



NEWMOA PFAS Model Legislation

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Agenda

- Background on NEWMOA.
- Overview of Model Legislation.
- Comments from meeting participants.

The Draft Model Legislation does not necessarily represent the views of individual Workgroup members or the Agencies they represent, nor is NEWMOA taking an official position regarding the legislation.

Background

- The Northeast Waste Management Officials Association (NEWMOA) is a non-profit corporation with a purpose to coordinate amongst the New England States and is made up of: CT, MA, ME, NH, NJ, NY, RI, and VT.
- NEWMOA Board of Directors formed a subcommittee to develop draft legislation for banning PFAS in consumer products.
- The subcommittee met over the winter and developed the legislation that was forwarded to you. It was loosely modeled on aspects of the mercury reduction and labeling legislation and aspects of the toxics and packaging clearinghouse.
- The NEWMOA Board approved the draft legislation at our spring meeting.
- A 60 day public comment period on the draft legislation is open and will close June 29, 2023.

Sec. 3. Definitions

- **“Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means:** all members of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- **“Intentionally added PFAS” means:** the PFAS added to a product or one of its product components, or PFAS or precursors added to a product during its manufacture, processing, packaging, or storage. “Intentionally added PFAS” also includes any degradation by- products of PFAS. The use of PFAS or precursors as a processing agent, mold release agent or any other source of PFAS in the product that is reasonably known to be present is considered intentional introduction for the purposes of this Act.
- **“PFAS-added product” means:** (1) a product, commodity, chemical, or a product component that was manufactured after the effective date of this act; and (2) that contains PFAS intentionally added to the product, commodity, chemical, or product component. These products include formulated PFAS-added products, packaging, and fabricated PFAS-added products

Sec. 4. Interstate Clearinghouse

- Creates an interstate clearinghouse that is along the lines of clearinghouses created for mercury (IMERC), toxics in packaging (TPCH), and the interstate chemicals clearinghouse (IC2)

Sec. 5. Notification

- Takes effect two years after adoption.
- All products containing PFAS are required to notify that they are being sold in the jurisdiction.
- There is information on how much and what types of PFAS are being added to the product. A manufacturer is also required to provide contact information.
- Notifications are required to be updated when there is a change to the product.
- Failure to notify results in ban of the product in the jurisdiction.

Sec. 6. PFAS Restrictions

- Effective three years after adoption.
- All PFAS added products are banned unless there is an unavoidable use.
- Manufacturer can apply for an unavoidable use by showing:
 - The product has a benefit to the environment, public health, or public safety (recycling is deemed beneficial).
 - There is no technically feasible alternative with less risk to human health or the environment.
 - No comparable non-PFAS product at comparable cost.
 - Products determined to have an unavoidable use must continue to notify, label, and take back PFAS-added product.

Sec. 7. Certification of Compliance

- Modeled off TPCB certifications of compliance.
- Allows Agency or downstream manufacturer in the supply chain to request a certification of compliance.
- Manufacturer required to update certification of compliance if there is reformulation.

Sec. 8. Labeling

- Applies to products with an unavoidable use.
- When the product or a component is PFAS-added the product must be labeled.
- The label must be visible prior to sale and affixed to the product in a manner that will last for the life of the product.
- The jurisdiction can approve alternative labeling plans (similar to mercury labeling).

Sec. 9. Producer Responsibility

- Applies to products that have an unavoidable use.
- Requires that the manufacturers establish a producer responsibility organization to take back PFAS-added products.
- Has to contain a public education program, performance goals for collection, and appropriate management of PFAS containing materials.

Other Legislative Elements

- Sec. 2. Legislative Findings. Outlines the health impacts of PFAS, it's prevalence in products, and need to focus on eliminating PFAS from consumer products.
- Sec. 10. PFAS free product procurement. Establishes a preference for the jurisdiction purchasing PFAS free products.
- Secs 11 (Rulemaking), 12 (Enforcement), 13 (Public Notification), 15 (Severability), and 16 (Effective Date) are placeholder sections for state specific aspects of the law.
- Sec. 14. Program Review. Four and eight years after adoption, there is a review of the program and recommendation for changes.



- Comment on the Draft Model Legislation. Comment period ends June 29, 2023.
- <https://www.newmoa.org/programs/pfas/pfas-model-legislation/>
- Please submit your comments and suggested edits to publiccomments@newmoa.org.