April 7, 2021

SUPPORT AB 1200

Honorable Bill Quirk
Chair, Assembly Environmental Safety & Toxic Materials Committee
1020 N St., Room 171
Sacramento, CA 95814

Dear Chair Quirk and Committee members:

We write to strongly urge you to protect California residents from exposure to a class of chemicals that threaten public health by supporting AB 1200, legislation that would ban the intentional use of PFAS in plant-based food packaging. This bill would also provide consumers with information on hazardous chemicals, including PFAS, being used in cookware by requiring a warning label on cookware so that consumers can make informed buying decisions. There is an urgent need for the enactment of this bill.

Consumer Reports is an independent, nonprofit organization - with over 320,000 members in California - that works with consumers for truth, transparency, and fairness in the marketplace through rigorous, independent testing and research. We empower and inform consumers, incentivize corporations to act responsibly, and help policymakers prioritize the rights and interests of consumers in order to shape a truly consumer-driven marketplace.

PFAS in food ware

Per- and polyfluorinated alkyl substances (PFAS) are a group of more than 4,700 chemicals that are very widespread and dangerous. Three characteristics of PFAS make them especially dangerous to humans. First, they are extremely persistent, resistant to breaking down naturally in the environment and remaining in people's bodies for years. This is why they have been described as "forever chemicals." Second, they are highly mobile, spreading quickly in the environment and prevalent throughout our environment. Finally, they can be toxic at very low doses—even at parts per trillion levels, they have been associated with a variety of severe health effects, including cancer.

Because PFAS are so persistent, prevalent, and toxic, they must be regulated. Indeed, given their widespread use, PFAS are detectable in the blood of 97 percent of people in the United States.[1] Some of the toxic effects associated with exposure to these chemicals include immunotoxicity, cancer, thyroid disease, birth defects, and decreased sperm quality.[2] They reduce the immune response to childhood vaccines and may increase the risk of infectious disease.[3]

In addition, PFAS exposure has been directly linked to several underlying conditions that make people more vulnerable to severe symptoms of COVID-19, including obesity, asthma, kidney disease, and high cholesterol.[4] Compared to people with no underlying conditions, patients who have these conditions are six times as likely to be hospitalized with COVID-19 and 12 times as likely to die of the disease.[5]

Among the ways that consumers can be exposed to PFAS are through food consumption. AB 1200 should reduce consumer exposure through banning its intentional use in food packaging.

Some manufacturers add PFAS to food packaging to make it water- and grease-resistant, which can contaminate the food with which it comes into contact. Indeed, the Food and Drug Administration (FDA) last year reported that it had detected PFAS in a variety of foods purchased around the country, including produce, meats and seafood.[6] People are exposed when they eat the contaminated food. In a recent test, PFAS were detected in the packaging of foods sold by major retailers.[7] This prompted some retailers to announce a switch to safer alternatives, thereby demonstrating the availability of and feasibility of non-PFAS food packaging.

We also believe that all the PFAS compounds should be treated as a class. EPA's 2015 Significant New Use Rule for PFOA- and PFOA-related chemicals provided a definition for a category of a subgroup of the so-called long-chain PFAS chemicals, which are defined as having 8 or more carbon atoms. The idea was that these long-chain PFAS have more persistent in the environment and more likely to bioaccumulate than short-chain PFAS (having 7 or fewer carbon atoms), and so short-chain PFAS should be not persist in the body, so would not bioaccumulate and would consequently be less toxic.

These short-chain PFAS emerged as a replacement to long-chain PFAS in food packaging due to safety concerns in 2011.[8] Indeed, beginning in 2011, FDA started working with industry to get them to voluntarily remove long-chain PFAS as food contact materials. In 2016, FDA had revoked the regulation of the remaining uses of long-chain PFAS in food packaging (see 81 FR 5, January 4, 2016 and 81 FR 83672, November 22, 2016).[9] Again, the thinking was that the short-chain PFAS should be relatively safe for use as food contact substances.

However, in July 2020, FDA announced a voluntary phase out of use of certain short-chain PFAS (6:2 FTOH) for use as food contact substances after FDA scientists published their analyses of certain short-chain PFAS that showed that they did persist in rodent studies, such that "the data suggest the potential of 6:2 FTOH to also persist in humans from chronic dietary exposure. Further scientific studies are needed to better understand the potential human health risks from dietary exposure to food contact substances that contain 6:2 FTOH."[10]

In addition, a draft EPA toxicity review of two short chain PFAS, GenX (a replacement for PFOA) and PFBS (a replacement for PFBS), show that GenX is almost as toxic as PFOA. Thus, the short-chain PFAS are not necessarily less persistent in the human body and nor significantly less toxic than long-chain PFAS. In addition, a study published in 2020 looked at the Key Characteristics of Carcinogens framework for cancer hazard identification for 26 PFAS chemicals, including long-chain and short-chain PFAS, and found that all 26 chemicals had at least one key characteristic of a carcinogen.[11] These studies suggests that short-chain PFAS are not necessarily safer than the long-chain PFAS that they are replacing.

Since many PFAS are so resistant to break down, their presence in food ware means that they will leach out in the landfill and enter the environment. In addition, the increase in the consumption of take-out foods as a result of the pandemic has increased the risk of consumer exposure to PFAS.

There are alternatives to PFAS-treated food ware, and major retailers and restaurants including Panera Bread, Taco Bell, Chipotle, Whole Foods Market, Sweetgreen, Cava, Freshii,[12] McDonald's, Trader Joe's, Ahold Delhaize, and Rite Aid have already started the switch to these safer alternatives.

PFAS in cookware

AB 2100 would alert consumers as to whether a number of potentially hazardous chemicals, including PFAS, are present in the cookware they are purchasing by requiring a warning label, stating: "This product contains one or more chemicals of concern for human health or the environment as identified by the State of California" on the product. The law would also require manufacturers to make publicly available on their website the list of all intentionally added chemicals which also appear on a list developed by the Department of Toxic Substances Control.

We think such a warning label, that would also include a way to find out which particular chemicals were added to cookware by visiting a website or calling a toll free number, would be particularly valuable to consumers that want to make informed buying decisions. Chemicals present in the cookware, such as PFAS, may be able to leach into the food that is being prepared with that cookware. Just like food packaging, PFAS are often added to cookware due to its water- and grease-resistant properties. This is particularly true for cookware labeled nonstick. A recent study found that most nonstick pans and some baking pans tested contain PTFE, (polytetrafluoroethylene), a fluoropolymer made from PFAS and more popularly known as Teflon, among other brand names. Some of these pans were also labeled as "PFOA free"even though they were coated with PTFE, which would be considered a PFAS by this bill, since the definition of PFAS is "a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom."

We also strongly agree with the requirement that a company cannot say that a cookware item is free of a particular chemical if that chemical belongs to a chemical group that is identified on the list developed by the Department of Toxic Substances Control. Thus, for example, a cookware item could not say "PFOA free," if the cookware item contained any other PFAS chemical. This provision will provide greater transparency to those consumers who are concerned about the potentially hazardous chemicals that may be being used in the cookware they buy.

Conclusion

AB 2100 is a bill that would go a long way toward protecting consumers from exposure to PFAS through food packaging or cookware. It also provides consumers with valuable information about the potentially hazardous chemicals that may be present in the cookware they are buying. By enacting AB 2100, California could join New York, Maine and Washington in banning PFAS from food packaging materials. We strongly urge you to support this bill.

Sincerely,

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[1] Lewis RC, Johns LE, Meeker JD. 2015. Serum Biomarkers of Exposure to Perfluoroalkyl Substances in Relation to Serum Testosterone and Measures of Thyroid Function among Adults and Adolescents from NHANES 2011–2012. *Int J Environ Res Public Health*. 12(6): 6098–6114. At: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4483690/pdf/ijerph-12-06098.pdf

[2] https://www.atsdr.cdc.gov/pfas/health-effects/index.html

[3] Grandjean P and E Butdz-Jørgensen. 2013. Immunotoxicity of perfluorinated alkylates: calculation of benchmark doses based on serum concentrations in children. *Env Health* 12(35). At: https://ehjournal.biomedcentral.com/articles/10.1186/1476-069X-12-35

[4] https://www.atsdr.cdc.gov/pfas/health-effects/index.html

[5] Stokes EK, Zambrano LD, Anderson KN et al. 2020. Coronavirus Disease 2019 Case Surveillance—United States, January 22-May 30, 2020. *MMWR Morb Mortal Wkly Rep* 2020; 69:759-765. DOI: http://dx.doi.org/10.15585/mmwr.mm6924e2

[6] http://blogs.edf.org/health/2019/11/20/fdas-updated-results-for-pfas-in-food-suggest-progress-but-raise-questions-about-its-method/

[7] https://toxicfreefuture.org/packaged-in-pollution/

[8] https://www.fda.gov/food/chemicals/authorized-uses-pfas-food-contact-applications

[9] *Id.*

[10] https://www.fda.gov/news-events/press-announcements/fda-announces-voluntary-agreement-manufacturers-phase-out-certain-short-chain-pfas-used-food

[11] Temkin AM, Hocevar BA, Andrews DQ, Naidenko OV and LM Kamendulis. 2020. Application of the key characteristics of carcinogens to per- and polyfluoroalkyl substances. *Int J Environ Res Public Health* 17(5). At: https://www.mdpi.com/1660-4601/17/5/1668/htm

[12] https://toxicfreefuture.org/pfas-free-paper-food-packaging-alternatives-a-resource-for-restaurants-and-retailers/