

## ACT 131 GUIDANCE

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*An act relating to regulating consumer products containing perfluoroalkyl and polyfluoroalkyl substances or other chemicals*

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**Act 131 is available here: [ACT131 As Enacted.pdf](#).**

On May 30, 2024, Governor Phil Scott signed S.25 into law as Act 131. It is codified in Vermont Statutes Annotated, Title 9, chapter 63, subchapter 12.

A key aspect of the law is that it prohibits manufacturers from intentionally adding perfluoroalkyl and polyfluoroalkyl substances (“PFAS”) to menstrual products, cosmetic products, certain consumer products, and food packaging. It also imposes some restrictions on the use and sale of PFAS-containing class B firefighting foam and personal protective equipment. For cosmetic and menstrual products and food packaging, there are provisions restricting other chemicals, too.

The Attorney General’s Office publishes this guidance to provide the public with a general understanding of the basic contours of the law. It is not intended to be an exhaustive summary, nor should it be construed as legal advice. Potentially affected individuals and entities are encouraged to seek the advice of their own legal counsel to determine the law’s applicability to their unique circumstances.

***Important note:*** Future legislation may supersede or modify Act 131. In particular, Section 9 of Act 131 required the Agency of Natural Resources to submit an “implementation plan developed pursuant to this section and corresponding draft legislation” to the Legislature. Potentially affected individuals and entities should monitor future legislation.

Questions should be directed to the Vermont Attorney General’s Office:  
[AGO.PFASproducts@vermont.gov](mailto:AGO.PFASproducts@vermont.gov) or 802-828-3171.

## KEY DEFINITIONS

### ***What is a perfluoroalkyl or polyfluoroalkyl substance?***

Act 131 defines perfluoroalkyl and polyfluoroalkyl substances (“PFAS”) as “a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.” This definition is consistent throughout Act 131 and can be found in the sections regulating cosmetic and menstrual products (9 V.S.A. § 2494a(8)); the enumerated consumer products (9 V.S.A. § 2494e(13)); firefighting agents and equipment (9 V.S.A. § 2494p(5)); and food packaging (9 V.S.A. § 2494w(8)).<sup>1</sup>

### ***What is a manufacturer?***

Like “PFAS,” the definition of “manufacturer” is consistent throughout the law.

For products made or assembled inside the United States, a manufacturer “means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers.” 9 V.S.A. §§ 2494a(5), 2494e(9), 2494p(3). A distributor or retailer is not considered a manufacturer for products made or assembled inside the U.S. *Id.*

For products made or assembled outside the United States, a manufacturer also includes “the importer or first domestic distributor of the consumer product.” 9 V.S.A. §§ 2494a(5), 2494e(9), 2494p(3).

### ***What is “intentionally added” PFAS?***

“Intentionally added” means “the addition of a chemical in a product that serves an intended function in the product component.” 9 V.S.A. §§ 2494a(4), 2494e(7), 2494p(2), 2494w(4). This means the ban applies when PFAS is in a portion of the product, i.e., a product component. There is no requirement that a banned chemical be intentionally added to the entire product.

✓ ***Please see the Glossary for other statutory definitions.***

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<sup>1</sup> As of January 1, 2026, the law repeals the following preexisting provisions because they have been moved to another part of Vermont statutes: 18 V.S.A. chapter 33 (PFAS in firefighting agents and equipment); 18 V.S.A. chapter 33A (chemicals of concern in food packaging), 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and water resistant treatments), and 18 V.S.A. chapter 33C (PFAS in ski wax). *See* Act 131, Sec. 10 (Repeal; PFAS in Various Consumer Products).

# REGULATION OF PFAS IN COSMETIC PRODUCTS, MENSTRUAL PRODUCTS, CERTAIN CONSUMER PRODUCTS, AND FOOD PACKAGING

## ***What conduct is prohibited?***

The new law prohibits manufacturers from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont any cosmetic product, menstrual product, certain consumer products, or food packaging to which PFAS has been intentionally added in any amount. *See* 9 V.S.A. §§ 2494b(a)(2) (PFAS ban in cosmetic and menstrual products), 2494f-2494m (certain consumer products), and 2494x(a) (food packaging).

## ***Which products does the ban apply to?***

- Cosmetic products (9 V.S.A. § 2494b(a)(2))
- Menstrual products (9 V.S.A. § 2494(a)(2))
- Aftermarket stain and water-resistant treatments (9 V.S.A. § 2494f)
- Artificial turf (9 V.S.A. § 2494g)
- Cookware (9 V.S.A. § 2494h)
- Incontinency protection products (9 V.S.A. § 2494i)
- Juvenile products (9 V.S.A. § 2494j)
- Residential rugs and carpets (9 V.S.A. § 2494k)
- Ski wax (9 V.S.A. § 2494l)
- Textiles and textile articles, including apparel (9 V.S.A. § 2494m)
- Food packaging (9 V.S.A. § 2494x)

## ***When does the law go into effect?***

Most of the bans take effect on January 1, 2026. *See* Act 131, Sec. 13. See the sections below for effective dates of different products.

## ***Where can I find definitions for all the different products?***

The Glossary at the end of this Guidance has the statutory definitions for all the products.

## ***What about artificial turf?***

The artificial turf provision also states that it applies to PFAS that has entered the turf from manufacturing or processing, if known or reasonably ascertainable by the manufacturer. 9 V.S.A. § 2494g.

### ***How does the textiles provision work?***

“Textiles” and “textile articles” are subject to the ban if “regulated PFAS” have been added in any amount. 9 V.S.A. § 2494m(a). This means that either:

(A) PFAS has been intentionally added to a product that has a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; OR

(B) PFAS is present in a product or product component at or above 100 parts per million, as measured in total organic fluorine.

9 V.S.A. § 2494e(15).

- ➔ Beginning on July 1, 2027, the threshold in (B) becomes 50 parts per million. 9 V.S.A. § 2494e(15); Act 131, Sec. 5.
- ➔ Outdoor apparel for severe wet conditions is not included until July 1, 2028. 9 V.S.A. § 2494e(3); Act 131, Secs. 4 (amendment to apparel definition) and 13(3) (effective date of amendment to apparel definition).
- ➔ Clothing items for exclusive use by the U.S. Armed Forces and personal protective equipment are not considered “apparel” and thus fall outside of the PFAS ban. 9 V.S.A. § 2494e(3).

### ***What is the food packaging ban?***

It applies to any food package where PFAS has been intentionally added and is present in any amount. 9 V.S.A. § 2494x.

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*The food packaging ban has two special provisions:*

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- *It applies to inks, dyes, pigments, adhesives, stabilizer, coatings, plasticizers, or any other additives to which ortho-phthalates have been intentionally added and are present in any amount. 9 V.S.A. § 2494x(c).*
  - *The Vermont Department of Health can adopt a rule banning bisphenols in food packaging under certain circumstances. 9 V.S.A. § 2494x(b).*
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### ***What are the exceptions to the PFAS bans?***

- ➔ If cosmetic and menstrual products are made through “manufacturing processes intended to comply with” the PFAS ban, it would not violate the law if they contain a “technically unavoidable trace quantity” of PFAS if the trace quantity is caused by impurities of “(1) natural or synthetic ingredients; (2) the manufacturing process; (3) storage; or (4) migration from packaging.” 9 V.S.A. § 2494b(b).
- ➔ The PFAS ban does not apply to the sale or resale of *used* aftermarket stain and water-resistant treatments, cookware, juvenile products, rugs and carpets, ski wax, textiles, and food packaging. 9 V.S.A. §§ 2494f, 2494h, 2494j, 2494k, 2494l, 2494m, 2494x.

## **FIREFIGHTING FOAM AND PERSONAL PROTECTIVE EQUIPMENT**

There are four main provisions about firefighting foam and personal protective equipment.

- 1) No one can discharge or use for training or testing purposes class B firefighting foam that contains intentionally added PFAS. 9 V.S.A. § 2494q.
- 2) In general, the law prohibits a manufacturer of class B firefighting foam from manufacturing, selling, offering for sale, or distributing for sale or use in Vermont class B firefighting foam if the foam contains intentionally added PFAS. 9 V.S.A. § 2494r(a). *But:*
  - ➔ A person who operates a terminal may purchase class B firefighting foam containing intentionally added PFAS if they obtain a temporary exemption from the Department of Environmental Conservation. To obtain an exemption, a terminal operator must fulfill certain statutory criteria. 9 V.S.A. § 2494r(b).
  - ➔ A terminal can provide class B firefighting foam to another terminal if there’s a class B fire. 9 V.S.A. § 2494r(c).
- 3) Manufacturers that sell firefighting equipment must provide written notice to a purchaser at the time of sale if the equipment contains PFAS and state the reason the equipment contains PFAS. Both the seller and the purchaser must retain the notice for at least three years. 9 V.S.A. § 2494s.
- 4) Manufacturers of class B firefighting foam containing intentionally added PFAS also have to provide written notice about Act 131’s restrictions to anyone selling their foam in Vermont, recall and reimburse for the foam (unless it’s for a terminal with an exemption), and issue a press release or website notice about the recall and reimbursement. 9 V.S.A. § 2494t.

## ADDITIONAL CHEMICALS BANNED FROM COSMETIC AND MENSTRUAL PRODUCTS

In addition to PFAS, Act 131 prohibits manufacturers from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont any cosmetic product or menstrual product with certain other intentionally added chemicals or chemical classes. 9 V.S.A. § 2494b(a). The 17 chemicals will be phased in over time. In the first phase, 14 chemical or chemical classes will be prohibited, with the 3 remaining chemicals to follow.

➔ By January 1, 2026:

1. Ortho-phthalates
2. PFAS
3. Formaldehyde (CAS 50-00-0)
4. Methylene glycol (CAS 463-57-0)
5. Mercury and mercury compounds (CAS 7439-97-6)
6. 1, 4-dioxane (CAS 123-91-1)
  - ✓ In addition to banning products with 1, 4-dioxane intentionally added in any amount, the law has a flat prohibition on products with 1, 4-dioxane at or exceeding 10 parts per million. 9 V.S.A. § 2494b(c).
7. Isopropylparaben (CAS 4191-73-5)
8. Isobutylparaben (CAS 4247-02-3)
9. Lead and lead compounds (CAS 7439-92-1)
10. Asbestos
11. Triclosan (CAS 3380-34-5)
12. M-phenylenediamine and its salts (CAS 108-42-5)
13. O-phenylenediamine and its salts (CAS 95-54-5)
14. Quaternium-15 (CAS 51229-78-8)

*See Act 131, Sec. 13(1) (effective date); 9 V.S.A. § 2494b(a)(1)-(14).*

➔ By July 1, 2027:

15. styrene (CAS 100-42-5)
16. octamethylcyclotetrasiloxane (CAS 556-67-2)
17. toluene (CAS 108-88-3)

*See Act 131, Sec. 13(2) (effective date); 9 V.S.A. § 2494b(a)(15)-(17).*

### ***Are there any exceptions?***

A cosmetic or menstrual product made through manufacturing processes intended to comply with the law but containing technically unavoidable trace quantities of a prohibited chemical or chemical class will not violate the law if it has trace quantities caused by impurities of (1) natural or synthetic ingredients; (2) the manufacturing process; (3) storage; or (4) migration from packaging. 9 V.S.A. § 2494b(b)(1)-(4).

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*There is a special provision for formaldehyde-releasing agents:*

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- *The Vermont Department of Health can adopt a rule banning formaldehyde-releasing agents in cosmetic and menstrual products under certain circumstances. 9 V.S.A. § 2494b(d).*

## **COMPLIANCE AND ENFORCEMENT**

### ***How is the law enforced and what are the consequences of a violation?***

Violations of Act 131 are deemed to be violations of the Vermont Consumer Protection Act. The Attorney General has the same authority it has under the Vermont Consumer Protection Act to adopt rules, conduct investigations, enter settlements, and bring civil enforcement actions. 9 V.S.A. §§ 2494c, 2494o, 2494v, 2494z.

- ➔ Enforcement may include things like an order to stop prohibited acts, civil penalties, and restitution. 9 V.S.A. § 2458.
- ➔ Private parties also have the same rights and remedies as they do under the Vermont Consumer Protection Act. 9 V.S.A. § 2494c(b).

### ***What is a certificate of compliance?***

A certificate the Attorney General can request from a manufacturer attesting that the manufacturer's product complies with Act 131. A manufacturer can rely on a certificate of compliance from a supplier in making this certification. If a manufacturer can't make the required certification, the manufacturer needs to provide a notification to persons selling the product and send a list of notified parties to the Attorney General.

### ***What products does the certificate of compliance apply to?***

- Aftermarket stain and water-resistant treatments
- Artificial turf
- Cookware

- Incontinency protection products
- Juvenile products
- Residential rugs and carpets
- Ski wax
- Textiles and textile articles, including apparel
- Food packaging
- Class B firefighting foam
- Firefighting personal protective equipment
- Food packaging

9 V.S.A. §§ 2494n (consumer products), 2494u (foam and PPE), 2494y (food packaging).

***Is there any flexibility in the compliance deadlines?***

The Attorney General can postpone a compliance date for up to one year if the Attorney General determines it is not feasible to produce a particular consumer product by the compliance date. The burden is on the manufacturer to make the showing. *See Act 131, Sec. 11.*

## OTHER PROVISIONS

- ✓ **Community Engagement Plan.** Act 131 directs the Vermont Department of Health to develop a community engagement plan on chemicals of concern in cosmetic and menstrual products, with particular emphasis on the impact of these products on marginalized communities. *See Act 131, Sec. 8.*
- ✓ **Implementation Plan; Consumer Products Containing PFAS.** The Act directs the Agency of Natural Resources—in consultation with the Vermont Department of Health, the Vermont Agency of Agriculture, Food and Markets, and the Vermont Attorney General’s Office—to propose a program and draft legislation for restricting PFAS in consumer products. *See Act 131, Sec. 9.*
- ✓ **Lead in Cosmetic Products.** The Act directs the Vermont Department of Health to evaluate Washington’s experience with a one part per million lead limit in cosmetic products, and present its findings to the Legislature. *See Act 131, Sec. 12.*



## GLOSSARY

“Adult mattress” means a mattress other than a crib or toddler mattress. 9 V.S.A. § 2494e(1).

“Aftermarket stain and water resistant treatments” means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance, but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe. 9 V.S.A. § 2494e(2).

“Apparel” means any of the following: (A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces, outdoor apparel for severe wet conditions, and personal protective equipment. (B) Outdoor apparel. 9 V.S.A. § 2494e(3).

- As of July 1, 2028, “Apparel” means any of the following: (A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces and personal protective equipment. (B) Outdoor apparel. (C) Outdoor apparel for severe wet conditions. Act 131, Sec. 4; 9 V.S.A. § 2494e(3).

“Artificial turf” means a surface of synthetic fibers that is used in place of natural grass in recreational, residential, or commercial applications. 9 V.S.A. § 2494e(4).

“Bisphenols” means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins. 9 V.S.A. § 2494a(1).

“Class B firefighting foam” means chemical foams designed for flammable liquid fires. 9 V.S.A. § 2494p(1).

“Cookware” means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages and that are intended for direct food contact, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils. 9 V.S.A. § 2494e(5).

“Cosmetic product” means articles or a component of articles intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body or any part thereof for cleansing, promoting attractiveness, or improving or altering appearance, including those intended for use by professionals. “Cosmetic product” does not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration. 9 V.S.A. § 2494a(2).

“Department” means the Department of Health. 9 V.S.A. § 2494w(2).

“Food package” or “food packaging” means a package or packaging component that is intended for direct food contact. 9 V.S.A. § 2494w(3).

“Formaldehyde-releasing agent” means a chemical that releases formaldehyde. 9 V.S.A. § 2494a(3).

“Incontinency protection product” means a disposable, absorbent hygiene product designed to absorb bodily waste for use by individuals 12 years of age and older. 9 V.S.A. § 2494e(6).

“Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component. 9 V.S.A. §§ 2494a(4), 2494e(7), 2494p(2), and 2494w(4).

“Juvenile product” means a product designed or marketed for use by infants and children under 12 years of age: (A) including a baby or toddler foam pillow; bassinet; bedside sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-in chair; soft-sided portable crib; stroller; toddler mattress; and disposable, single-use diaper; and (B) excluding a children’s electronic product, such as a personal computer, audio and video equipment, calculator, wireless phone, game console, handheld device incorporating a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, or power cord; a medical device; or an adult mattress. 9 V.S.A. § 2494e(8).

“Manufacturer” means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. “Manufacturer” excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a “manufacturer” includes the importer or first domestic distributor of the consumer product. 9 V.S.A. §§ 2494a(5), 2494e(9), and 2494p(3).

“Medical device” has the same meaning given to “device” in 21 U.S.C. § 321. 9 V.S.A. § 2494e(10).

“Menstrual product” means a product used to collect menstruation and vaginal discharge, including tampons, pads, sponges, menstruation underwear, disks, applicators, and menstrual cups, whether disposable or reusable. 9 V.S.A. § 2494a(6).

“Municipality” means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter. 9 V.S.A. § 2494p(4).

“Ortho-phthalates” means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position. 9 V.S.A. §§ 2494a(7), and 2494w(5).

“Outdoor apparel” means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing. 9 V.S.A. § 2494e(11).

“Outdoor apparel for severe wet conditions” means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering. 9 V.S.A. § 2494e(12).

“Package” means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. “Package” also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs. 9 V.S.A. § 2494w(6).

“Packaging component” means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels, and disposable gloves used in commercial or institutional food service. 9 V.S.A. § 2494w(7).

“Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. 9 V.S.A. §§ 2494a(8), 2494e(13), 2494p(5), and 2494w(8).

“Personal protective equipment” means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, and includes jackets, pants, shoes, gloves, helmets, and respiratory equipment. 9 V.S.A. § 2494p(6).

“Professional” means a person granted a license pursuant to 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology, manicuring, or esthetics. 9 V.S.A. § 2494a(9).

“Regulated perfluoroalkyl and polyfluoroalkyl substances” or “regulated PFAS” means: (A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or (B) the presence of PFAS in a product or product

component at or above 100 parts per million, as measured in total organic fluorine. 9 V.S.A. § 2494e(15).

- As of July 1, 2027, “Regulated perfluoroalkyl and polyfluoroalkyl substances” or “regulated PFAS” means: (A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or (B) the presence of PFAS in a product or product component at or above 50 parts per million, as measured in total organic fluorine. Act 131, Sec. 5; 9 V.S.A. § 2494e(15).

“Rug or carpet” means a fabric marketed or intended for use as a floor covering. 9 V.S.A. § 2494e(16).

“Ski wax” means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties. 9 V.S.A. § 2494e(17).

“Terminal” means an establishment primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid storage facilities. 9 V.S.A. § 2494p(7).

“Textile” means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include single-use paper hygiene products, including toilet paper, paper towels, tissues, or single-use absorbent hygiene products. 9 V.S.A. § 2494e(18).

“Textile articles” means textile goods of a type customarily and ordinarily used in households and businesses, and includes apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does not include: (A) a vehicle, as defined in 1 U.S.C. § 4, or its component parts; (B) a vessel, as defined in 1 U.S.C. § 3, or its component parts; (C) an aircraft, as defined in 49 U.S.C. § 40102(a)(6), or its component parts; (D) filtration media and filter products used in industrial applications, including chemical or pharmaceutical manufacturing and environmental control technologies; (E) textile articles used for laboratory analysis and testing; and (F) rugs or carpets. 9 V.S.A. § 2494e(19).

----- January 2025 -----