



August 24, 2020

Toxics in Packaging Clearinghouse (TPCH)  
c/o Northeast Recycling Council (NERC)  
139 Main Street, Suite 401  
Brattleboro, Vermont 05301

**Re: Toxics in Packaging Clearinghouse (TPCH) Model Legislation Proposed Amendments**

To Whom It May Concern:

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to provide comments on the proposed amendments to the Toxics in Packaging Clearinghouse (TPCH) Model Legislation. We generally support the creation of uniform national and international standards and so urge you to consider alternative language for the “post-consumer recycled material” and “recycling” definitions presented in the proposed amendments.

AMERIPEN is a coalition of packaging producers, users and end-of-life materials managers dedicated to improving packaging and the environment throughout the United States. Our mission is to lead the packaging industry through advocacy based on science and to enhance understanding of the role packaging plays in a more sustainable society, economy, and environment. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers.

AMERIPEN is concerned that additional definitions to regulate packaging materials that are inconsistent with national and international standards and regulatory schemes will cause consumer confusion and force unintended consequences upon the packaging supply chain, including on recycling programs. We therefore recommend that the “post-consumer recycled material” and “recycling” definitions presented in the proposed amendments be adjusted to avoid this.

**Post-Consumer Recycled Material Definition – Section 3(n), lines 90-95**

AMERIPEN fully supports the stated objective of the TPCH Model Legislation to promote the use of post-consumer recycled (PCR) materials while maintaining compliance. However, the definition offered in the proposed amendments could be construed to limit the use of some forms of recycling for some materials to qualify as PCR. We therefore encourage replacing the current proposed definition with this from International Organization for Standardization (ISO) 14021:2016 Environmental Labels and Declarations – Self-Declared Environmental Claims Section 7.8.1.1:

*"Post-Consumer Recycled Material" means a material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which can no longer be used for its intended purpose. This includes returns of material from the distribution chain.*

This would allow for a broad PCR definition consistent with other existing definitions and could not be construed as excluding some forms of recycling.

**Recycling Definition – Section 3(o), lines 96-99**

AMERIPEN supports the consistent use and application of recycling definitions, but we are concerned that the definition offered in the proposed amendments could unintentionally exclude some forms of recycling. We therefore encourage replacing the current proposed definition with this from International Organization for Standardization (ISO) 18604:2013 Packaging and the Environment – Material Recycling Section 3.3:

*"Material Recycling" is reprocessing, by means of a manufacturing process, of a used packaging material into a product, a component incorporated into a product, or a secondary (recycled) raw material; excluding energy recovery and the use of the product as a fuel.*

This would allow for a broad recycling definition to cover any method of recycling of materials that could then become part of a new package while clearly excluding waste-to-energy processes, for example, that do not result in new products.

# # #

AMERIPEN recognizes there is a lot of confusion regarding environmental claims and there is risk associated with defining popular terms. To help our members and the broader community, we explored this topic in 2018 and developed a document that outlines major definitions applicable to recovery and provides guidance on the legal hierarchy of applying those various terms. We refer you to: <https://www.ameripen.org/page/recycling-definitions>.

AMERIPEN appreciates the opportunity to provide comments on the proposed amendments to the Toxics in Packaging Clearinghouse (TPCH) Model Legislation and we appreciate your consideration of our recommendations that will help avoid consumer confusion and unintended consequences that could harm recycling programs for packaging.

Sincerely,



Dan Felton  
Executive Director – AMERIPEN