



BY ELECTRONIC MAIL

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Toxics in Packaging Clearinghouse
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Subject: Toxics in Packaging Clearinghouse Proposed Model Legislation

To whom it may concern:

The undersigned organizations appreciate the opportunity to provide the following comments on the Toxics in Packaging Clearinghouse (TPCH) Model Legislation. Our respective organizations recognize and support TPCH's past efforts of promoting safe, effective packaging that is free of heavy metals. Unfortunately, we are writing to you today to voice serious concerns over the Proposed Model Legislation as it strays very far from the path paved by TPCH in years past, disregards sound science, and could potentially have major unintended socioeconomic and environmental consequences.

Packaging plays a critical role in the U.S. from environmental, quality of life, and economic perspectives. According to the U.S. Department of Commerce and the U.S. Census Bureau, the packaging industry is an estimated \$200 billion industry, or roughly 2% of U.S. GDP, and employs over 750,000 hard working Americans across the country. Packaging is essential in almost every aspect of the economy: whether it's providing safe, sanitary products in the medical

sector, or food packaging that helps American families save money by keeping their groceries fresher for longer.

Packaging is a crucial component in minimizing a growing problem in America: food waste. According to a study by the Natural Resources Defense Council, up to 40% of food in America goes to waste every year with the average American wasting more than 400 pounds of food annually¹. Effective food packaging can help reduce these numbers by extending longevity of food; however, the Proposed Model Legislation would not only undermine effective packaging design and cause these numbers to balloon, but would also lead to increased greenhouse gas emissions. Food waste accounts for 2.6% of all U.S. greenhouse gas emissions, which is equal to 37 million passenger vehicles worth of emissions². For every ton of food waste prevented, an estimated average gain of 6 to 7 times in greenhouse gas benefits can be reaped compared to alternatives like composting³.

In addition to the potential loss of the previously mentioned economic and environmental factors, we have serious concerns over the general regulatory framework, which is not only redundant due to existing federal regulations, but is also ripe with fundamental flaws. The U.S. already has a robust regulatory system in place for managing chemicals and packaging which is administered by the U.S. Environmental Protection Agency (EPA) and Food and Drug Administration (FDA). The Proposed Model Legislation would sidestep an already rigorous FDA review process where manufacturers are required to prove the safety of their products. Consumer protection and product safety are of paramount concern to the FDA. Failing to meet the very high standards set by the FDA results in the products being blocked from entering the market. Additionally, these federal agencies have the resources and personnel required to effectively administer such meticulous testing whereas many state agencies do not.

The Proposed Model Legislation would also result in fundamentally flawed regulation that fails to meet critical benchmarks of objectivity, transparency, and scientific accuracy. More specifically, the Section 6 exposure level requirements are inappropriate as they do not account for “risk” and are based solely on “hazard.” Such an approach is not only scientifically inaccurate, but can also have negative consequences such as causing public confusion, generating unwarranted alarm, or even result in the deselection of products from the market that are actually safe.

¹ National Resources Defense Council (2017). “Wasted: How America is Losing up to 40 Percent of Its Food From Farm to Fork to Landfill”.

² National Resources Defense Council (2017). “Wasted: How America is Losing up to 40 Percent of Its Food From Farm to Fork to Landfill”.

³ Oregon DEQ (2017). “Strategy for Preventing the Wasting of Food”.

One of the most concerning aspects of this proposal is that it threatens to upend benefits provided by quality packaging by banning entire classes of chemistry that contribute to the unique properties of packaging materials that make them so effective. The Proposed Model Legislation ignores a broad consensus between the scientific community and leading government authoritative bodies: individual compounds within the respective PFAS and phthalate families are not the same. These chemical compounds have varying properties, uses, and environmental and health profiles. In fact, the EPA, FDA, the Interstate Technology and Regulatory Council, and Organisation for Economic Co-operation and Development have all recognized this to be the case.

For the reasons outlined above, we urge you to rescind the Proposed Model Legislation in its current form and take into consideration the points set forth in this letter. Thank you for the opportunity to provide comment on this issue.

Sincerely,

Kuper Jones
American Chemistry Council

On behalf of the following organizations:

Alkylphenols & Ethoxylates Research Council
American Coatings Association
Flexible Packaging Association
PRINTING United Alliance
Society of Chemical Manufacturers & Affiliates