



Rhode Island

-OPPOSE-

HB 5523

HB 5523 - An Act to establish a process to set maximum contaminate levels of polyfluoroalkyl substances (PFAS)

The American Chemistry Council (ACC) is a national trade association representing chemicals and plastics manufacturers in the United States, including member companies in the state of Rhode Island. Our members are committed to the safety of their products and to the protection of the public health.

Over 96% of all manufactured goods are directly touched by the business of chemistry, making this industry an essential part of every facet of our nation's economy. Chemistry provides significant economic benefits in every state including Rhode Island. Thanks to chemistry, our lives are healthier, safer, more sustainable and productive than before. Over 3,000 people are employed by the chemistry industry in Rhode Island.

ACC opposes HB 5523, a bill that establishes a process to set maximum contaminate levels of polyfluoroalkyl substances (PFAS).

ACC's interests in the issue of per- and polyfluoroalkyl substances – or PFAS – range quite broadly – as we represent manufacturers of these substances, current and former users of products containing these substances, as well as manufacturers of treatment technologies to remove PFAS from water.

ACC respectfully urges the Legislature and the State of Rhode Island to move cautiously in establishing a framework for regulating PFAS to ensure consideration of the best science and stakeholder input. While we appreciate the Legislature's interest in addressing the public's concerns about this chemistry, this legislation is flawed and violates both basic scientific principles and standard administrative procedures.

Per- and polyfluoroalkyl substances (PFAS) make up a family of chemistry encompassing a broad range of chemicals and products with widely varying physical and chemical properties, health and environmental profiles, uses and benefits. Because of this diversity, it is inaccurate to associate safety concerns that have been raised regarding a few PFASs with most other PFASs. By some estimates, over 3,000 substances could be classified as PFASs based on their chemical structures, but only a fraction of those PFASs have any commercial use today. These PFASs provide distinct properties enabling numerous applications that are critical to modern life.

This legislation addresses two PFAS that we know the most about – PFOS and PFOA. These two substances have been the subject of a dizzying number of risk evaluations over the last few years which have generated a confusing array of results. The interim drinking water standard proposed by this legislation, in fact, was developed as *guidance* by Vermont's Agency of Natural Resources in 2018. As a point of reference – 20 parts per trillion (ppt) is 20 nanograms per liter of water. Put more simply that's 20 billionths of a gram. Our detection technology has advanced to the point that we can actually detect levels that low, but to paraphrase the Center for Disease Control and Prevention "just because we can find it doesn't mean that there is a health risk."



Rhode Island, as you know, is not alone in addressing PFOS and PFOA. The state of New Jersey recently established interim groundwater standards of 10 ppt for these two substances, while Health Canada finalized its maximum allowable concentrations for drinking water at 200 ppt for PFOA and 600 for PFOS. And the federal Environmental Protection Agency has established *lifetime health advisories* of 70 ppt for PFOS and PFOA in drinking water.

The reason for this 60-fold range in risk values is the significant uncertainty in interpreting the data available. This is not to suggest that nothing should be done to address PFOS and PFOA contamination, but to caution against proposals like HB 5523 that presume that the science is settled.

This legislation would require the establishment of regulatory standards for five PFAS – PFOS and PFOA and three other substances. The inclusion of the three other substances is on the fact that these are the substances that were included in EPA's most recent national survey of drinking water supplies.

The reality however is that we know very little about the health effects of the three PFAS other than PFOS and PFOA. In fact, for one of the three – PFHpA – the federal Agency of Toxic Substances and Disease Registry (ATSDR) recently concluded that there were not enough data available to develop minimum risk levels for the substance.

In searching for the rationale for including the other three PFAS in the Vermont health advisory – the source of the interim standard established in HB 5523-- ACC found a single six-page internal memo. The information regarding the other three PFAS includes a mere three to four sentences per substance. This is not the robust analysis one would expect to support a major agency decision and not a substantial body of scientific evidence to use as the basis for a legislative proposal to establish significant regulatory policy. Not even the federal EPA supports the inclusion of these additional three substances in a combined standard.

This legislation not only lacks the scientific-based principles for regulating chemicals but also has procedural problems that raise concerns. This legislation is based on an *advisory level* issued by another state without public input -- and an enforcement standard that requires municipal water systems to spend money to comply with enforceable standards. HB 5523 seeks to blur the line between these two to the point that it would become meaningless.

Specifically, this bill would require municipal water systems to comply with the advisory levels as if it were a regulatory level – until such regulations were in place. Such an unfunded mandate would impose significant costs on municipalities who likely would be unable to recoup the costs through rate increases. Moreover, the legislation would require that the health advisory, established without public input, become the enforceable drinking water standard despite the significant uncertainty and the absence of data described above and, perhaps more importantly, without an assessment of the economic and technical feasibility of achieving the required levels.

Given these uncertainties, ACC opposes the development of maximum contaminant levels beyond PFOS and PFOA as proposed in the legislation. Similarly, we do not support the development of water quality standards for all five PFAS as proposed by the legislation. In establishing standards for PFOS and PFOA, we urge the Legislature and State of Rhode Island to include language that directs the Health Department to consider the costs and benefits to affected parties that will result from establishing the standards.

ACC also is deeply concerned about the assumption in the legislation that PFAS can be regulated as a class or as easily identified sub-classes. PFAS is a family of chemistry with a wide variety of physical, chemical, and toxicological properties.



In the recent PFAS management plan,¹ USEPA outlined its plans to prioritize substances or groups of substances within the class using non-animal testing methods and other advanced techniques. Specifically, USEPA announced its plans to --

- develop toxicity values where suitable data are available
- use computational toxicology approaches to fill data gaps
- assess available tools for assessing ecological risks

It is inappropriate to suggest a class regulation of PFAS until USEPA has completed its prioritization which hopefully will better define a regulatory approach to regulating PFAS – whether as individual substances or as subclasses.

Finally, ACC supports the proposal for a state-wide investigation of PFAS contamination for those substances for which validated methods exist (i.e., USEPA Method 537-1). We believe that such investigation is a vital step in helping the state focus its attention and resources.

In closing, ACC respectfully urges the Legislature and the State of Rhode Island to move cautiously in establishing a framework for regulating PFAS to ensure consideration of the best science and stakeholder input.

Please feel free to contact me at margaret_gorman@americanchemistry.com if you have any questions.

Sincerely,
Margaret Gorman
Senior Director, Northeast
American Chemistry Council

¹ <https://www.epa.gov/pfas/epas-pfas-action-plan>

