

SF834 - 0 - PFAS in Certain Products Prohibited

Chief Author: **Kelly Morrison**
 Committee: **Legacy and Natural Resources**
 Date Completed: **3/1/2023 10:55:25 AM**
 Lead Agency: **Pollution Control Agency**
 Other Agencies:
 Commerce Dept Health Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Health Dept					
General Fund	-	312	468	468	468
Pollution Control Agency					
Environmental	-	513	985	647	647
State Total					
General Fund	-	312	468	468	468
Environmental	-	513	985	647	647
Total	-	825	1,453	1,115	1,115
Biennial Total			2,278		2,230

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Health Dept					
General Fund	-	2	3	3	3
Pollution Control Agency					
Environmental	-	2.88	5.88	4	4
Total	-	4.88	8.88	7	7

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/1/2023 10:55:25 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Health Dept						
General Fund	-	312	468	468	468	468
Pollution Control Agency						
Environmental	-	513	985	647	647	647
Total	-	825	1,453	1,115	1,115	1,115
	Biennial Total		2,278		2,230	2,230
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Health Dept						
General Fund	-	312	468	468	468	468
Pollution Control Agency						
Environmental	-	513	985	647	647	647
Total	-	825	1,453	1,115	1,115	1,115
	Biennial Total		2,278		2,230	2,230
2 - Revenues, Transfers In*						
Health Dept						
General Fund	-	-	-	-	-	-
Pollution Control Agency						
Environmental	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	-

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 Date Completed: **3/1/2023 10:55:25 AM**
 Agency: **Pollution Control Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Environmental	-	513	985	647	647	
Total	-	513	985	647	647	
Biennial Total			1,498			1,294

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Environmental	-	2.88	5.88	4	4
Total	-	2.88	5.88	4	4

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 2/13/2023 8:47:44 PM
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State Cost (Savings) Calculation Details

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*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Environmental	-	513	985	647	647	
Total	-	513	985	647	647	
Biennial Total			1,498		1,294	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Environmental	-	513	985	647	647	
Total	-	513	985	647	647	
Biennial Total			1,498		1,294	
2 - Revenues, Transfers In*						
Environmental	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

Bill Description

This bill creates MN Statute 116.943 requiring manufacturers of products to provide notification to the Commissioner of the Pollution Control Agency of specific products containing intentionally added PFAS by January 1, 2025. The agency may waive or extend the notification requirement if substantially equivalent information is already publicly available. A person may not sell, offer for sale, or distribute for sale in the state a product containing intentionally added PFAS if the manufacturer has failed to provide notice. If the Commissioner has reason to believe a product contains intentionally added PFAS and is being offered for sale in violation of subdivision 4, paragraph (a), they may direct the manufacturer, within 30 days to provide a certificate attesting it does not contain intentionally added PFAS or notify sellers in the state that the sale is prohibited.

The bill also creates a prohibition starting January 1, 2025 that a person may not sell, offer for sale, or distribute for sale in this state a specific list of products if they contain intentionally added PFAS (carpets or rugs, cleaning products, cookware, cosmetics, fabric treatments, juvenile products, textile furnishings, ski wax, or upholstered furniture). The Commissioner may identify additional products by category or use by rule that are prohibited for sale in the state. The Commissioner must prioritize categories of products by their likelihood that they will contaminate the state's land and water resources.

By January 1, 2030, a person may not sell, offer for sale, or distribute for sale in this state any product that contains intentionally added PFAS unless the commissioner has determined by rule that the use of PFAS in the product is a currently unavoidable use.

The Commissioner may establish by rule a fee payable by a manufacturer upon submission of the notification to cover the agency's reasonable costs to implement this section.

The Commissioner may enforce this section under sections 115.071 and 116.072 and may consult the Commissioners of Commerce and Health in enforcing this section. When requested, a person must furnish to the Commissioner any information that the person may have or may reasonably obtain that is relevant to show compliance with the section.

The section does not apply to products for which federal law governs the presence of PFAS in the product in a manner that preempts state authority, a product regulated under section 325F.072 or 325F.075, or the sale or resale of a used product.

Assumptions

There are two rounds of rulemaking: 1) to establish notification and fee payment requirements by Jan 1, 2025, and following receipt of notifications and considering impacts, avoidable/unavoidable uses, and other factors 2) to establish

which products with avoidable uses will be prohibited and which involve unavoidable uses, by Jan 1, 2030. The second rulemaking would be outside the fiscal years included on this fiscal note.

The agency anticipates utilizing the Interstate Chemicals Clearinghouse (IC2) High Priority Chemicals Data System, an application that allows reporters to submit data on chemicals in products, and for participating states and the public to access that reported data. The agency is already a member of this association. However, to integrate the system to accommodate Minnesota specific requirements, an upfront cost of \$80,000 is required. Annual ongoing maintenance and reporting would cost \$17,000. To facilitate use of the data, it is assumed that the agency would need to configure existing agency data systems to acquire data from the IC2 data system and develop IT infrastructure for issuing waivers and conducting enforcement. The cost for information technology staff (0.25 FTE) and contractor time (232 hours) is estimated to be \$153,240.

Two program staff would start in FY24: 1.5 FTE program staff to assist with rulemaking in FY24 and FY25 with the remaining 0.5 FTE focused on program development. At the close of rulemaking, these positions would transition to reviewing, analyzing, and responding to priorities identified, enable and maintain the fee collection process. An additional two FTE would start in FY25 to aid with waiver generation and to monitor compliance with the reporting requirement. The MPCA hopes to realize efficiencies in compliance by sharing information among other states with similar notification laws. Starting in FY25, project dollars would be included; \$70,000 for purchase and testing of up to 80 products per year.

An appropriation of funds will be needed to cover the cost of the program. The Agency is unable estimate the cost recovery fee structure until the rule is developed.

Expenditure and/or Revenue Formula

Current estimated rate for Interstate Chemical Clearinghouse association and data system access is \$80,000 initial (FY24) and \$17,000 annually thereafter. (FY25 and beyond)

Program staff time not associated with rule making: \$140,000 x 0.5 FTE = \$70,000 in FY24 (Program development and outreach), \$140,000 x 3.5 FTE = \$490,000 in FY25 and \$140,000 x 4 FTE = \$560,000 in FY26 and beyond. (Outreach, purchasing products and conducting testing, reviewing and analyzing data, processing waivers, and compliance and enforcement activities).

Rule making costs are assumed as follows:

Calculation for costs to complete the rulemaking required by the bill. Total of \$617,618.

- a. MPCA program staff, rule coordinator, and legal costs would be split over FY24 and FY25; Office of Administrative Hearing and most State Register and miscellaneous costs are placed in FY25.
- b. Program staff: $140,000 \times 1.5 \text{ FTE} = \$210,000$ FY24 and FY25
- c. Rule coordinator: $140,000 \times 0.5 \text{ FTE} = \$70,000$ FY24 and FY25
- d. Legal: $\$148/\text{hr} \times 86 \text{ hr} = \$12,728$ (\$6,364 in FY24 and FY25)
- e. OAH: $\$245/\text{hr} \times 135 \text{ hr} = \$33,075$ in FY25
- f. State Register = \$7,890 (\$270 in FY24; \$7,620 in FY25)
- g. Hearing room, communication and general expenses = \$3,925 FY25

Additional information technology costs will be incurred to transfer data to Agency systems, build a user interface, and implement waiver generation technology. Costs are assumed as follows:

- a. MPCA data staff to complete analysis, build requirements, and test reports for internal systems
- b. 0.5 FTE at \$140,000 = \$70,000 (\$35,000 in FY24 and \$35,000 in FY25)

- c. Contractor to build reports for internal systems
 - d. 232 hours at \$175/hr = \$40,600 (\$20,300 in FY24 and \$20,300 in FY25)
 - e. MNIT staff to set up data
- 0.25 FTE at \$82/hr = \$42,640 (\$21,320 in FY24 and \$21,320 in FY25)

Starting in FY25; the agency would budget \$70,000 annually for the acquisition and testing of products for PFAS. The price of products varies widely; more products may be purchased in a given year based on identified priority products and their price points. Products purchased and tested are limited by laboratory capacity and will be focused on verifications for products not already tested and reported by other states.

- a. \$150 per product (purchasing) for 80 products (\$12,000)
- b. \$725 per product for analytical analysis for 80 products (\$58,000)

*The annual cost of 1.0 FTE is \$140,000 in FY2023-2027. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

Long-Term Fiscal Considerations

Fee structure is currently set up as a one-time payment, unless the formulation changes. An appropriation will be required to fund the program.

Local Fiscal Impact

There are no local government costs.

References/Sources

Maine Department of Environmental Protection staff were consulted in the drafting of this fiscal note.

Agency Contact: Pam Anderson (651-757-2190)

Agency Fiscal Note Coordinator Signature: John Allen

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SF834 - 0 - PFAS in Certain Products Prohibited

Chief Author: **Kelly Morrison**
 Committee: **Legacy and Natural Resources**
 Date Completed: **3/1/2023 10:55:25 AM**
 Agency: **Commerce Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 2/13/2023 1:07:44 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

House File 1000-0 establishes a notice requirement for products containing PFAs as well as a prohibition on products that intentionally add PFAs. The enforcement of the new requirements falls mostly on the Minnesota Pollution Control Agency. However, the bill indicates that MPCA may coordinate enforcement of the statute with Commerce and Health.

Assumptions

The bill indicates MPCA may coordinate with Commerce in enforcement of the statute. The Children’s Product Interagency Team has been in existence for several years. This team is a collaboration with MPCA, Health, and Commerce. In the past Commerce has worked collaboratively to investigate and enforce provisions related to toxic toys. Although not required, Commerce assume MPCA will want Commerce to help in the enforcement of these new requirements and prohibitions, even though the enforcement authority falls on MPCA.

As part of this work, Commerce assumes that the Department will coordinate with MPCA in the event there is non-compliance with the statute. The statute defines which products cannot contain intentionally added PFAs, which includes: carpets or rugs; (2) cleaning products; (3) cookware; (4) cosmetics; (5) fabric treatments; (6) juvenile products; (7) textile furnishings; (8) ski wax; or (9) upholstered furniture. Both children and adults would come into contact with these products.

Based on the volume of expected work, there will be no impact on existing case loads.

The statute also allows for rulemaking related to these requirements and prohibitions with an implementation date of July 1, 2025.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Amy Trumper

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SF834 - 0 - PFAS in Certain Products Prohibited

Chief Author: **Kelly Morrison**
 Committee: **Legacy and Natural Resources**
 Date Completed: **3/1/2023 10:55:25 AM**
 Agency: **Health Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	312	468	468	468	468
Total	-	312	468	468	468	468
Biennial Total			780			936

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	2	3	3	3
Total	-	2	3	3	3

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Kate Schiller **Date:** 3/1/2023 10:28:00 AM
Phone: 651-296-6052 **Email:** kate.schiller@lbo.mn.gov

State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	312	468	468	468	468
Total	-	312	468	468	468	468
	Biennial Total		780		936	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	312	468	468	468	468
Total	-	312	468	468	468	468
	Biennial Total		780		936	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	

Bill Description

The bill bans the manufacture, distribution, sale, or offer for sale, or distribution in the state of any carpets or rugs, cleaning products, cookware, cosmetics, fabric treatments, juvenile products, textile furnishings, ski wax, or upholstered furniture that contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), effective January 1, 2025. The bill also bans the sale of any products containing intentionally added PFAS, effective January 1, 2030. The bill does not include an effective date. The department assumes an effective date of August 1, 2023.

Assumptions

The bill states “The commissioner [of MPCA] may coordinate with the commissioners of commerce and health in enforcing this section.” MDH assumes that multiple enforcement cases will be brought per fiscal year, requiring MDH to evaluate products to see if they meet the ban definitions, help with consumer and retailer education on the health risks of PFAS, and assess replacement products. MDH partners with MPCA and commerce on similar initiatives and assumes that certain activities, such as the development of education materials and notifications to retailers, will take place the year before the effective date of implementation on January 1, 2025.

Expenditure and/or Revenue Formula

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
Research Scientist 2	129,602	1.00	2.00	2.00	2.00
Planner Principal State	129,602	1.00	1.00	1.00	1.00
	FTE	2.00	3.00	3.00	3.00
	Subtotal	259,204	388,806	388,806	388,806
Information Technology:					
	Subtotal	0	0	0	0
Other Operating Costs:					

	Subtotal	0	0	0	0
Grants, Aids & Subsidies:					
	Subtotal	0	0	0	0
Indirect (20.3% Eligible Costs)	Subtotal	52,618	78,928	78,928	78,928
Expenditure	Total	311,822	467,734	467,734	467,734
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Protection BACT 03		312	468	468	468
Administration		312	468	468	468
Grants		0	0	0	0

Long-Term Fiscal Considerations

The January 1, 2030, ban on all products containing intentionally added PFAS is anticipated to have an increase on department expenditure, but the full extent of the impact is unknown at this time.

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Char Kimber

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