

August 24, 2020

Toxics in Packaging Clearinghouse - <https://toxicsinpackaging.org/>

c/o NERC

139 Main Street, Suite 401

Brattleboro, VT 05301

Comments submitted by e-mail to: info@toxicsinpackaging.org

RE: Comments on proposed revisions to the Toxics in Packaging Model Legislation

To whom it may concern:

Thank you for developing the proposed revisions to the Toxics in Packaging Model Legislation and posting the proposed revisions for public comment.

The Minnesota Legislature enacted the original Toxics in Packaging legislation in Minn. Stat. §115A.965 in 1991. The Minnesota Pollution Control Agency (MPCA) has been a member of the Toxics in Packaging Clearinghouse and predecessor collaborative efforts since the legislation became effective in 1992.

The MPCA supports the proposed revisions to the model legislation, specifically the strong pollution prevention approach taken for PFAS, ortho-phthalates, and chemicals that may be added in the future with the criteria and process established in Section 6. This approach will reduce the loading of PFAS and other chemicals in regulated systems, such as stormwater; municipal and industrial wastewater; and solid waste, recycling, and organics composting facilities, including leachate and other releases/emissions. This approach will also reduce releases from all types of manufacturing where PFAS and other chemicals are made, handled, or used, and other direct releases to the environment, for example, through littering of packaging materials that may contain these substances.

The MPCA supports the following measures proposed for PFAS. All of these measures will spur research and innovation to develop alternatives to PFAS that are safe and will provide comparable or superior performance:

1. Adding a PFAS definition that is sufficiently comprehensive;
2. Phasing out the intentional use of PFAS chemicals in all packaging and packaging components within a short and defined timeframe;
3. Phasing out the use of PFAS as a manufacturing or processing aid in packaging manufacturing;
4. Establishing a non-detect threshold for PFAS that will hold all manufacturers and material suppliers to one high and consistent standard;
5. Providing no exemptions or exceptions that could result in continuing use of 'current' PFAS chemicals and/or substitutions with 'new' PFAS chemicals that are not as well understood as those currently in wide use.

The MPCA supports the pollution prevention approach and the specific measures proposed for ortho-phthalates for the same reasons as outlined above for PFAS.

The MPCA supports the proposed criteria and process in Section 6 for identifying and adding additional substances to the Toxics in Packaging laws in the states. The proposal reflects language in existing laws in several states for identifying and addressing chemicals of concern in a wide range of products for protection of human and environmental health.

The MPCA recommends that the Toxics in Packaging Clearinghouse consider adding criteria to Section 6 to address chemicals that are persistent, mobile, and toxic, or very persistent and very mobile, or PMT/vPvM. The European Commission is currently investigating this, and is planning to introduce PMT and vPvM chemicals as categories of Substances of Very High Concern under the REACH Regulation (Registration, Evaluation, Authorization, and Restriction of Chemicals). PFAS chemicals meet these criteria, which in itself makes a strong case for adding these criteria to Sec. 6.

For additional information, see “REACH: Improvement of guidance and methods for the identification and assessment of PMT/vPvM substances.” TEXTE 126/2019, Environmental Research of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety Project No. (FKZ) 3716 67 416 0, Report No. FB000142/ENG. November 2019.

If you have any questions regarding these comments, please contact Sophie Greene, MPCA PFAS Coordinator, at sophie.greene@state.mn.us.

Thank you again for the opportunity to comment on the proposed revisions to the Toxics in Packaging Model Legislation.

Sincerely,



Kirk Koudelka
Assistant Commissioner