

2009-2010 State Legislative Sessions Summary

This summary provides an update on the legislation proposed and enacted during the 2009-2010 legislative session.

For more detailed information about the legislation proposed and enacted in the 2009-2010 legislative session, see the Lowell Center for Sustainable Production's State Chemicals Policy Database (<http://www.chemicalspolicy.org/chemicalspolicy.us.state.database.php>).

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Pollution Prevention and Toxics Use Reduction

Pollution prevention and toxics use reduction policies are multi-pollutant, multi-media strategies that shift the focus from end-of-pipe regulation to reduction of pollution at the source.

- One state (ME) enacted legislation to establish toxics use reduction planning for priority chemicals.
- A number of states proposed pollution prevention or toxics use reduction legislation, including legislation that would: establish toxics use reduction planning for priority chemicals (CA, NY); adopt safer technologies for water utility facilities (CA); establish an Environmental Technology Institute to do research on and provide technical assistance for pollution prevention (NY); establish a program for pollution prevention in small businesses and households (NY); establish planning for schools to minimize or eliminate the use and presence of hazardous substances and products containing hazardous substances (AK); and establish a program for voluntary reduction of hazardous substances (WA).
- Elements of pollution prevention and toxics use reduction are incorporated into other legislation to regulate: mercury in lighting (enacted ME, proposed NY); cleaning products (MS); perchloroethylene (NY); and hazardous substances in schools (NY).

Single Chemical Restrictions

Single chemical restrictions are policies that ban or significantly restrict specific chemicals or uses of chemicals.

- *Mercury*—Five states (IL—wheel weights; ME—button cell batteries, lighting, wheel weights; NY—wheel weights; RI—lighting; VT—urging global treaty on mercury) enacted and eleven states (AL, CA, IL, MA, MI, MT, NM, NY, RI, VT, WA) proposed legislation restricting the use of mercury.

- *PBDEs*—One state (VT) enacted and seven states (AK, CT, HI, MA, MO, NC, VT) and the District of Columbia proposed legislation restricting the use of pentaBDE, octaBDE, and decaBDE. One state (HI) proposed legislation prohibiting products containing PBDEs. Three states (MD, ME, OR) enacted and five states (IL, MD, MI, MN, NY) proposed legislation restricting the use of decaBDE. One state (HI) enacted legislation to support the industry phase out of decaBDE.
- *Lead*—Six states (CA, IL, ME, MD, NY, WA) enacted and eight states (CA, IA, MD, MI, MS, NY, RI, WI) and the District of Columbia proposed legislation restricting the use of lead in certain products, including: wheel weights, children’s products, toys, jewelry, plumbing materials, fishing tackle, ammunition, paint/surface coating materials, packaging, and glass beads for blasting.
- *Phthalates*—Three states (MO, NY, NJ) and the District of Columbia proposed legislation restricting the use of phthalates.
- *Bisphenol A*—Eight states (CT, MA, MD, MN, NY, VT, WA, WI), four counties (Schenectady County, NY, Albany County, NY, Rockland County, NY and Suffolk County, NY), and one city (Chicago, IL) enacted and nineteen states (CA, CT, IL, MA, MD, MI, MN, MS, MO, MT, NM, NJ, NY, OR, PA, TX, VT, WA, WI), the District of Columbia, one county (Dutchess County, NY) and one city (New York, New York) proposed policies restricting the use of bisphenol A.
- *Cadmium*—Four states (CA, CT, IL, MN) enacted and four states (FL, MN, NY, RI) proposed legislation restricting the use of cadmium.

Multiple Chemical Policies

Multiple chemical policies regulate groups or classes of chemicals, rather than just one chemical.

- Three states (CT, MA, NY) proposed legislation that focuses on identifying and prioritizing toxic substances. One state (MN) enacted and nine states (CT, IL, IN, MI, MN, NY, OR, VT, WI) proposed legislation that seeks to identify and regulate priority chemicals in children’s products.
- One state (AK) has proposed legislation to regulate PBTs.
- One state (CO) has proposed legislation to regulate carcinogens and reproductive toxicants in cosmetics and one state (TX) has proposed legislation to regulate carcinogens, teratogens, hormone disruptors, reproductive toxicants and developmental toxicants in children’s products.

Regulation of Product Categories

The regulation of product categories focuses on regulating chemical use in products, encouraging the use of less toxic products, and labeling/disclosing chemicals in products.

- *Packaging*—One city (Richmond, CA) enacted legislation restricting the use of styrene packaging. One city (Chicago, IL), three counties (Schenectady County, NY, Albany County, NY, and Suffolk County, NY), and two states (CT, DE, PA) enacted and ten states proposed legislation regarding the use of bisphenol A in packaging. Two states (NY, VT) proposed legislation prohibiting the sale or distribution of packaging containing intentionally added cadmium, lead, mercury, and hexavalent chromium.
- *Cleaning Products*—Seven states (CT, HI, IA, IL, MD, NV, TN) enacted and twelve states (CA, IA, MD, MA, MN, NJ, NY, OR, RI, VT, WA, WI) proposed legislation that would require the purchase and use of environmentally preferable cleaning products for a variety of facilities, including schools, state agencies, state-owned buildings, supermarkets, day care centers, public housing, nursing homes, and residential health care facilities.
- *Children's Products and Toys*—Three states (CT, MD, MN) and three counties (Schenectady County, NY, Albany County, NY, and Suffolk County, NY) enacted and 24 states and one county proposed legislation that regulates children's products or toys. Much of this legislation restricts the use of phthalates, bisphenol A, lead, and/or priority chemicals of concern in these product categories.
- *Cosmetics*—Nine states (CO, CT, IN, MN, MO, MS, NY, ND, TX) proposed legislation that regulates cosmetics and personal care products.
- *Jewelry*—Four states (CA, CT, IL, MN) enacted and four states (FL, MN, NY, RI) proposed legislation restricting cadmium in jewelry. Three states (IN, MS, NJ) proposed legislation restricting lead, cadmium, and phthalates in jewelry. One state (NY) proposed legislation restricting lead and cadmium in jewelry. One state (TX) proposed legislation restricting bisphenol A in jewelry.
- *Brake Friction Materials*—Two states (CA, WA) enacted and one state (NY) proposed legislation that restricts chemicals (cadmium, copper, hexavalent chromium, lead, mercury, asbestos) in brake friction materials.

Biomonitoring and Environmental Health Surveillance Systems

Biomonitoring policies support the assessment of human biologic specimens to characterize the levels of human chemical exposure. Policies establishing environmental health tracking and surveillance systems require tracking and monitoring of the links between exposures to chemicals and environmental hazards and adverse human health effects.

- One state (MD) enacted legislation on biomonitoring. Three states (MN, MT, NY) proposed legislation to establish environmental health surveillance systems.

Data Collection

Data collection policies encourage the gathering and dissemination of information about the presence, toxicity, and/or use of chemicals in products and processes. These types of policies may require further research and testing of specific chemicals to assess potential health and environmental impacts, the establishment of monitoring programs to detect the presence of contaminants in the environment, or the manufacturer's or distributor's submission of chemical production and use information.

- Four states (ME, MN, NC, NM) enacted and fifteen states proposed legislation containing these data collection mechanisms.

Right-to-Know

Right-to-know laws provide information about possible chemical exposures. They require or encourage the provision of information or disclosures about exposures and health risks associated with chemicals to workers and the general public. This includes legislation that incorporates right-to-know elements, such as labeling, warnings, and education programs.

- One state (CA) proposed legislation that requires manufacturers of chemically formulated consumer products (air care, automotive, cleaning, and polish and floor maintenance products) disclose each ingredient contained in the product by posting that information on the manufacturer's website and providing the website address on the product label.
- Eight states and one city enacted or proposed legislation that incorporates labeling requirements, including the labeling of: bisphenol A (IL, TX, WI, Chicago, IL); lead (WA); hazardous substances (OR); cosmetics (NJ, NY); children's products (IN, NJ); and mercury-added products (MI).
- Four states enacted or proposed legislation that incorporates education programs, including: mercury education (CT, IL); lead education (IL); bisphenol A education (PA); and electronics recycling (NY).
- One state enacted (MA) and two states (IL, NY) proposed legislation that incorporates warning requirements, including warnings for: health effects of chemicals in children's products (IL); mercury in antiques (MA); health and safety in schools (NY); and chemical use in nail salons (NY).

Prioritization

Prioritization policies establish a framework for assessing and prioritizing chemicals.

- Two states (ME, MN) enacted and ten states (CT, IL, IN, MA, MI, MN, NY, OR, VT, WI) proposed legislation that establishes a framework for assessing and prioritizing chemicals.

Alternatives Assessment

Alternatives assessment policies encourage research to support or establish requirements to replace the use of toxic chemicals with the use of alternatives that have been carefully and methodically evaluated for safety.

- One state (CT) enacted legislation to establish a chemical innovation institute to provide technical assistance to organizations that seek to utilize safe alternatives to hazardous chemicals.
- One state (WA) proposed legislation that establishes a safer chemical alternatives research and development program.
- Alternatives assessment provisions are included in legislation that bans or restricts: cadmium (CA); phthalates/bisphenol A (CA, HI, MD, MA, MS, NJ, NM, NY, PA, RI, VT, WA); PBDEs (AK, CA, CT, HI, ME, MS, NY, NC, VT); and chlorinated solvents (NY).

Green Chemistry

Green chemistry policies encourage the redesign of chemicals, products, and processes from the outset to reduce or eliminate the use and generation of hazardous substances.

- One state (CT) enacted legislation to establish a chemical innovation institute to foster green job growth and safe workplaces through clean technology innovation and green chemistry.
- One state (MN) enacted and one state (MI) proposed legislation to incorporate definitions of green chemistry into economic development policies. One state (MN) enacted legislation to provide a tax credit to investors in certain high-technology fields, including chemistry.

Product Stewardship

Product stewardship policies establish an environmental management strategy for minimizing a product's environmental impact throughout all stages of a product's life cycle, particularly at the end of life.

- Two states (ME, RI) enacted and three states (CA, MN, VT) proposed legislation that establishes extended producer responsibility as policy and gives state government agencies the authority to address multiple products over time.
- A number of states proposed or enacted legislation establishing product stewardship for: electronics (AZ, IN, KY, MA, MO, NY, OR, RI, SC, TX, UT, VT, VA, WA, WI); products containing mercury (CA, CT, HI, IL, ME, MD, MA, MI, MN, MT, NY, NC, OR, RI, TN, VT, VA, WA); and paint (CA, MN, OR, VT).

Environmentally Preferable Purchasing

Environmentally preferable purchasing policies require or encourage the purchase of products based on particular environmentally sensitive attributes.

- Six states (CT, HI, IL, ME, MD, MA) enacted and thirteen states (CA, IA, MD, MA, MN, NJ, NY, OR, RI, SC, VT, WA, WI) proposed legislation that includes environmentally preferable purchasing.

Precautionary Principle

Precautionary principle policies define and develop approaches for applying the precautionary principle in practice to reduce the impacts caused by toxic chemicals and incorporating the precautionary principle into decision-making processes.

- One state (NY) proposed legislation that would establish a precautionary policy for the state as well as precautionary criteria and a precautionary policy planning council. One state (WA) proposed legislation that incorporates the precautionary principle and human health analysis into environmental review.