July 18, 2025

Amending WSR 23-12-044

Subject: Washington Safer Products Restrictions and Reporting PFAS Amendment

Dear colleagues,

BP Polymers, LLC ("BPP") is writing to you in support of Washington's proposed rulemaking that amends its Safer Products Restrictions and Reporting rule to be inclusive of PFAS. BPP offers a unique, proprietary resin, Kortrax®, that can be added to high-density polyethylene ("HDPE") to create various types of packaging imbued with barrier properties. As an active part of the packaging industry, we have seen the negative effects of fluorinated HDPE and PFAS contamination. Unlike surface modification barrier treatments such as fluorination, Kortrax® is free of PFAS contamination and the adjoining environmental and public health effects. BP Polymers Kortrax® can be found in a wide variety of industries, including flavorings, and BPP provides proven technologies that benefit users and consumers every day.

Fluorination plays a prominent role in the packaging industry and its advocates consider it to be a critical process to create a successful barrier against the leakage of aggressive substances. Yet, the most utilized types of fluorination create PFAS.[1] Proponents of fluorination argue that the PFAS formed as part of the barrier process is negligible and does not affect the contents housed within fluorinated HDPE containers. However, the presence of PFAS in fluorinated HDPE is not a novel issue and has been demonstrated as far back as 2011.[2] Furthermore, studies indicate that there is a high rate of transferability of the PFAS generated by the fluorination process into the contents of fluorinated HDPE containers, including food products.[3]

The PFAS associated with fluorination processes comes with alarming environmental and public health effects. PFAS has a significant negative impact on an assortment of bodily systems, and the most hazardous types, including PFOA and PFOS, are bioaccumulative and almost impossible to remove.[4] Additionally, as we now know, these chemicals are everywhere – in our water, packaging, clothes, food, and more.[5] When you consider the breadth of exposure to PFAS on a daily basis, it is alarming to say the least. Looking at the scale of this issue, the American public has been robbed of their autonomy to decide

[1] US EPA, O. (2022, March). https://www.epa.gov/system/files/documents/2022-03/letter-to-fluorinated-hdpe-industry_03-16-22_signed.pdf

[2] Rand, A. A., & Mabury, S. A. (2011). Perfluorinated Carboxylic Acids in Directly Fluorinated High-Density Polyethylene Material. *Environmental Science & Technology*, *45*(19), 8053–8059. https://doi.org/10.1021/es1043968.

[3] US EPA, O. (2022, September 12). *EPA Releases Data on Leaching of PFAS in Fluorinated Packaging*. Www.epa.gov. https://www.epa.gov/pesticides/epa-releases-data-leaching-pfas-fluorinated-packaging.
Whitehead, H. D., & Peaslee, G. F. (2023). Directly Fluorinated Containers as a Source of Perfluoroalkyl Carboxylic Acids. *Environmental Science & Technology Letters*. https://doi.org/10.1021/acs.estlett.3c00083.

[4] Fenton, S. E., Ducatman, A., Boobis, A., DeWitt, J. C., Lau, C., Ng, C., Smith, J. S., & Roberts, S. M. (2020). Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review: Current State of Knowledge and Strategies for Informing Future Research. *Environmental Toxicology and Chemistry*, *40*(3), 606–630. https://doi.org/10.1002/etc.4890.
Brunn, H., Arnold, G., Körner, W., Rippen, G., Steinhäuser, K. G., & Valentin, I. (2023). PFAS: forever chemicals—persistent, bioaccumulative and mobile. Reviewing the status and the need for their phase out and remediation of contaminated sites. *Environmental Sciences Europe*, *35*(1). https://doi.org/10.1186/s12302-023-00721-8.

[5] Jeffrey Kluger (2023, May 19). *All The Stuff in Your Home That Might Contain PFAS 'Forever Chemicals.'* TIME. https://time.com/6281242/pfas-forever-chemicals-home-beauty-body-products/.

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for themselves the dose of this constant poison that they are exposed to. Fluorination is just one piece of the puzzle but an important one.

Proponents of fluorination often challenge state PFAS bans by asserting that fluorination is not an intentional use of PFAS. Yet, it is indisputable that most forms of fluorination create PFAS. And, it can be argued that this resultant PFAS is what makes fluorination so successful as a barrier method.

Hence, it is important to craft PFAS legislation with definitions of "intentionally added" that are inclusive of fluorination and the chemical processes that generate PFAS. As it stands, the current definition of "intentionally added" under the proposed rule is under-inclusive of such processes, though they are a significant contributor to PFAS contamination within the environment and public health. BPP urges the Washington Department of Ecology to adopt an expansive definition of "intentionally added" that includes fluorination and similar processes that create PFAS as part of the formation of a barrier.

Because fluorination is a commonly utilized barrier in packaging, the potential for contamination is widespread. Although it is important to regulate PFAS within consumer products, it is critical that one also look to the packaging in which these products are housed. Moreover, there are pesticide and agricultural products deemed essential for multiple industries that are contained within fluorinated packaging. The EPA has already taken federal action against a pesticide product that was determined to have been contaminated with PFAS from fluorinated HDPE packaging.[6] Therefore, it is vital that state regulations governing PFAS, such as the rule being proposed in Washington, are fully inclusive of the many areas from which contamination may stem, especially since they all contribute to the bioaccumulative effects in the environment and public health.

In conclusion, statewide efforts to ban the presence of PFAS in everyday products are critical. The federal response to PFAS contamination has been scattered and disjointed; hence, statewide responses are urgently needed to encourage a change in the market and protect consumers. BP Polymers, LLC supports Washington's proposed PFAS amendments to its Safer Products Restrictions and Reporting rule and applauds the state's efforts to eliminate common sources of PFAS. As part of the proposed amendments, BPP encourages the state to adopt a more expansive definition of "intentionally added" that imposes stringent standards for manufacturers. Furthermore, with other widespread sources of PFAS contamination, we encourage Washington to expand the reach of these rules to additional areas such as agricultural and pesticide products.

Should you have any questions or wish to further discuss this letter and the information contained therein, please do not hesitate to reach out.

Sincerely,

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[6] US EPA, O. (2025, January). https://www.epa.gov/pesticides/pfas-packaging