

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0351.01 Sarah Lozano x3858

HOUSE BILL 22-1345

HOUSE SPONSORSHIP

Cutter and Bradfield,

SENATE SPONSORSHIP

(None),

House Committees

Energy & Environment
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE PROTECTIONS FROM**
102 **PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill enacts the "Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Act" to establish a regulatory scheme that collects information from product manufacturers regarding the use of perfluoroalkyl and polyfluoroalkyl chemicals (PFAS chemicals) in their products and phases out the sale or distribution of products that contain intentionally added PFAS chemicals. **Section 1** requires

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

manufacturers of products that are sold or distributed in the state and that contain intentionally added PFAS chemicals to provide written notification (notification) to the executive director (executive director) of the Colorado department of public health and environment (department) that provides:

- The trade name of the product;
- A description of the purpose that PFAS chemicals serve in the product;
- Contact information for the manufacturer; and
- Any additional information required by the executive director.

For manufacturers that were already selling or distributing a product containing intentionally added PFAS chemicals in the state before January 1, 2025, the notification must be made no later than 30 days before January 1, 2025. For manufacturers that begin to sell or distribute a product containing intentionally added PFAS chemicals in the state on or after January 1, 2025, the notification must be made at least 30 days after the manufacturer begins selling or distributing the product in the state.

No later than 30 days after the executive director receives a notification, the executive director shall publish the trade name of the product and manufacturer name on the department's website. A manufacturer submitting the notification to the executive director must pay a fee established by the executive director. The fee will be credited to the perfluoroalkyl and polyfluoroalkyl substances cash fund (fund).

On and after January 1, 2024, a person shall not sell or distribute in the state any products in the following product categories if the products contain intentionally added PFAS chemicals:

- Carpets or rugs;
- Cookware;
- Cosmetics;
- Fabric treatments;
- Food packaging;
- Juvenile products;
- Oil and gas products;
- Textile furnishings; and
- Upholstered furniture.

No later than January 1, 2025, the executive director will identify by rule a list of priority products and priority product categories. No later than December 31, 2027, the executive director will promulgate rules prohibiting the sale or distribution of said priority products or priority product categories that contain intentionally added PFAS chemicals and that have not been exempted by the executive director.

No later than January 1, 2028, the executive director will identify by rule another list of priority products or priority product categories. No

later than December 31, 2030, the executive director will promulgate rules prohibiting the sale or distribution of said priority products or priority product categories that contain intentionally added PFAS chemicals and that have not been exempted by the executive director.

A manufacturer or consumer that applies for an exemption for a priority product or priority product category identified by the executive director must pay a fee established by the executive director. The fee will be credited to the fund.

Section 2 includes products that do not contain intentionally added PFAS chemicals in the definition of "environmentally preferable products" for the purposes of state agency procurement.

The bill also:

- Defines certain terminology (**section 3**);
- As of January 1, 2024, repeals the exemption for gasoline distribution facilities, refineries, and chemical plants from the restriction (sales restriction) on the sale of class B firefighting foam (firefighting foam) that contains PFAS chemicals (**section 4**);
- As of January 1, 2024, allows the executive director to grant a temporary exemption from the sales restriction for the purchase of firefighting foam that is used to extinguish class B fires at a facility that engages in the wholesale distribution of crude petroleum (**section 4**);
- Requires a person that uses firefighting foam to prohibit a release of the firefighting foam into the environment, fully contain the firefighting foam during its use, safely store the firefighting foam, and report certain information to the water quality spills hotline within 24 hours if there is a release of the firefighting foam into the environment (**section 5**);
- Requires a person that uses firefighting foam to report its use to the water quality spills hotline within 24 hours after the use (**section 5**); and
- Authorizes the attorney general to enforce laws regulating firefighting foams that contain PFAS chemicals (**section 6**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 14 to article
 3 5 of title 25 as follows:

4 **PART 14**
 5 **PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS**

1 **25-5-1401. Short title.** THE SHORT TITLE OF THIS PART 14 IS THE
2 "PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS CONSUMER
3 PROTECTION ACT".

4 **25-5-1402. Legislative declaration.** (1) THE GENERAL ASSEMBLY
5 HEREBY FINDS AND DECLARES THAT:

6 (a) CONTAMINATION OF THE SOIL AND WATER IN THE STATE FROM
7 PFAS CHEMICALS POSES A SIGNIFICANT THREAT TO THE ENVIRONMENT OF
8 THE STATE AND THE HEALTH OF ITS RESIDENTS;

9 (b) A GROWING BODY OF SCIENTIFIC RESEARCH HAS FOUND THAT
10 EXPOSURE TO PFAS CHEMICALS MAY LEAD TO SERIOUS AND HARMFUL
11 HEALTH EFFECTS;

12 (c) THE FULL EXTENT OF THE CONTAMINATION OF PFAS
13 CHEMICALS IN THE SOIL AND WATER OF THE STATE IS NOT CURRENTLY
14 KNOWN BUT IS ANTICIPATED TO BE WIDESPREAD AND TO REQUIRE A
15 SIGNIFICANT EXPENDITURE OF RESOURCES TO BE IDENTIFIED AND
16 REMEDIATED;

17 (d) PFAS CHEMICALS CONTINUE TO BE USED IN PRODUCTS ACROSS
18 A VARIETY OF INDUSTRIES AND FOR MANY DIFFERENT PURPOSES;

19 (e) PFAS CHEMICALS ARE NOT NECESSARY IN MANY PRODUCTS
20 AND COULD BE REPLACED WITH LESS HARMFUL CHEMICALS OR
21 TECHNOLOGIES; AND

22 (f) IF THE WIDESPREAD SALE AND DISTRIBUTION OF PRODUCTS
23 THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS CONTINUES IN
24 THE STATE:

25 (I) THERE IS A LARGER RISK OF PFAS CHEMICALS MIGRATING INTO
26 THE NATURAL ENVIRONMENT;

27 (II) RESIDENTS OF THE STATE WILL LIKELY SUFFER ADVERSE

1 HEALTH EFFECTS FROM EXPOSURE TO PFAS CHEMICALS; AND

2 (III) THE STATE AND LOCAL COMMUNITIES WILL BE BURDENED
3 WITH THE TESTING, MONITORING, AND CLEAN-UP COSTS NECESSARY TO
4 KEEP RESIDENTS SAFE FROM EXPOSURE TO PFAS CHEMICALS.

5 (2) THE GENERAL ASSEMBLY THEREFORE DETERMINES AND
6 DECLARES THAT IT IS IMPERATIVE FOR THE HEALTH AND SAFETY OF THE
7 STATE'S RESIDENTS TO CREATE A REGULATORY SCHEME THAT:

8

9 (a) PHASES OUT THE SALE OR DISTRIBUTION OF CERTAIN PRODUCTS
10 AND PRODUCT CATEGORIES IN THE STATE THAT CONTAIN INTENTIONALLY
11 ADDED PFAS CHEMICALS; AND

12 (b) AUTHORIZES THE DEPARTMENT TO REVIEW PRODUCTS AND
13 PRODUCT CATEGORIES THAT CONTAIN PFAS CHEMICALS AND MAKE
14 RECOMMENDATIONS TO THE STATE BOARD OF HEALTH CREATED IN
15 SECTION 25-1-103 (1) TO RESTRICT OR PROHIBIT THE PRODUCTION,
16 DISTRIBUTION, AND SALE OF PFAS CHEMICALS IN SPECIFIC CATEGORIES OF
17 PRODUCTS.

18 **25-5-1403. Definitions.** AS USED IN THIS PART 14, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

20 (1) "ADULT MATTRESS" MEANS A MATTRESS PRODUCT THAT IS NOT
21 A CRIB OR A TODDLER MATTRESS.

22 (2) "CARPET OR RUG" MEANS A FABRIC PRODUCT MARKETED OR
23 INTENDED FOR USE AS A FLOOR COVERING.

24 (3) "CONSUMER" MEANS THE END USER OF A PRODUCT.

25 (4) (a) "COOKWARE" MEANS A DURABLE HOUSEWARE PRODUCT
26 THAT IS USED IN RESIDENCES OR KITCHENS TO PREPARE, DISPENSE, OR
27 STORE FOOD OR BEVERAGES.

1 (b) "COOKWARE" INCLUDES POTS, PANS, SKILLET, GRILLS, BAKING
2 SHEETS, BAKING MOLDS, TRAYS, BOWLS, AND COOKING UTENSILS.

3 (5) (a) "COSMETIC" MEANS A PRODUCT THAT IS INTENDED TO BE
4 RUBBED OR INTRODUCED INTO; Poured, sprinkled, or sprayed on; or
5 OTHERWISE APPLIED TO THE HUMAN BODY FOR CLEANING, CLEANSING,
6 BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE
7 APPEARANCE.

8 (b) "COSMETIC" INCLUDES A SKIN MOISTURIZER, PERFUME,
9 LIPSTICK, NAIL POLISH, EYE OR FACIAL MAKEUP PREPARATION, SHAMPOO,
10 CONDITIONER, PERMANENT WAVE, HAIR DYE, TOOTHPASTE, DENTAL FLOSS,
11 AND DEODORANT.

12 (c) "COSMETIC" DOES NOT INCLUDE A PRODUCT THAT REQUIRES A
13 PRESCRIPTION FOR DISTRIBUTION OR DISPENSATION.

14 (6) "CURRENTLY UNAVOIDABLE USE" MEANS THAT:

15 (a) THE USE OF PFAS CHEMICALS IN A PRODUCT IS NECESSARY
16 FOR:

17 (I) THE PRODUCT TO ACHIEVE ITS MAIN FUNCTION; OR

18 (II) THE HEALTH AND SAFETY OF THE STATE'S RESIDENTS OR THE
19 FUNCTIONING OF THE STATE; OR

20 (b) THERE IS NO SAFER ALTERNATIVE THAT IS FEASIBLE AND
21 AVAILABLE.

22 (7) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
23 PUBLIC HEALTH AND ENVIRONMENT.

24 (8) "DIVISION" MEANS THE DIVISION OF ENVIRONMENTAL HEALTH
25 AND SUSTAINABILITY IN THE DEPARTMENT.

26 (9) "DRILLING FLUID" MEANS A FLUID THAT IS CIRCULATED INTO
27 THE BOREHOLE OF A WELL TO LUBRICATE AND COOL THE DRILL BIT.

1 (10) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
2 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

3 (11) "FABRIC TREATMENT" MEANS A PRODUCT APPLIED TO FABRIC
4 TO GIVE THE FABRIC ONE OR MORE CHARACTERISTICS, INCLUDING STAIN
5 RESISTANCE AND WATER RESISTANCE.

6 (12) "FEASIBLE AND AVAILABLE" MEANS THAT A SAFER
7 ALTERNATIVE IS:

8 (a) AVAILABLE IN THE MARKETPLACE;

9 (b) ALREADY USED IN A SIMILAR OR ANALOGOUS PRODUCT TO
10 ACHIEVE A SIMILAR FUNCTION; OR

11 (c) IDENTIFIED BY A SCIENTIFIC ORGANIZATION OR A FEDERAL OR
12 STATE GOVERNMENTAL AGENCY AS A SAFER ALTERNATIVE TO PFAS
13 CHEMICALS IN A PRODUCT OR A SIMILAR OR ANALOGOUS PRODUCT.

14 (13) "FOOD PACKAGE" OR "FOOD PACKAGING" MEANS A PACKAGE
15 OR PACKAGING COMPONENT USED IN DIRECT CONTACT WITH FOOD.

16 (14) "FUND" MEANS THE PERFLUOROALKYL AND
17 POLYFLUOROALKYL SUBSTANCES CASH FUND CREATED IN SECTION
18 8-20-206.5 (7).

19 (15) "HYDRAULIC FRACTURING FLUID" MEANS THE FLUID,
20 INCLUDING THE APPLICABLE BASE FLUID AND ANY ADDITIVES, INJECTED
21 INTO AN OIL OR GAS WELL TO PERFORM HYDRAULIC FRACTURING
22 OPERATIONS.

23 (16)(a) "INTENTIONALLY ADDED PFAS CHEMICALS" MEANS PFAS
24 CHEMICALS THAT A MANUFACTURER HAS INTENTIONALLY ADDED TO A
25 PRODUCT AND THAT HAVE A FUNCTIONAL OR TECHNICAL EFFECT ON THE
26 PRODUCT.

27 (b) "INTENTIONALLY ADDED PFAS CHEMICALS" INCLUDES PFAS

1 CHEMICALS THAT ARE INTENTIONAL BREAKDOWN PRODUCTS OF AN ADDED
2 CHEMICAL.

3 (17) (a) "JUVENILE PRODUCT" MEANS A PRODUCT DESIGNED FOR
4 USE BY INFANTS OR CHILDREN UNDER TWELVE YEARS OF AGE.

5 (b) "JUVENILE PRODUCT" INCLUDES:

6 (I) BASSINETS AND OTHER BEDSIDE SLEEPERS;

7 (II) BOOSTER SEATS, CAR SEATS, AND OTHER CHILD RESTRAINT
8 SYSTEMS;

9 (III) CHANGING PADS;

10 (IV) CO-SLEEPERS;

11 (V) CRIB OR TODDLER MATTRESSES;

12 (VI) FLOOR PLAY MATS;

13 (VII) HIGHCHAIRS AND HIGHCHAIR PADS;

14 (VIII) INFANT BOUNCERS;

15 (IX) INFANT CARRIERS;

16 (X) INFANT OR TODDLER FOAM PILLOWS;

17 (XI) INFANT SEATS;

18 (XII) INFANT SLEEP POSITIONERS;

19 (XIII) INFANT SWINGS;

20 (XIV) INFANT TRAVEL BEDS;

21 (XV) INFANT WALKERS;

22 (XVI) NAP COTS;

23 (XVII) NURSING PADS AND PILLOWS;

24 (XVIII) PLAY MATS;

25 (XIX) PLAYPENS;

26 (XX) PLAY YARDS;

27 (XXI) POLYURETHANE FOAM MATS, PADS, OR PILLOWS;

- 1 (XXII) PORTABLE FOAM NAP MATS;
- 2 (XXIII) PORTABLE INFANT SLEEPERS AND HOOK-ON CHAIRS;
- 3 (XXIV) SOFT-SIDED PORTABLE CRIBS; AND
- 4 (XXV) STROLLERS.
- 5 (c) "JUVENILE PRODUCT" DOES NOT INCLUDE:
- 6 (I) ELECTRONIC PRODUCTS, INCLUDING:
- 7 (A) PERSONAL COMPUTERS AND ANY ASSOCIATED EQUIPMENT;
- 8 (B) AUDIO AND VIDEO EQUIPMENT;
- 9 (C) CALCULATORS;
- 10 (D) WIRELESS PHONES;
- 11 (E) GAMING CONSOLES;
- 12 (F) HANDHELD DEVICES INCORPORATING A VIDEO SCREEN; AND
- 13 (G) ANY ASSOCIATED PERIPHERAL DEVICE SUCH AS A MOUSE,
- 14 KEYBOARD, POWER SUPPLY UNIT, OR POWER CORD;
- 15
- 16 (II) AN INTERNAL COMPONENT OF A JUVENILE PRODUCT THAT
- 17 WOULD NOT COME INTO DIRECT CONTACT WITH A CHILD'S SKIN OR MOUTH
- 18 DURING REASONABLY FORESEEABLE USE AND ABUSE OF THE PRODUCT; OR
- 19 (III) ADULT MATTRESSES.
- 20 (18) (a) "MANUFACTURER" MEANS THE PERSON THAT
- 21 MANUFACTURES OR ASSEMBLES A PRODUCT OR WHOSE BRAND NAME IS
- 22 AFFIXED TO A PRODUCT.
- 23 (b) "MANUFACTURER" INCLUDES, IF A PRODUCT IS IMPORTED INTO
- 24 THE UNITED STATES AND THE MANUFACTURER DOES NOT HAVE A
- 25 PRESENCE IN THE UNITED STATES, THE IMPORTER OR FIRST DOMESTIC
- 26 DISTRIBUTOR OF THE PRODUCT.
- 27 (19) "OIL AND GAS OPERATIONS" HAS THE MEANING SET FORTH IN

1 SECTION 34-60-103 (6.5).

2 (20) "OIL AND GAS PRODUCTS" MEANS HYDRAULIC FRACTURING
3 FLUIDS, DRILLING FLUIDS, AND PROPPANTS.

4 (21) "PACKAGE" MEANS MATERIAL THAT IS USED TO CONTAIN,
5 PROTECT, HANDLE, DELIVER, OR PRESENT A PRODUCT.

6 (22) "PACKAGING COMPONENT" MEANS AN INDIVIDUAL PART OF A
7 PACKAGE, INCLUDING INTERIOR OR EXTERIOR BLOCKING, BRACING,
8 CUSHIONING, WEATHERPROOFING, EXTERIOR STRAPPING, COATINGS,
9 CLOSURES, INKS, AND LABELS.

10 (23) "PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION
11 25-5-1302 (7).

12 (24) "PRIORITY PRODUCT" MEANS A PRODUCT THAT THE DIVISION
13 HAS IDENTIFIED AS A PRIORITY PRODUCT.

14 (25) "PRIORITY PRODUCT CATEGORY" MEANS A PRODUCT
15 CATEGORY THAT THE DIVISION HAS IDENTIFIED AS A PRIORITY PRODUCT
16 CATEGORY.

17 (26) (a) "PRODUCT" MEANS AN ITEM THAT IS MANUFACTURED,
18 ASSEMBLED, PACKAGED, OR OTHERWISE PREPARED FOR SALE TO
19 CONSUMERS AND THAT IS SOLD OR DISTRIBUTED FOR PERSONAL,
20 RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL USE, INCLUDING FOR USE IN
21 MAKING OTHER PRODUCTS.

22 (b) "PRODUCT" INCLUDES ANY PRODUCT COMPONENTS.

23 (c) "PRODUCT" INCLUDES THE PACKAGING USED FOR THE
24 PRODUCTS DESCRIBED IN SUBSECTION (25)(d)(I) AND (25)(d)(II) OF THIS
25 SECTION.

26 (d) "PRODUCT" DOES NOT INCLUDE:

27 (I) DRUGS, MEDICAL DEVICES, BIOLOGICS, OR DIAGNOSTICS

1 APPROVED OR AUTHORIZED BY THE FEDERAL FOOD AND DRUG
2 ADMINISTRATION OR THE FEDERAL DEPARTMENT OF AGRICULTURE; OR

3 (II) VETERINARY PESTICIDE PRODUCTS APPROVED BY THE FEDERAL
4 ENVIRONMENTAL PROTECTION AGENCY FOR USE IN ANIMALS.

5 (e) "PRODUCT" DOES NOT INCLUDE A USED PRODUCT OFFERED FOR
6 SALE OR RESALE.

7 (27) "PRODUCT CATEGORY" MEANS A CLASS OR DIVISION OF
8 PRODUCTS THAT SHARE RELATED CHARACTERISTICS.

9 (28) "PRODUCT COMPONENT" MEANS AN IDENTIFIABLE
10 COMPONENT OF A PRODUCT, REGARDLESS OF WHETHER THE
11 MANUFACTURER OF THE PRODUCT IS THE MANUFACTURER OF THE
12 COMPONENT.

13 (29) "PROPPANTS" MEANS MATERIALS THAT ARE INSERTED OR
14 INJECTED INTO AN UNDERGROUND GEOLOGIC FORMATION DURING OIL AND
15 GAS OPERATIONS IN ORDER TO PREVENT FRACTURES FROM CLOSING.

16 (30) "SAFER ALTERNATIVE" MEANS AN ALTERNATIVE TO THE USE
17 OF PFAS CHEMICALS IN A PRODUCT, WHICH ALTERNATIVE:

18 (a) INVOLVES A CHEMICAL SUBSTITUTE OR A CHANGE IN THE
19 MATERIALS, FUNCTION, OR DESIGN OF THE PRODUCT;

20 (b) DOES NOT INCLUDE PFAS CHEMICALS; AND

21 (c) BASED ON AVAILABLE INFORMATION, IS REASONABLY
22 BELIEVED TO POSE LESS OF A HAZARD TO PUBLIC HEALTH AND THE
23 ENVIRONMENT THAN THE USE OF PFAS CHEMICALS.

24 (31) (a) "SENSITIVE POPULATION" MEANS A CATEGORY OF PEOPLE
25 WHO ARE DISPROPORTIONATELY OR SEVERELY AFFECTED BY EXPOSURE TO
26 PFAS CHEMICALS.

27 (b) "SENSITIVE POPULATION" INCLUDES:

- 1 (I) PEOPLE OF CHILDBEARING AGE;
- 2 (II) INFANTS AND CHILDREN;
- 3 (III) PEOPLE WHO ARE PREGNANT OR NURSING;
- 4 (IV) PEOPLE WITH OCCUPATIONAL EXPOSURE; AND
- 5 (V) PEOPLE WHO ARE ELDERLY.

6 (32) "SENSITIVE SPECIES" MEANS A SPECIES OR GROUPING OF
7 ANIMALS THAT ARE DISPROPORTIONATELY OR SEVERELY AFFECTED BY
8 EXPOSURE TO PFAS CHEMICALS.

9 (33) (a) "TEXTILE" MEANS ANY PRODUCT MADE IN WHOLE OR IN
10 PART FROM A NATURAL OR SYNTHETIC FIBER, YARN, OR FABRIC.

11 (b) "TEXTILE" INCLUDES LEATHER, COTTON, SILK, JUTE, HEMP,
12 WOOL, NYLON, AND POLYESTER.

13 (c) "TEXTILE" DOES NOT INCLUDE TEXTILES USED IN MEDICAL,
14 PROFESSIONAL, OR INDUSTRIAL SETTINGS.

15 (34) (a) "TEXTILE FURNISHINGS" MEANS TEXTILES OF A TYPE
16 CUSTOMARILY USED IN HOUSEHOLDS AND BUSINESSES, INCLUDING
17 DRAPERIES, FLOOR COVERINGS, FURNISHINGS, BEDDING, TOWELS, AND
18 TABLECLOTHS.

19 (b) "TEXTILE FURNISHINGS" DOES NOT INCLUDE TEXTILE
20 FURNISHINGS USED IN MEDICAL, PROFESSIONAL, OR INDUSTRIAL SETTINGS.

21 (35) "UPHOLSTERED FURNITURE" MEANS ANY ARTICLE OF
22 FURNITURE THAT IS:

23 (a) DESIGNED FOR SITTING, RESTING, OR RECLINING; AND

24 (b) WHOLLY OR PARTIALLY STUFFED WITH FILLING MATERIAL.

25 **25-5-1404. Notification requirement - rules - [REDACTED] repeal.**

26 (1) (a) EXCEPT AS DESCRIBED IN SUBSECTION (7) OF THIS SECTION, BY THE
27 TIME SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, A MANUFACTURER

1 THAT SELLS OR DISTRIBUTES A PRODUCT THAT CONTAINS INTENTIONALLY
2 ADDED PFAS CHEMICALS FOR USE IN THE STATE SHALL SUBMIT A WRITTEN
3 NOTIFICATION TO THE EXECUTIVE DIRECTOR THAT INCLUDES:

- 4 (I) THE TRADE NAME OF THE PRODUCT;
- 5 (II) A DESCRIPTION OF THE PURPOSE THAT PFAS CHEMICALS
6 SERVE IN THE PRODUCT;
- 7 (III) THE NAME AND PHYSICAL ADDRESS OF THE MANUFACTURER;
- 8 (IV) THE NAME, PHYSICAL ADDRESS, AND PHONE NUMBER OF A
9 CONTACT PERSON FOR THE MANUFACTURER; AND
- 10 (V) ANY ADDITIONAL INFORMATION REQUIRED BY THE EXECUTIVE
11 DIRECTOR BY RULE.

12 (b) (I) (A) FOR MANUFACTURERS THAT WERE SELLING OR
13 DISTRIBUTING A PRODUCT THAT CONTAINS INTENTIONALLY ADDED PFAS
14 CHEMICALS FOR USE IN THE STATE BEFORE JANUARY 1, 2025, THE
15 MANUFACTURER SHALL SUBMIT THE WRITTEN NOTIFICATION PURSUANT TO
16 SUBSECTION (1)(a) OF THIS SECTION NO LATER THAN THIRTY DAYS BEFORE
17 JANUARY 1, 2025.

18 (B) THIS SUBSECTION (1)(b)(I) IS REPEALED, EFFECTIVE
19 DECEMBER 31, 2025.

20 (II) FOR MANUFACTURERS THAT BEGIN TO SELL OR DISTRIBUTE A
21 PRODUCT THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS FOR
22 USE IN THE STATE ON OR AFTER JANUARY 1, 2025, THE MANUFACTURER
23 SHALL SUBMIT THE WRITTEN NOTIFICATION PURSUANT TO SUBSECTION
24 (1)(a) OF THIS SECTION AT LEAST THIRTY DAYS AFTER THE
25 MANUFACTURER BEGINS SELLING OR DISTRIBUTING THE PRODUCT.

26 (2) NO LATER THAN THIRTY DAYS AFTER THE EXECUTIVE
27 DIRECTOR RECEIVES A WRITTEN NOTIFICATION UNDER SUBSECTION (1) OF

1 THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PUBLISH THE TRADE NAME
2 OF THE PRODUCT AND THE NAME OF THE MANUFACTURER OF THE PRODUCT
3 ON THE DEPARTMENT'S WEBSITE.

4 (3) UPON THE APPROVAL OF THE EXECUTIVE DIRECTOR, A
5 MANUFACTURER MAY SUPPLY THE INFORMATION, AS APPLICABLE,
6 REQUIRED UNDER SUBSECTION (1) OF THIS SECTION FOR A PRODUCT
7 CATEGORY MANUFACTURED BY THE MANUFACTURER.

8 (4) IF THERE IS A CHANGE IN THE INFORMATION PROVIDED UNDER
9 SUBSECTION (1) OR (3) OF THIS SECTION, THE MANUFACTURER SHALL
10 NOTIFY THE EXECUTIVE DIRECTOR AT LEAST THIRTY DAYS AFTER THE
11 DATE THAT THE MANUFACTURER HAS KNOWLEDGE OF THE CHANGE.

12 (5) THE EXECUTIVE DIRECTOR MAY WAIVE ALL OR PART OF THE
13 NOTIFICATION REQUIREMENT IN SUBSECTION (1) OF THIS SECTION IF THE
14 EXECUTIVE DIRECTOR DETERMINES THAT SUBSTANTIALLY EQUIVALENT
15 INFORMATION IS PUBLICLY AVAILABLE.

16 (6) THE EXECUTIVE DIRECTOR MAY:

17 (a) ENTER INTO AN AGREEMENT WITH ONE OR MORE OTHER STATES
18 OR POLITICAL SUBDIVISIONS OF A STATE TO COLLECT THE NOTIFICATIONS
19 REQUIRED UNDER SUBSECTION (1) OF THIS SECTION; AND

20 (b) ALLOW MANUFACTURERS TO SUBMIT THE NOTIFICATIONS
21 REQUIRED UNDER SUBSECTION (1) OF THIS SECTION TO A SYSTEM SHARED
22 WITH ONE OR MORE OTHER STATES OR POLITICAL SUBDIVISIONS OF A
23 STATE.

24 (7) THE EXECUTIVE DIRECTOR MAY EXTEND THE DEADLINE FOR
25 THE NOTIFICATION REQUIREMENT IN SUBSECTION (1) OF THIS SECTION IF
26 THE EXECUTIVE DIRECTOR DETERMINES THAT MORE TIME IS NEEDED BY A
27 MANUFACTURER TO COMPLY WITH THE NOTIFICATION REQUIREMENT.

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25-5-1405. Prohibition - identification of the list of priority products - █ rules. (1) █ ON AND AFTER JANUARY 1, 2024, A PERSON SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE FOR SALE, OR DISTRIBUTE FOR USE IN THE STATE ANY PRODUCT IN ANY OF THE FOLLOWING PRODUCT CATEGORIES IF THE PRODUCT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS:

- (a) CARPETS OR RUGS;
- (b) COOKWARE;
- (c) COSMETICS;
- (d) FABRIC TREATMENTS;
- (e) FOOD PACKAGING;
- (f) JUVENILE PRODUCTS;
- (g) OIL AND GAS PRODUCTS;
- (h) TEXTILE FURNISHINGS; AND
- (i) UPHOLSTERED FURNITURE.

█ █ (2) (a) ON AND AFTER JANUARY 1, 2025, THE DIVISION MAY DESIGNATE PRODUCTS OR PRODUCT CATEGORIES THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS AS PRIORITY PRODUCTS OR PRIORITY PRODUCT CATEGORIES.

(b) IN IDENTIFYING PRIORITY PRODUCTS AND PRIORITY PRODUCT CATEGORIES, THE DIVISION SHALL CONSIDER:

(I) WHETHER ANOTHER STATE OR JURISDICTION HAS RESTRICTED OR PROHIBITED A PERSON FROM SELLING, OFFERING FOR SALE, DISTRIBUTING FOR SALE, OR DISTRIBUTING FOR USE A PRODUCT OR PRODUCT CATEGORY;

(II) WHETHER A SCIENTIFIC ORGANIZATION OR FEDERAL OR STATE

1 GOVERNMENTAL AGENCY HAS DETERMINED THAT THERE IS A SAFER
2 ALTERNATIVE TO PFAS CHEMICALS IN A PARTICULAR PRODUCT OR
3 PRODUCT CATEGORY;

4 (III) WHETHER THE USE OF PFAS CHEMICALS IN A PRODUCT OR
5 PRODUCT CATEGORY CONSTITUTES A CURRENTLY UNAVOIDABLE USE; AND

6 (IV) BASED ON INFORMATION AVAILABLE TO THE DIVISION, A
7 PRODUCT'S OR PRODUCT CATEGORY'S RISK OF EXPOSING SENSITIVE
8 POPULATIONS, SENSITIVE SPECIES, AND THE OUTDOOR AND INDOOR
9 ENVIRONMENT TO PFAS CHEMICALS.

10 (c) UPON DESIGNATION OF A PRIORITY PRODUCT OR PRIORITY
11 PRODUCT CATEGORY, THE DIVISION SHALL SUBMIT A RECOMMENDATION
12 TO THE STATE BOARD OF HEALTH CREATED IN SECTION 25-1-103 (1) THAT
13 DESCRIBES WHAT ACTION IS NEEDED BY THE STATE BOARD OF HEALTH TO
14 PROHIBIT OR RESTRICT THE PRODUCTION, SALE, OR DISTRIBUTION OF THE
15 PRIORITY PRODUCTS OR PRIORITY PRODUCT CATEGORIES THAT CONTAIN
16 INTENTIONALLY ADDED PFAS CHEMICALS.

17 (d) UPON RECEIVING A RECOMMENDATION DESCRIBED IN
18 SUBSECTION (2)(c) OF THIS SECTION, THE STATE BOARD OF HEALTH
19 CREATED IN SECTION 25-1-103 (1) MAY PROMULGATE RULES PROHIBITING
20 OR RESTRICTING THE PRODUCTION, SALE, OR DISTRIBUTION OF THE
21 PRIORITY PRODUCTS OR PRIORITY PRODUCT CATEGORIES THAT CONTAIN
22 INTENTIONALLY ADDED PFAS CHEMICALS.

23 **SECTION 2.** In Colorado Revised Statutes, 24-103-904, **amend**
24 (1) as follows:

25 **24-103-904. Purchasing preference for environmentally**
26 **preferable products - definitions.** (1) As used in this section, unless the
27 context otherwise requires:

1 (a) "Environmentally preferable products" means products,
2 INCLUDING PRODUCTS THAT DO NOT CONTAIN INTENTIONALLY ADDED
3 PFAS CHEMICALS, that have a lesser or reduced adverse effect on human
4 health and the environment when compared with competing products that
5 serve the same purpose. The product comparison may consider such
6 factors as the availability of any raw materials used in the product being
7 purchased and the availability, use, production, safe operation,
8 maintenance, packaging, distribution, disposal, or recyclability of the
9 product being purchased.

10 (b) "INTENTIONALLY ADDED PFAS CHEMICALS" HAS THE MEANING
11 SET FORTH IN SECTION 25-5-1403 (16).

12 **SECTION 3.** In Colorado Revised Statutes, 25-5-1302, **add** (1.5),
13 (3.6), (5.8), (7.5), (9), and (10) as follows:

14 **25-5-1302. Definitions.** As used in this part 13, unless the context
15 otherwise requires:

16 (1.5) "CLASS B FIRE" MEANS A FIRE INVOLVING FLAMMABLE
17 LIQUIDS OR GASES, INCLUDING PETROLEUM, PAINT, ALCOHOL, SOLVENT,
18 OIL, AND TAR.

19 (3.6) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
20 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

21 (5.8) "INTENTIONALLY ADDED PFAS CHEMICALS" HAS THE
22 MEANING SET FORTH IN SECTION 25-5-1403 (16).

23 (7.5) "RELEASE" MEANS ANY SPILLING, LEAKING, PUMPING,
24 POURING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING,
25 DUMPING, OR DISPOSING OF A CHEMICAL INTO THE ENVIRONMENT.

26 (9) "TERMINAL" MEANS A FACILITY THAT ENGAGES IN THE
27 WHOLESALE DISTRIBUTION OF CRUDE PETROLEUM AND PETROLEUM

1 PRODUCTS, INCLUDING LIQUIFIED PETROLEUM GAS FROM BULK LIQUID
2 STORAGE FACILITIES.

3 (10) "WATER QUALITY SPILLS HOTLINE" MEANS THE PHONE
4 SYSTEM CREATED AND MAINTAINED BY THE DEPARTMENT FOR THE
5 REPORTING OF SPILLS OR DISCHARGES INTO STATE WATERS TO THE
6 DEPARTMENT.

7 **SECTION 4.** In Colorado Revised Statutes, 25-5-1303, **amend**
8 (2)(b) and (2)(c); and **add** (3)as follows:

9 **25-5-1303. Restriction on sale of certain firefighting foams -**
10 **exemptions - recall - rules - repeal.** (2) The restrictions in subsection
11 (1) of this section do not apply to the manufacture, sale, or distribution of
12 class B firefighting foam:

13 (b) (I) For use at a gasoline, special fuel, or jet fuel storage and
14 distribution facility that is supplied by a pipeline, vessel, or refinery; a
15 tank farm from which gasoline, special fuel, or jet fuel may be removed
16 for distribution; or a refinery.

17 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JANUARY 1,
18 2024.

19 (c) (I) For use at a chemical plant; and

20 (II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JANUARY 1,
21 2024.

22 (3) (a) BEGINNING ON JANUARY 1, 2024, THE EXECUTIVE
23 DIRECTOR, IN CONSULTATION WITH THE DIRECTOR OF THE DIVISION OF FIRE
24 PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY, MAY
25 GRANT A TEMPORARY EXEMPTION FROM THE RESTRICTIONS IN SUBSECTION
26 (1) OF THIS SECTION FOR THE PURCHASE OF CLASS B FIREFIGHTING FOAM
27 THAT IS USED TO EXTINGUISH CLASS B FIRES AT A TERMINAL.

1 (b) THE EXECUTIVE DIRECTOR MAY GRANT A TEMPORARY
2 EXEMPTION UNDER SUBSECTION (3)(a) OF THIS SECTION ONLY IF THE
3 APPLICANT PROVIDES TO THE EXECUTIVE DIRECTOR:

4 (I) CLEAR AND CONVINCING EVIDENCE THAT THERE IS NOT A
5 COMMERCIALY AVAILABLE ALTERNATIVE TO THE CLASS B FIREFIGHTING
6 FOAM THAT:

7 (A) DOES NOT CONTAIN INTENTIONALLY ADDED PFAS
8 CHEMICALS; AND

9 (B) IS CAPABLE OF SUPPRESSING A CLASS B FIRE AT A TERMINAL;

10 (II) A DESCRIPTION OF THE AMOUNT OF CLASS B FIREFIGHTING
11 FOAM CONTAINING INTENTIONALLY ADDED PFAS CHEMICALS THAT IS
12 STORED, USED, AND RELEASED AT THE TERMINAL ON AN ANNUAL BASIS;

13 (III) A DESCRIPTION OF THE STEPS TAKEN TO TRANSITION THE
14 TERMINAL TO USING ONLY CLASS B FIREFIGHTING FOAM THAT DOES NOT
15 CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS; AND

16 (IV) A DESCRIPTION OF THE CONTAINMENT MEASURES USED AT
17 THE TERMINAL TO PREVENT RELEASES OF CLASS B FIREFIGHTING FOAM
18 AND ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, AND OTHER
19 WASTE.

20 (c) A TEMPORARY EXEMPTION GRANTED UNDER SUBSECTION (3)(a)
21 OF THIS SECTION MAY NOT:

22 (I) EXCEED FIVE YEARS; OR

23 (II) BE RENEWED.

24 **SECTION 5.** In Colorado Revised Statutes, **add** 25-5-1303.5 as
25 follows:

26 **25-5-1303.5. Restriction on use of certain firefighting foams.**

27 (1) BEGINNING JANUARY 1, 2024, A PERSON THAT USES CLASS B

1 FIREFIGHTING FOAM CONTAINING INTENTIONALLY ADDED PFAS
2 CHEMICALS SHALL:

3 (a) NOT ALLOW A RELEASE OF THE CLASS B FIREFIGHTING FOAM;

4 (b) FULLY CONTAIN THE CLASS B FIREFIGHTING FOAM BY
5 IMPLEMENTING APPROPRIATE CONTAINMENT MEASURES, WHICH MAY
6 INCLUDE BUNDS AND PONDS, THAT:

7 (I) ARE CONTROLLED;

8 (II) ARE IMPERVIOUS TO PFAS CHEMICALS; AND

9 (III) DO NOT ALLOW THE CLASS B FIREFIGHTING FOAM OR ANY
10 ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, OR OTHER WASTE TO BE
11 RELEASED;

12 (c) SAFELY STORE ALL CLASS B FIREFIGHTING FOAM AND ANY
13 ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTE IN A
14 WAY THAT PREVENTS THEIR RELEASE UNTIL THE FEDERAL
15 ENVIRONMENTAL PROTECTION AGENCY HAS PUBLISHED GUIDANCE ON THE
16 PROPER DISPOSAL AND DESTRUCTION METHODS FOR PFAS CHEMICALS.
17 AFTER THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS
18 PUBLISHED GUIDANCE ON THE PROPER DISPOSAL AND DESTRUCTION
19 METHODS FOR PFAS CHEMICALS, THE PERSON THAT USES THE CLASS B
20 FIREFIGHTING FOAM CONTAINING INTENTIONALLY ADDED PFAS
21 CHEMICALS SHALL DISPOSE OF AND DESTROY THE CLASS B FIREFIGHTING
22 FOAM IN ACCORDANCE WITH SUCH GUIDANCE.

23 (d) IF THERE IS A RELEASE OF THE CLASS B FIREFIGHTING FOAM OR
24 ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, OR OTHER WASTE,
25 REPORT THE FOLLOWING INFORMATION TO THE WATER QUALITY SPILLS
26 HOTLINE WITHIN TWENTY-FOUR HOURS AFTER ITS RELEASE:

27 (I) THE TRADE NAME AND PRODUCT NAME OF THE CLASS B

1 FIREFIGHTING FOAM;

2 (II) THE QUANTITY OF CLASS B FIREFIGHTING FOAM USED THAT
3 CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS;

4 (III) THE AMOUNT AND TYPE OF PFAS CHEMICALS IN THE CLASS
5 B FIREFIGHTING FOAM; AND

6 (IV) THE AMOUNT OF CLASS B FIREFIGHTING FOAM OR ANY
7 ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTE THAT
8 IS RELEASED; AND

9 (e) DOCUMENT ANY MEASURES UNDERTAKEN PURSUANT TO THE
10 REQUIREMENTS OF THIS SECTION. IN INVESTIGATING COMPLIANCE WITH
11 THE REQUIREMENTS OF THIS SECTION, THE ATTORNEY GENERAL MAY
12 REQUEST THAT THE PERSON PROVIDE THE DOCUMENTATION CREATED
13 PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (1)(e) TO THE
14 ATTORNEY GENERAL.

15 (2) BEGINNING JANUARY 1, 2024, A PERSON THAT USES CLASS B
16 FIREFIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS
17 CHEMICALS MUST REPORT THE USE OF THE CLASS B FIREFIGHTING FOAM TO
18 THE WATER QUALITY SPILLS HOTLINE WITHIN TWENTY-FOUR HOURS AFTER
19 ITS USE.

20 (3) THE RESTRICTIONS AND REQUIREMENTS IN SUBSECTIONS (1)
21 AND (2) OF THIS SECTION DO NOT APPLY TO THE USE OF CLASS B
22 FIREFIGHTING FOAM WHERE THE INCLUSION OF PFAS CHEMICALS IS
23 REQUIRED OR AUTHORIZED BY FEDERAL LAW, INCLUDING 14 CFR 139, OR
24 IMPLEMENTED IN ACCORDANCE WITH FEDERAL AVIATION ADMINISTRATION
25 GUIDANCE, OR OTHERWISE REQUIRED FOR A MILITARY PURPOSE.

26 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-5-1307 as
27 follows:

1 **25-5-1307. Civil penalty.** (1) A manufacturer or a person who
2 violates ~~the provisions of this part 13~~ is subject to a civil penalty not to
3 exceed five thousand dollars for each violation in the case of a first
4 offense. A manufacturer or a person who violates this part 13 repeatedly
5 is subject to a civil penalty not to exceed ten thousand dollars for each
6 repeat offense. Penalties collected under this part 13 must be deposited
7 in the local firefighter safety and disease prevention fund created in
8 section 24-33.5-1231.

9 (2) THE ATTORNEY GENERAL HAS THE AUTHORITY TO ENFORCE
10 THIS PART 13 AND TO CONDUCT CIVIL INVESTIGATIONS AND BRING CIVIL
11 ACTIONS FOR VIOLATIONS OF THIS PART 13.

12 **SECTION 7.** In Colorado Revised Statutes, 25-5-1309, **amend**
13 (1) introductory portion as follows:

14 **25-5-1309. Restriction on the use of certain firefighting foam**
15 **at certain airports - definitions.** (1) Beginning January 1, 2023 2024,
16 the use of class B firefighting foam that contains intentionally added
17 perfluoroalkyl and polyfluoroalkyl substances shall be prohibited at
18 structures used for the storage or maintenance of aircraft where the
19 structure is located in an airport that:

20 **SECTION 8.** In Colorado Revised Statutes, 8-20-206.5, **amend**
21 (7)(c)(II) and (7)(c)(III)(B); and **add** (7)(c)(IV) as follows:

22 **8-20-206.5. Environmental response surcharge - liquefied**
23 **petroleum gas and natural gas inspection fund - perfluoroalkyl and**
24 **polyfluoroalkyl substances cash fund - definitions.** (7) (c) Money in
25 the fund is continuously appropriated for costs related to:

26 (II) Administering the perfluoroalkyl and polyfluoroalkyl
27 substances take-back program and purchasing and disposing of eligible

1 materials under the take-back program in accordance with section
2 25-5-1311; and

3 (III) Providing technical assistance in locating and studying
4 perfluoroalkyl and polyfluoroalkyl substances to communities,
5 stakeholders, and regulatory boards or commissions for the following
6 purposes:

7 (B) Identifying safe disposal methods of materials containing
8 perfluoroalkyl and polyfluoroalkyl substances; AND

9 (IV) ADMINISTERING AND IMPLEMENTING SECTIONS 25-5-1404
10 AND 25-5-1405.

11 **SECTION 9. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.