



CAL FIRE - Office of the State Fire Marshal Information Bulletin 21-002

Issued: 06/15/2021

SB-1044, (Allen) Fire Fighting Equipment and Foam: Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Chemicals

On September 29, 2020, Senate Bill 1044 (Chapter 308, Law of 2020) was signed by Governor Newsom and chaptered into law. The Office of the State Fire Marshal (OSFM) is tasked to monitor the use of Aqueous Film-Forming Foam (AFFF) at designated facilities and issue waivers to refineries and terminals for fixed fire suppression systems meeting identified criteria.

The OSFM has received multiple questions concerning the compliance timelines. In an effort to assist our stakeholders please see the mandated, key compliance timelines below:

Reference Health and Safety Code (HSC) § 13061 and 13062.

January 1, 2021: Law does not apply to any manufacture, sale, distribution, or use of class B firefighting foam for which the inclusion of perfluoroalkyl and polyfluoroalkyl substances (PFAS) chemicals is required by federal law.

On or before **July 1, 2021**: A manufacturer of class B firefighting foam containing intentionally added PFAS chemicals shall notify, in writing, persons that sell the manufacturer's products in the state about the provisions of this section.

Products sold after **July 1, 2021**: A manufacturer is to provide that notification on or before **December 31, 2021**, if the manufacturer has not already provided the notification.

January 1, 2022: A manufacturer of class B firefighting foam shall not manufacture, or knowingly sell, offer for sale, distribute for sale, or distribute for use in this state.

- No person shall use in this state, class B firefighting foam containing intentionally added PFAS chemicals.

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- If a federal requirement to include PFAS chemicals in class B firefighting foam is revoked, the law shall not apply for one year after the requirement is revoked.

January 1, 2022: The operator of a terminal or an oil refinery that meets the above criteria shall disclose this information to the State Fire Marshal on or before this date. If, after providing this information to the State Fire Marshal, the operator of a terminal or an oil refinery intends to transition a facility to PFAS-free firefighting foam, the operator is to inform the State Fire Marshal no later than 90 days prior to the proposed transition date.

A manufacturer that manufactures, sells, or distributes class B firefighting foam containing intentionally added PFAS chemicals after **January 1, 2021**, is to recall the product by **March 1, 2022**, and is to reimburse the retailer or any other purchaser for the product. A recall of the product shall include safe transport and storage and documentation of the amount and storage location of the PFAS-containing firefighting foam, until the California Environmental Protection Agency formally identifies a safe disposal technology. The manufacturer shall provide this documentation to the Attorney General, a city attorney, a county counsel, or a district attorney upon request.

January 1, 2022, a person shall not discharge or otherwise use for training purposes class B firefighting foam that contains intentionally added PFAS chemicals

January 1, 2024: The law does not apply to any part of a facility that does both of the following:

- Uses a fixed foam fire suppression system for class B fires.
- Has in place a system designed for 110 percent containment of any expected discharge volume.

March 1, 2024: A manufacturer that manufactures, sells, or distributes class B firefighting foam containing intentionally added PFAS chemicals is to recall the product. A recall of the product is to include safe transport and storage and documentation of the amount and storage location of the PFAS-containing firefighting foam, until the California Environmental Protection Agency formally identifies a safe disposal technology. The manufacturer shall provide this documentation to the Attorney General, a city attorney, a county counsel, or a district attorney upon request.

A person that anticipates applying for a waiver for an oil refinery or terminal shall submit a notice of intent to the State Fire Marshal by **July 1, 2025**, in order to be considered for a waiver beyond **January 1, 2028**.

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January 1, 2028: The law does not apply to any manufacture, sale, or distribution of class B firefighting foam to, or to use by, a person at a terminal or an oil refinery, which may include the use of a fixed foam fire suppression system, for either of the following uses:

- For use on a storage tank for combustible or flammable liquids with a surface area of 120 square meters or greater.
- For use for fire suppression on a fuel-in-depth pool.

January 1, 2028: A person who operates a terminal or oil refinery may apply to the State Fire Marshal for a waiver to extend the exemption beyond this date.

The State Fire Marshal may grant a waiver for a specific use if the applicant provides all of the following:

- Clear and convincing evidence that there is no commercially available replacement that does not contain intentionally added PFAS chemicals and that is capable of suppressing fire for that specific use.
- Information on the amount of firefighting foam containing intentionally added PFAS chemicals stored, used, or released onsite on an annual basis.
- A detailed plan, with timelines, for the operator of the terminal or oil refinery to transition to firefighting foam that does not contain intentionally added PFAS chemicals for that specific use.
- A plan for meeting the requirements of the law.

The State Fire Marshal is to provide an applicant the opportunity to correct deficiencies in the initial submission in relation.

The State Fire Marshal shall not grant a waiver under this law for a specific use if any other oil refinery or terminal is known to have transitioned to commercially available class B firefighting foam that does not contain intentionally added PFAS chemicals for that specific use.

- The applicant may provide evidence as to why this subparagraph is inapplicable, including evidence that the specific use is different. In making a decision on a waiver, the State Fire Marshal shall consider both information provided by the applicant and information provided through public comment.

January 1, 2032: All waivers shall expire.

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- The term of a waiver shall not exceed two years. A waiver may be extended for one additional consecutive term.
- The State Fire Marshal shall ensure there is an opportunity for public comment during the waiver process.
- An oil refinery or terminal that has received a waiver may provide and use class B firefighting foam containing intentionally added PFAS chemicals in the form of mutual aid to another oil refinery or terminal at the request of authorities only if the other oil refinery or terminal also has a waiver.
- The State Fire Marshal shall notify the waiver applicant of a decision within one year of the waiver submission date.

Class B Fire Foam with Added PFAS Usage Reporting required by statute:

A person that uses class B firefighting foam containing intentionally added PFAS chemicals shall report the use of the foam to the State Fire Marshal within five business days of the use.

- Including the identity of the foam, the quantity used, the total PFAS concentration, the application for which the foam was used, and the duration of the fire.

A person that uses class B firefighting foam containing intentionally added PFAS chemicals shall do all of the following:

- Allow no release directly to the environment, such as to unsealed ground, soakage pits, waterways, or uncontrolled drains.
- Fully contain all releases onsite.
- Implement containment measures such as bunds and ponds that are controlled, impervious to PFAS chemicals, and do not allow firewater, wastewater, runoff, and other wastes to be released to the environment, such as to soils, groundwater, waterways, or stormwater.
- Dispose of all firewater, wastewater, runoff, and other wastes in a way that prevents releases to the environment.
- If there is a release to the environment, report the identity of the foam, the quantity used, the total PFAS concentration, and the form of any waste that contains PFAS chemicals that is released into the environment to the State Fire Marshal within five business days of the release.

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- Document the measures undertaken pursuant to this subparagraph. In investigating compliance with this subparagraph, the Attorney General, a city attorney, a county counsel, or a district attorney may request the documentation. A person that operates an oil refinery or terminal shall provide the documents upon this request.

Please see “Today’s Law As Amended” for additional information: [Click Here](#)

This law removes the ability to use AFFF with added Perfluorooctane Sulfonate (PFOS) within the state without specific exemptions. This affects Fire Departments, industries, and citizens throughout the state. The OSFM understands the effects this may have and has gathered some industry practices to assist in the determination of what process to follow to be compliant with the law.

Affected fire systems / facilities for retrofit industry best practices

- Entire system should be drained of non-compliant AFFF
- Refer to local city and county ordinances for hazardous waste handling
- Recommend the system be washed/flushed
- The system and tank should be dried
- No residual standing liquid materials should remain in the system
- Non-compliant material should be contained in appropriate containers and maintained to contain spillage according to regulation (refer to local/state ordinances/law)
- Non-compliant AFFF should be treated as hazardous waste

AFFF Disposal

- California does not have disposal sites for this material
- Industry standard thermal destruction for final disposition
- Use of industry best practices for disposal/destruction
- Non-compliant AFFF shall not be discharged to a public water treatment system, Department of Toxic Substances (DTSC)
- Hazardous waste removal companies can remove this material and arrange for destruction outside of California

Reference Documents

- [Air Force Public Affairs AFFF FAQ replacement and containment.pdf](#)
- <https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos>
- National Fire Protection Association (NFPA) 11 Standard for Low, Medium-, and High-Expansion Foam, 2016
- [Fire Fighting Foam Coalition](#)

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- [Managing Empty Containers Fact Sheet | Department of Toxic Substances Control \(ca.gov\)](#)

For questions or additional information on this bulletin:

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