

September 4, 2020

To Whom it May Concern:

Thank you for this opportunity to comment on the “[Recommendations for Managing Plastic Packaging Waste in Washington](#)” developed in accordance with RCW 70.380.

For more than 30 years, Toxic-Free Future (TFF) has worked to reduce toxics used in plastics, products and packaging due to the hazards they pose to health of workers, communities, consumers and the global environment during production, use, disposal and recycling.

Most recently, TFF worked on:

- Expanding Washington’s [toxics in packaging law](#) to include a [ban on per and polyfluoroalkyl substances \(PFAS\)](#), highly persistent toxic chemicals used widely in paper packaging such as compostable products. The ban is slated to take effect 2022.
- The comprehensive new law, [Safer Products for WA](#), (RCW 70.365), which initially targets classes of chemicals ([PFAS](#), Phthalates, bisphenols, APEs, [flame retardants](#) and PCBs), and gives the Department of Ecology the authority to ban, restrict or require disclosure of these chemicals in products and packaging sold for residential or commercial use. Many of these classes of chemicals are used in plastics (e.g. [BPA/polycarbonate](#), [phthalates in PVC](#)) and other packaging.

Our ultimate goal is for the safest chemicals and cleanest materials to be used to make products and packaging to minimize the impact to health and the environment.

We have the following comments on the recommendations to accomplish this goal:

**1) Adopting Extended Producer Responsibility (EPR) for All Packaging.**

Our biggest concern with this recommendation is that it does not address toxicity of packaging up front. This is especially concerning with respect to plastic packaging given the [enormous volumes of toxic chemicals used to produce plastics](#) and their [associated health hazards](#). The intent of the legislation includes minimizing impact on the environment, however, without clear restrictions on toxic chemicals

that can be used in plastic or other packaging there is no assurance the impact will be minimized. If toxics are not addressed at the very beginning numerous problems can result including:

- **Recycling of harmful chemicals into new products and packaging:** With the recycling of plastic electronic waste, we have seen that toxic flame retardants such as the banned [PBDEs](#), which are linked to decreased IQ and other neurotoxic effects and used in electronics, [can be recycled into other plastic products such as toys](#) or other products where unnecessary harmful exposures to these chemicals continues long past when they are banned.
- **Toxic chemicals could wind up in compost.** With the use of PFAS in paper food packaging that is compostable, there is evidence that [compost can become contaminated](#) with these chemicals that never break down and pose serious threats to our health and the environment. They also leach into drinking water due to their high mobility.

To create incentives for manufactures to use the safest chemicals and cleanest materials in packaging there should be clear criteria for what chemicals to avoid. Washington state has a long history in identifying chemicals of concern and establishing the scientific criteria to serve as the foundation of lists such as the [Chemicals of High Concern for Children's list](#).

We urge the department to include specific criteria in any EPR legislation that ensures the most harmful chemicals and chemical classes are not used in packaging. This is also consistent with the work of the [Toxics in Packaging Clearinghouse](#). This organization, which is a coalition of state governments, is currently working on [new model legislation](#) to more broadly address toxics in packaging.

Any EPR legislation should include criteria for restrictions on chemicals and chemical classes that have known or suspected hazards to human health or the environment, for example, carcinogens, mutagens, reproductive/developmental toxicants, endocrine disruptors, persistent bioaccumulative toxics, and very persistent/very bioaccumulative toxic chemicals.

**Specific policies and lists of chemicals of concern** that draw on these criteria include:

- Washington's [Chemicals of High Concern for Children](#);
- Initial list of chemical classes identified in the [Safer Products for WA law](#);
- Maines new law—[Toxic Chemicals in Food Packaging](#); and,
- [GreenScreen List Translator LT-1 chemicals](#).

## **2) Ban on Problematic, Unnecessary Plastic Packaging.**

In addition to restricting substances used packaging, TFF supports banning problematic plastics that are not only harmful due to the toxic chemicals used in production and the potential for chemicals to leach out during use, but also due to the challenges they pose in recycling programs. It is also a key way to reduce unnecessary packaging and waste.

We support immediate bans on the most toxic plastics for packaging, including PVC, polycarbonate, and polystyrene. The Department of Ecology should consider the [Plastics Scorecard developed by Clean Production Action](#) to identify the most toxic plastics. The report card includes an extensive evaluation of the chemical footprint of the plastics. It also uses Green Screen, which is a method the agency already uses to evaluate the hazards of chemicals and identify safer alternatives. The most toxic plastics

identified in the scorecard are also the ones that [Toxic-Free Future urges consumers to avoid](#), choosing less toxic plastics when necessary such as, HDPE, LDPE or PP. However, the ultimate goal should be reduction of the use of plastics.

### **3) Concerns Regarding “Chemical Recycling”**

Toxic-Free Future has serious concerns about “chemical recycling” as part of any EPR program. Chemical recycling is being advanced as a solution by the chemical industry, but it has the potential to cause more harm than good, particularly because plastics contain a wide range of toxic chemicals and treating plastic with high temperature creates even more. [A paper by the Global Alliance for Incinerator Alternatives \(GAIA\)](#) raises serious concerns about how toxics can remain in both the products and byproducts, and end up released into the environment as air emissions and toxic residues, especially if outputs are burned.

### **4) Recycled Content Requirements for Plastic Packaging**

It is also important to prevent toxic chemicals from ending up in packaging because of recycled content requirements. A study from early 2020 showed more particle contamination in recycled PET (rPET) than in virgin PET.<sup>1</sup> Another study found that the concentration of benzene migrating out of rPET generally increased with higher recycled content and lower quality.<sup>2</sup>

Requirements such as this without any requirements to address toxicity will end up creating other environmental and public health hazard. We strongly recommend that any recycled content requirements include provisions that prevent harmful chemicals in recycled content.

Thank you again for the opportunity to comment. Please contact me at 206-200-2824 if you have any questions or concerns.

Sincerely,

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Toxic-Free Future  
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<sup>1</sup> <https://www.foodpackagingforum.org/news/properties-of-rpet-containing-bottles>

<sup>2</sup> *Id.*