

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

CHUCK CHAITOVITZ
VICE PRESIDENT, ENVIRONMENTAL
AFFAIRS AND SUSTAINABILITY

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5316

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Submitted via email to info@toxicsinpackaging.org

Dear Toxics in Packaging Clearinghouse:

RE: Comments on Proposed Revisions to the Toxics in Packaging Clearinghouse (TPCH) Model Legislation and the Inclusion of PFAS

On behalf of our coalition of trade associations and member companies, I urge you to remove the broad ban on packaging containing the entire class of PFAS chemicals from section 4 of your model legislation, and instead focus on individual chemicals after considering their health and environmental impacts. The members of the coalition have a strong interest in ensuring the safety of their companies' employees and the communities where they operate. Further, the coalition is committed to working with regulators and interested stakeholders to establish standards that protect human health and the environment through the risk-based approach enshrined in long-standing U.S. and state environmental law and policy.

Collaboration and transparency are critical to any such efforts, and government, industry, and the scientific community must work together to share knowledge and focus resources on the highest priorities based on actual risk, while using existing regulatory processes to proactively address such issues. This starts with smart, science-based, and expeditious communication between stakeholders and appropriate officials on the public health risks presented.

Per- and polyfluoroalkyl substances (PFAS) are a broad class of chemicals, receiving increased industry and public attention amid federal efforts to communicate emerging issues and concerns. It is crucial that regulatory determinations take into account that PFAS are a diverse family of chemical materials used across a wide cross-section of industries, including aerospace, energy, first responder services, automotive, health care, electronics, telecommunications, and packaging. Beneficial products enabled by PFAS technologies include medical products and garments, coatings for medical devices, semiconductors, solar panels, high-performance electronics, and fuel-efficient automobiles. Certain fluorinated firefighting foams are still needed for emergency response operations.

Relative to packaging applications, while some low molecular weight PFAS and some fluorinated polymers for paper and cardboard coating have been and are being phased out, certain PFAS fluoropolymers are critical to the production of lightweight, flexible plastic packaging, including those that are used as polymer processing additives (PPAs).

Key Priorities for TPCB Model Legislation

As you consider how best to include PFAS in your model legislation, the coalition urges your attention to the following:

- The business community supports policy actions based on the characteristics of individual chemicals, not as a single class. There are close to 5,000 PFAS class chemicals. The chemistries among these chemicals vary substantially and have different characteristics, profiles, and uses. Thus, regulatory actions should be undertaken on an individual chemical basis, rather than as a class. Individual chemicals should be regulated based on a comprehensive understanding of the specific risks posed. Potential risks associated with one member of the PFAS class should not be attributed to other members of the class without clear scientific justification and should demonstrate that these specific chemicals present a similar toxicity and other factors. This approach is consistent with the intent of federal statutes, such as the Safe Drinking Water Act.
- For instance, relative to fluoropolymers that are used as PPAs, unlike the low molecular weight PFAS and fluorinated polymers that are already being phased out, these are high molecular weight polymers that exhibit very low water solubility and are non-reactive and thermally stable. Accordingly, these fluoropolymers can and should be regulated based on their own unique characteristics, not be improperly regulated as a class.
- We suggest changing the post-consumer recycled material definition so it is consistent with the ISO definition:
 - Post-Consumer Recycled Material" means a material that has met its intended use or can no longer be used for its intended purpose. It can be generated by households or by commercial, industrial, and institutional facilities in their role as end-users of the product but instead is separated for the purpose of recycling or reuse, including but not limited to paper, glass, plastics, and metals.
- The group also recommends changing the definition of “recycling” to follow the EPA definition of:
 - Recycling is the process of collecting and processing materials that would otherwise be thrown away as trash and turning them into new products.
- We also urge consideration of benchmarks of objectivity, transparency, and scientific accuracy as states establish their regulatory approach. The proposed exposure levels in section 6 appear contrary to this principle.
- Finally, the business community suggests that TPCB identify and consider how economically achievable any required limitations would be and promote consideration of broader societal costs and interests.

Thank you for the opportunity to comment on this important issue.

Sincerely,



Chuck Chaitovitz