

August 24, 2020

Toxics in Packaging Clearinghouse
info@toxicsinpackaging.org

RE: Comments on TPCH Model Legislation for Toxics in Packaging

Dear Toxics in Packaging Clearinghouse:

Below please find comments from the Toy Association (TTA) on the Toxics in Packaging Clearinghouse (TPCH) “Model Legislation for Toxics in Packaging” which proposes to add PFAs and ortho-phthalates to the list of restricted substances in packaging. TTA appreciates the opportunity to share our questions and concerns regarding the draft model language.

TTA is a not-for-profit trade association representing approximately nine hundred (900) toy makers, marketers, distributors, and retailers, large and small, located throughout North America. TTA is founded on the mission of bringing fun and joy to children’s lives, and our members have long been leaders in toy safety. In this role, we develop safety standards for toys, working with industry, government, consumer organizations, and medical experts. The U.S. risk-based standards are widely recognized and used as models around the globe. TTA regularly conducts educational seminars on these industry standards, and educates parents and caregivers on choosing appropriate toys, and how to ensure safe play.

Process Questions

After reviewing the model legislation and associated background materials the Toy Association has several questions and concerns related to the rationale and process for developing the language. It is our understanding that the development of the previous TPCH model legislation included discussion and input from a wide variety of stakeholders and therefore earned support as a voluntary standard. It is unclear from the background materials what state members or advisory or affiliate members participated in the development of the new model. TPCH stated that discussions on the need for a new model began in 2016-17. What work has been done since then to support the need for a new model or the specific provisions included in the new model? Information from a 1998 evaluation of the current state laws was included in the background material which suggested changes. Have there been any evaluations done more recently that continues to support that?

Concerns with rationale/basis for the model and overly broad scope

TPCH determined that eight states have the ability under the current model to identify additional substances or make legislative recommendations for additional substances to be added to the law. If states are already empowered to do this, then why is the new model needed? An examination of these eight states could help inform what changes could be useful in the other states utilizing TPCH's current model before asking 19 states to adopt a new model.

TTA is concerned with the overly broad scope in the new model regarding both types of packaging and classes of chemicals. The two state laws cited in the TPCH background information are specific to food packaging and food contact materials and therefore are not the most appropriate standards to apply to all other types of packaging. Additionally, the inclusion of chemical classes is problematic. Not all ortho-phthalates are the same and these need to be considered individually. TTA also has significant concerns with the 100 ppm total content level for phthalates as this is lower than U.S. federal standards and European Union REACH restrictions for consumer products. Additionally, just as PFAS restrictions should be limited to packaging intended to repel lipophilic substances (i.e. food contact packaging), ortho-phthalate restrictions should be limited to materials likely to contain them, such as PVC blisters and windows. As these uses are only a small proportion of the packaging universe, moving forward with the current proposal's broad scope will impose significant compliance costs on industry without a benefit in the majority of cases.

A new model should be specific in scope to the issues faced by states with current laws and based on appropriate and sound science. TTA would encourage the TPCH to continue to work on this issue before moving forward to propose the new model legislation. Thank you for the opportunity to comment. Please feel free to contact TTA directly via Jennifer Gibbons at: jgibbons@toyassociation.org if you have any questions or would like to discuss these comments in more detail.

Respectfully,



Jennifer Gibbons
VP, State Government Affairs