

From: [REDACTED]
To: [REDACTED]
Subject: RE: Arkansas bans PFAS-containing firefighting foams in training, testing
Date: 17 March 2021 15:54:57

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Thanks [REDACTED]

It would be interesting to follow up on the Australian ban to see how they formulate the exemptions. I'm surprised by the use of treat HDPE containers. I think we will be discovering many "new" uses with the broad restriction ..

On the food contact materials, I think we should move away from single-use packaging, starting from take-out food. Re-usable containers with a deposit is the way forward. We start to see the first examples here in Brussels.

[REDACTED]

From: [REDACTED] <[REDACTED]>
Sent: Wednesday, March 17, 2021 2:01 PM
To: [REDACTED] (ENV) <[REDACTED]>
Subject: Arkansas bans PFAS-containing firefighting foams in training, testing

Hello [REDACTED]

I share with you some articles from Chemical Watch on PFAS which might be of interest to you.

<https://chemicalwatch.com/231003/arkansas-bans-pfas-containing-firefighting-foams-in-training-testing>

Arkansas bans PFAS-containing firefighting foams in training, testing

12 March 2021

State joins an increasing number of US states restricting PFAS use

Arkansas has become the latest US state to limit the use of class B firefighting foams that contain per- and polyfluoroalkyl substances (PFASs).

Governor Asa Hutchinson signed HB 1351 on 11 March, banning PFAS-containing firefighting foams in training and testing from 1 January 2022. The measure calls for non-fluorinated alternatives in firefighter training, conducted in ways that facilitate the collection of spent foam.

The law makes an exception where testing is required by another law or ordinance, given the testing site has proper control, treatment and clean up strategies to keep chemicals from entering the environment. It also does not prohibit the manufacture, sale, distribution or emergency use of firefighting foam.

Several other states have pursued legislation to restrict PFASs in firefighting foam, such as [California](#), [Colorado](#), [Michigan](#), Minnesota, [New Hampshire](#) and Wisconsin.

States are also [increasingly](#) considering or enacting PFAS restrictions in food packaging and other products. They include Arizona, [California](#), [Connecticut](#), Iowa, [Maine](#), Maryland, [New York](#), Oregon, Vermont, Virginia and [Washington](#).

<https://chemicalwatch.com/225013/new-south-wales-to-ban-most-uses-of-pfas-containing-firefighting-foams-next-year>

New South Wales to ban most uses of PFAS-containing firefighting foams next year

04 March 2021

Some exemptions for foams used in response to 'catastrophic' fires

The government of New South Wales in Australia will ban most uses of firefighting foams containing per- and polyfluorinated substances (PFASs) in the state from 26 September 2022. Environment minister Matt Kean said they will also be banned for all training and demonstration purposes in the state from 1 April this year.

The Protection of the Environment Operations (General) Amendment (PFAS firefighting foam) Regulation 2021 will:

- restrict the use of long-chain PFAS firefighting foam; and
- restrict the use and sale of PFAS firefighting foam in portable fire extinguishers.

The EPA is introducing the restrictions in stages over the next 19 months to allow enough time to change systems and practices.

"These changes will make the phase-out mandatory across NSW. We have already seen some businesses and government agencies voluntarily phase out PFAS foam in their products and practices," said Mr Kean.

However, the Regulation contains an exemption that allows the use of long-chain PFAS firefighting foam in response to a 'catastrophic' fire, defined as one "involving a combustible accelerant, including petrol, kerosene, oil, tar, paint or polar solvents including ethanol". The NSW EPA is also developing an exemption application process that will enable industry to use the foams in certain other circumstances, for example at high-risk sites.

Nick Zovko, regulatory policy manager at Chemistry Australia, told Chemical

Watch that the Regulation is the first step towards achieving the agreed objectives in the National PFAS position statement, which the NSW government has endorsed (see box).

The Department of Defence began phasing out its use of firefighting foam containing specific types of PFASs – perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) – in 2004. Australia had been using the fluorinated firefighting foams since the 1970s.

The state of South Australia was the first to ban the use of PFAS firefighting foams in January 2018, followed by Queensland in July 2019.

Last April, the Australian government also faced the country's biggest-ever PFAS [class action](#) lawsuit, with up to 40,000 people claiming they had been affected by PFAS pollution at and around defence sites, with property values subsequently plummeting.

In February 2020, the government reached an in-principle agreement to settle three separate class actions in Williamstown, NSW; Oakey, Queensland; and Katherine, Northern Territory.

PFAS management plan

In May last year, Australia published a national PFAS position statement as an addition to the Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination, which came into effect in February 2018. The position statement lists a set of nationally-agreed objectives for reducing future PFAS use in the country.

The Australian government said this was the "best way to communicate a nationally-agreed stance on PFAS chemicals of concern, ahead of more targeted and detailed consultation with users of PFASs and other stakeholders".

<https://chemicalwatch.com/229182/us-epa-to-investigate-pfas-contamination-from-fluorinated-containers>

US EPA to investigate PFAS contamination from fluorinated containers

10 March 2021

Discovery in pesticide packaging could mean wider problem, agency action

The US EPA has begun an investigation into per- and polyfluoroalkyl substance (PFAS) contamination associated with fluorinated plastic containers, in an expansion of its priority PFAS work that could prompt industry to explore alternatives.

The EPA's research stems from the discovery of eight PFASs leaching from

fluorinated high-density polyethylene (HDPE) containers into a mosquito control product inside, at small concentrations ranging from 20-50 parts per billion (ppb). But because this type of packaging holds many industrial chemicals regulated through TSCA and the Federal Insecticide, Fungicide and Rodenticide Act (Fifra), these findings could point to a broader problem.

"EPA is using its authorities under Fifra and TSCA to work with other federal agencies, industry, states and localities to gather more information about the potential scope of this contamination and to evaluate whether other products may be affected," an EPA spokesperson told Chemical Watch.

The fluorination of HDPE containers creates a chemical barrier to prevent changes in chemical composition. The technology improves container stability, and is intended to make packaging less permeable, reactive and dissolvable, according to the agency.

However, now that the release of PFASs from these containers has come to light, the market may consider adopting other chemically resistant storage technologies to avoid product adulteration and litigation, an industry observer said.

In the meantime, the EPA is analysing various container brands for PFAS leaching and evaluating the factors behind it. And it plans to examine fluorinated packaging's possible environmental and health effects.

It is collaborating with the US Food and Drug Administration, the US Department of Agriculture and trade groups to create awareness about PFASs migrating out of fluorinated containers and to guide their handling. It recommends that the pesticide sector look into other existing options, such as steel drums or non-fluorinated HDPE.

The EPA learned of the PFAS contamination last September, through testing of the mosquito-exterminating substance in Massachusetts by nonprofit Public Employees for Environmental Responsibility. In January, the agency concluded from its own studies that the PFASs probably resulted from a chemical reaction during fluorination.

It issued a TSCA subpoena to the company that fluorinated the packaging to better understand that method as part of this investigation.

As the EPA's efforts unfold, trade organisations are engaging in the process.

"We encouraged companies to communicate with their supply chain or packaging suppliers to address any potential concerns with fluorinated containers," said Dr Steve Bennett, senior vice president of scientific and regulatory affairs at the Household and Commercial Products Association. HCPA will continue cooperating with the EPA and members to tackle the problem, he said.

While the American Chemistry Council is also consulting different stakeholders to promote greater understanding of this PFAS issue, it noted that "it's premature to draw specific conclusions until further work is conducted by EPA."

<https://chemicalwatch.com/228550/california-considers-cookware-disclosure-mandate-pfas-food-packaging-ban>

California considers cookware disclosure mandate, PFAS food packaging ban

09 March 2021

Massachusetts also mulls restrictions on fluorinated kitchenware

California legislators are considering a bill that would ban PFASs in food packaging and require disclosure for cookware that contains any one of thousands of substances of concern – a signal of continued state [pressure](#) on the types of chemicals used in food contact materials.

As amended last week, California's AB 1200 would have the state follow in the footsteps of [New York](#), [Maine](#) and [Washington](#) in adopting restrictions on the distribution and sale of food packaging containing intentionally added per- and polyfluoroalkyl substances (PFASs).

However, the measure seeks to go further by also addressing a broad range of chemicals of concern in cookware, including pots and pans, baking sheets, kitchen tools, trays and spatulas.

These products would have to bear a label regarding the presence of chemicals of concern, if they contain any of around 2,300 substances listed as 'candidate chemicals' by the state's Department of Toxic Substances Control. The warning labels would point product users to an internet site where manufacturers would make available additional information on the chemicals present in the cookware.

Both the PFAS ban and disclosure requirements would take effect 1 January 2022, under the current version of the legislation.

California's bill is just one of an [array of measures](#) being considered at the state level focused on substances of concern in food contact materials.

Massachusetts, for example, has introduced companion bills (HD 2994 / SD 1853) that would prohibit the sale or distribution of cookware containing intentionally added PFASs. That ban would also extend to child passenger restraints, personal care products and certain textiles and treatments.

Connecticut, Iowa, Maryland, Minnesota, New Jersey and Oregon, meanwhile, are all considering legislation that would restrict PFAS use in food packaging, according to Chemical Watch's US state legislation tracker.

<https://chemicalwatch.com/225679/washington-states-pfas-alternatives-finding-could-encourage-broader-action>

Washington state's PFAS alternatives finding could encourage broader action

Lack of alternatives for many types of food packaging illustrate challenges ahead

Washington state's [recent finding](#) of safer alternatives to per- and polyfluoroalkyl substances (PFASs) in certain food packaging applications could add further momentum to growing action against the substance class across the US, experts have said.

At the same time, states and businesses interested in eliminating these substances may need further research pointing to viable PFAS replacements before a wide-scale shift in food packaging can occur.

Given the sluggish pace of national standards, states like Washington "tend to get out front and hurry things along", said Mark Johnson, senior vice president of policy and government affairs at the Washington Retail Association. That can be onerous for retailers as they try to keep up with a "patchwork" of regulations in different states, especially in Washington, which constitutes just 2% of the national market, he said.

The patchwork of rules for PFASs could soon expand to Maine, which has a [similar law](#) to remove the compounds from food packaging when safer alternatives are identified. Kerri Malinowski, safer chemicals programme manager for the state's Department of Environmental Protection, told Chemical Watch that her state has been "reviewing how [Washington's] information may inform Maine's policies".

If this trend continues for the PFAS in food packaging issue, the various regulations could greatly complicate things for multistate businesses, Mr Johnson said.

It could also nudge companies to voluntarily transition away from PFASs throughout their operations if they successfully adopt the cost-effective packaging outlined in Washington state's analysis.

"We're hopeful that, as other states find alternatives and implement restrictions, it will continue to move the market and create additional demand for these safer options," said Lauren Tamboer, a spokesperson for the Washington Department of Ecology.

Laurie Valeriano, executive director of the NGO Toxics-Free Future, said Washington's findings "should propel users of fast food packaging to get out of [PFASs] now, not only in Washington, but all over the country". States should put bans in place so businesses have a timeline to change their products, she said. "It's a no brainer."

Challenges ahead

In its alternatives assessment, Washington's Departments of Ecology and Health reported four out of ten food packaging applications where readily available effective alternatives to PFASs can be substituted at a comparable price. However, the assessment concluded there was insufficient information to identify safer cost-effective substitutes for six food packaging types.

State regulators plan to hold a public webinar on 23 March to discuss their findings.

Washington's analysis highlights the difficulties of finding PFAS alternatives (see box). These challenges could make compliance difficult for companies doing business in New York state, which last year passed its [own law](#) banning the sale and distribution of food packaging with intentionally-added PFASs. The ban starts on 31 December 2022 and does not require an alternatives assessment.

But New York's deadline isn't practical, said the Alliance for Telomer Chemistry Stewardship (ATCS), a global product group affiliated with the American Chemistry Council. "No suitable alternatives have been identified for all affected food packaging applications," the ATCS told Chemical Watch. "The food service industry and their customers may find themselves in the precarious situation of not having the disposable packaging that is needed for safe and effective distribution of food."

Hard to replace

Identifying sustainable replacements can be tough because of the fast-changing, proprietary nature of food packaging developments, and because PFASs are hard to beat when it comes to performance and price.

Compostable packaging company World Centric, for example, has been researching and developing PFAS substitutes since before Washington state confirmed it would prohibit the company's PFAS-treated pizza boxes and plates. It already has a PFAS-free line based on polylactic acid lamination.

But this alternative method increases costs, according to Lauren Olson, zero waste manager for World Centric. It presents a "trade-off there in terms of trying to offer an economically-priced takeout wear", she said. "PFAS is obviously something that we would like to stop using in the future. It's just a matter of finding alternatives that we can implement and that are economically feasible."

PFAS is "very good at doing what it does in terms of both moisture and oil resistance," Ms Olson said. As a result, inventing replacement food packaging "is a big challenge".

<https://chemicalwatch.com/220810/washington-state-to-ban-pfass-in-four-food-packaging-types>

Washington state to ban PFASs in four food packaging types

23 February 2021

Prohibitions take effect in early 2023, while global pressure on substance class grows

Washington state has announced it will prohibit the use of per- and polyfluoroalkyl substances (PFASs) in four types of food packaging, after it identified viable alternatives.

The ban, which will take effect in early 2023, may help usher in similar requirements in other US states, as public concern over the persistent substance class continues to mount.

Washington's announcement follows adoption of a [2018 law](#) to ban PFASs in firefighting foams and in food packaging, provided safer alternatives could be identified.

The state's Departments of Ecology and Health subsequently [conducted](#) an alternatives analysis, through which they determined there are four product types that "have less hazardous alternatives that are also readily available in sufficient quantity, are comparable in cost and have equivalent performance to PFAS-based options". These are:

- wraps and liners, which have wax-coated alternatives;
- plates, with clay-coated and reusable options;
- food boats, which can be replaced with clay-coated and reusable alternatives;
- and
- pizza boxes, with uncoated alternatives.

The departments on 22 February published a final alternatives analysis and submitted a report to the state legislature with these findings. This starts a two-year clock before a ban on the use of PFASs in these applications comes into force.

With its analysis of the first four packaging types complete, the state will now look for safer alternatives for six others that did not have cost-comparable or available alternatives in the first assessment.

Those packaging items are:

- trays;
- bags;
- French fry cartons;
- sleeves;
- interlocking food containers; and
- bowls.

It will also evaluate other substances and applications from the original assessment that had insufficient data.

Growing trend

Washington's alternatives analysis could have significant implications in Maine, which has a [similar law](#) on the books to ban PFASs in food packaging once safer alternatives are confirmed.

But momentum continues to grow for a full phase-out of PFASs in food packaging.

Late last year, [New York](#) adopted a law to ban the sale and distribution of food

packaging with intentionally added PFASs from 31 December 2022.

[California proposed](#) naming food packaging containing PFASs a priority product under its Safer Consumer Products programme. That designation would trigger the requirement for industry to conduct an alternatives analysis, with the possibility for the state to impose regulations at the end of the process.

Meanwhile, [a variety](#) of casual eateries and food stores have committed to reducing or phasing out the use of PFASs in food contact materials (FCMs).

The Toxics in Packaging Clearinghouse – a collaboration between nine US states – also [recently finalised](#) ‘model legislation’ that would restrict the use of PFASs and phthalates in all packaging types.

The substance class is also facing pressure outside the US. [Denmark](#), for example, has already imposed a national ban on paper and cardboard FCMs containing PFASs.

Beyond packaging, state legislatures are contemplating a [variety of measures](#) on PFASs, such as [California’s bill](#) to ban their use in children’s products. And Washington itself is looking to control the use of PFASs in other consumer products.

The Safer Products for Washington programme is [focusing on](#) the use of the substance class in carpets, rugs, leather, textiles and aftermarket treatment products. A draft ‘[chemical action plan](#)’ (CAP) for PFASs called for the programme to further evaluate the substances’ use in several other consumer products, including cookware, clothing, ski waxes, personal care and automotive products.

Best regards,

