

PFAS in Food Packaging

The Department of Environmental Protection (Department) invites stakeholder comment on the attached department rule concept draft language which would prohibit manufacturers, suppliers, and distributors from offering for sale or for promotional purposes in Maine certain types of food packaging to which per- and poly-fluoroalkyl substances (PFAS) have been intentionally introduced, as authorized by Maine Revised Statutes, Title 32, Section 1733(3-B).

Maine law authorizes the Department to prohibit the sale of a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence if the Department determines that a safer alternative to the use of PFAS in a specific application to a food package is readily available in sufficient quantity and at a comparable cost, and that the safer alternative performs as well or better than PFAS in the specific application of PFAS to a food package.

In February 2021, the Washington State Department of Ecology (Washington DOE) published the [Per- and Poly-fluoroalkyl Substances in Food Packaging Alternatives Assessment](#), identifying 4 types of food packaging that meet Washington’s statutory criteria for a prohibition:

<u>Food Packaging Type</u>	<u>Alternative Identified as Safer</u>
Wraps and liners	Wax-coated alternatives
Plates	Clay-coated and reusable alternatives
Food boats	Clay-coated and reusable alternatives
Pizza boxes	Uncoated alternatives

In May 2022, Washington DOE published a second alternatives assessment report, [Safer Alternatives to PFAS in Food Packaging](#), which modified their process in two ways: first, by adjusting the concept of food packaging application to be more focused on its function rather than the package’s name; second, by relying on marketability to demonstrate cost and availability rather than direct price comparison of final products. This report identified safer alternatives for all five of the food packaging applications reviewed:

<u>Food Packaging Type</u>	<u>Alternative Identified as Safer</u>
Bags and sleeves	Densified paper and wax-coated options
Bowls	Clay-coated, polylactic acid-coated, polylactic acid foam, and reusable options
Flat serviceware	Clay-coated, polylactic acid-coated, polylactic acid foam, and reusable options
Open-top containers	Clay-coated, densified paper, wax-coated, polylactic acid-coated, polylactic acid foam, aluminum, and reusable options
Closed containers	Clay-coated, polylactic acid-coated, polylactic acid foam, and aluminum options

Because language in [Washington's related law](#) mirrors criteria for determination in Maine law, the Department proposes to rely on the conclusions in these reports that the safer alternatives identified perform as well as, or better, than PFAS in the specific applications of PFAS to the food package.

The Department requests written comment on this section of the Rule Chapter 80 Concept Draft by **August 21, 2023**.

The Department intends to initiate formal rulemaking with the Board of Environmental Protection this fall to amend the existing Chapter 80 to incorporate these prohibitions. This will be a major substantive rulemaking subject to review by the legislature before final adoption.

Please email Kerri.Malinowski@maine.gov with your name, affiliation, contact information, and comment in response to this request for stakeholder engagement.

Thank you