use of Class B firefighting foam containing intentionally added PFAS.

b) Required documentation shall also include:

- written justification for continued use;
- inventory of existing foam stock;
- description of transition efforts to PFAS-free alternatives;
- risk mitigation and containment measures; and
- a detailed transition plan and timeline for full compliance.

Additional information may be required by the Commissioner.

c) The Commissioner shall not grant a waiver if any other oil refinery or petroleum terminal is known to have transitioned to a commercially available Class B firefighting foam that does not contain intentionally added PFAS chemicals for the same specific use.

9. Review Process

a) The Review Committee shall conduct a preliminary review of each application within ten business days of receipt to ensure that all required documentation has been submitted.

If the application is incomplete, the applicant will be notified and given 15 calendar days to submit the missing documentation. If the applicant fails to submit the required documentation within that period, the application will be closed.

b) In conducting its review, the Review Committee shall evaluate the criteria set forth in Section 8. The Committee may require a site visit.

c) Following its review, the Review Committee shall submit a written recommendation to the Commissioner within six months after receipt of a complete waiver application.

d) During the review process, the Commissioner shall provide an opportunity for written public comment. The public comment period shall be 60 days.

e) The Commissioner shall notify the applicant of the decision within one year after the date the application was received. If approved, the waiver shall be issued with any conditions deemed necessary by the Commissioner and shall include a specific expiration date. A denial shall include an explanation of the reasons for denial.

f) An approved waiver shall not exceed two years. A waiver may be extended for one additional term. All waivers shall expire no later than January 8, 2036.

10. Application Fee

The Department of Community Affairs may impose a fee on an applicant requesting a waiver or waiver extension in an amount not to exceed the reasonable costs associated with administering the waiver process.

11. Tracking and Reporting

All waiver requests and determinations shall be recorded in a centralized database maintained by the Department.

Approved waivers shall be monitored to ensure compliance with all conditions imposed by the Commissioner.

12. Mutual Aid Use

An owner or operator of an oil refinery or petroleum terminal that has been granted a waiver may provide and use Class B firefighting foam containing intentionally added PFAS as mutual aid to another oil refinery or petroleum terminal, at the request of appropriate authorities, only if the receiving facility has also been granted a waiver.

13. Reporting Requirements for Use

A person who, after January 8, 2026, uses Class B firefighting foam containing intentionally added PFAS pursuant to N.J.S.A. 56:8-229(c) or (d) shall report the use of the foam to the Commissioner within five business days after the use.

The report shall include:

- a) the identity of the foam
- b) the quantity used
- c) the total PFAS concentration
- d) the application for which the foam was used
- e) the duration of the fire

Reports shall be submitted to:

ATTN: PFAS Reporting
NJ Department of Community Affairs
101 South Broad St

PO Box 809
Trenton, NJ 08625

or via email at:
pfas@dca.nj.gov