

June 29, 2023

Northeast Waste Management Officials Association
89 South Street, Suite 600
Boston, MA 02111-2651
publiccomments@newmoa.org.

Re: PFAS Prevention Model Act Draft for Public Comment

Dear Northeast Waste Management Officials Association,

The Flexible Packaging Association (FPA) appreciates this opportunity to submit its thoughts and suggestions on the Draft Northeast Waste Management Officials Association (NEWMOA) Model Legislation. FPA was established in 1950 and is a national trade association comprised of manufacturers and suppliers of flexible packaging. The industry produces packaging for food, healthcare, and industrial products using coating and lamination of paper, film, foil, or any combination of these materials to manufacture bags, pouches, labels, liners, wraps, rollstock, and tamper-evident packaging for food and medicine. Flexible packaging, a \$42.99 billion industry, employs roughly 85,000 people in the United States and is the second largest and fastest growing segment of the U.S. packaging market.

In this comment, FPA would like to address the model legislation's inclusion of processing aids in the definition of intentionally added, as well as the timelines the model suggests for manufacture and sale of PFAS-added products.

A processing aid should not be regarded as an intentionally added component of a product. Processing aids function as a part of the process of creating product or product component, but they are not added to function as a component of the product itself.

As written, the model legislation endeavors to regulate all PFAS as one single class. This approach is unsuitable because different types of PFAS possess different properties and different health and environmental profiles. It is not scientifically accurate to regulate all PFAS as if they were a single substance.

Fluoropolymers have distinct physical and chemical properties which distinguish them from many PFAS, such as those traditionally used as grease-proof coatings in paper food packaging. Fluoropolymer PPAs used in film manufacturing do not transform or break down into any harmful or water-soluble substance, and as a result are not found in sources of drinking water (one of the stated primary issues the draft model legislation is intended to address). These properties make the risks possessed by fluoropolymers categorically separate to those of other PFAS, and thus PFAS should not all be grouped together for risk assessment purposes.

FPA does not suggest that the model language parse out every type PFAS that may or may not fall under a regulation but asks that NEWMOA recognize that: (1) the properties of Fluorinated PPAs present a lower risk for health or environmental harm, (2) PPAs function as tools used in the process of creating a product, never as components of the product itself and (3) should therefore not be categorically equalized with other PFAS under the definition of “Intentionally added PFAS”.

Additionally, processing aids meet the model legislation’s criteria for currently unavoidable use. PPA is an essential tool used to overcome processing limitations of low viscosity resins, to eliminate film melt fracture, and to prevent deposits that cause lines, inclusions, and downtime of machinery. Fluorinated PPAs also improve flow and speeds up the process of manufacture to increase output and yield. PPAs are also essential to the success of a circular economy as it pertains to packaging. Incorporating recycled content into film, particularly at higher levels, requires the use of processing aids. Recycled content may contain a blend of many different types of polymers, and PPAs are needed to manage the flow and to prevent inclusions, haze, and other defects as it is incorporated into film. There is no technically feasible alternative to PPAs that currently are available widespread and at a reasonable cost, and the process of developing alternatives should not be rushed in order to ensure that the alternatives actually provide a safe and functional tool.

FPA would also like to address the sale of PFAS-added products under the model legislation. Packaging in the food industry is often produced years before a product hits retail shelves. Section 9 of the model details a proposal for businesses to implement collection systems for PFAS-added products after consumer use, but this proposal seems neither feasible nor cost-effective for manufacturers and products will likely be pulled of the shelves instead. Requiring the industry to meet unrealistic timelines to eliminate PFAS or unrealistic sell through rates will result in tremendous waste.

We thank you for the opportunity to provide comments on this issue and encourage you to consider the points set forth above in any proposed NEWMOA model legislation.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Abigail Trumpy', is positioned above the typed name and contact information.

Abigail Trumpy, Esq.

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