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Minnesota Pollution Control Agency
c/o Mallory Anderson
520 Lafayette Road N
St. Paul, MN 55155-4194

Via electronic submission only

Re: Draft Minnesota Preliminary Assessment for the Packaging Waste and Cost Reduction Act
(November 2025)

Minnesota Pollution Control Agency:

Thank you for the opportunity to comment on the Draft Minnesota Preliminary Assessment for the Packaging Waste and Cost Reduction Act ("Draft Assessment"). These comments are offered to support data integrity, statutory alignment, and long-term program effectiveness as Minnesota implements its extended producer responsibility (EPR) framework.

Covered Material Categories and Statutory Alignment

The Draft Assessment acknowledges that material categories are mapped "as closely as possible" to statutory covered material definitions due to data limitations (Draft Assessment, pp. 17–19). However, several categories materially diverge from statutory scope. Notably, Table 6 aggregates expanded polystyrene (EPS) and other polystyrene packaging with a broad "Mixed Rigid Plastics #3–#7" category that also includes PET clamshells, LDPE tubs and lids, and foodservice articles (p. 19). All foam packaging is not expanded or extruded polystyrene, but there are not descriptors for polyurethane, expanded polyethylene, expanded polypropylene or other foam material. This approach could result in conflation of all foam packaging as EPS and obscure material-specific characteristics, recovery pathways, and statutory treatment.

Because the Packaging Waste and Cost Reduction Act (PWCRA) regulates defined covered materials rather than aggregated waste streams, continued reliance on mixed plastics categories risks misattributing tonnage and management challenges to producers outside statutory scope. At minimum, such aggregated categories should be clearly caveated and excluded from any material-specific conclusions, and future Needs Assessment work should prioritize disaggregation consistent with material categories necessary for full implementation of the PWCRA.

SCORE Data Limitations and Treatment of Assumptions

The Draft Assessment relies heavily on county-reported SCORE data and acknowledges that such data are not designed to support material-specific EPR accounting, noting inconsistent reporting practices and frequent aggregation of plastics into broad categories (pp. 18–19). To address these limitations, the Draft applies a series of assumptions and corrective factors, including disaggregation of PET and HDPE from mixed rigid plastics and subtraction of ferrous “scrap” based on MRF composition estimates, while leaving other materials, including polystyrene and foam plastics, fully aggregated (pp. 19–20).

The Draft Assessment presents the composition of tons processed by the 17 MRF’s as an aggregated tonnage estimate for rigid plastics #3–#7 but also presents a disaggregated value for #5 and a category for #6 with a value of zero tons. The 2013 Waste Characterization reported a value for PS#6, presumably an aggregate of expanded, extruded, general purpose and high impact polystyrene. The values reported by this waste characterization assessment going forward will be used for setting producer responsibility obligations and fee modeling. Accurate material-specific characterization aligned with statutory covered material categories will be essential in establishing an equitable program aligned with statutory requirements and objectives.

These issues highlight the importance of distinguishing between descriptive waste stream analysis and statutorily relevant covered-material characterization as Minnesota’s EPR program advances toward the Needs Assessment phase.

Use-Based Statutory Exemption

The Draft Assessment also highlights a broader challenge associated with use-based statutory exemptions, which cannot be reliably identified through waste characterization or SCORE reporting alone. Certain materials are exempt from coverage based not on material type, but on product use or regulatory context. A clear example is expanded polystyrene (EPS) cold-chain packaging, which may be used either as pharmaceutical shippers that are statutorily exempt or as food delivery coolers that are covered materials. Once these items enter the waste stream, however, they are visually and physically indistinguishable, and neither waste sorts nor administrative reporting can determine whether a given EPS container originated from an exempt medical use or a covered food application.

While the Draft Assessment appropriately acknowledges that some reported materials include both covered and exempt items (e.g., newspaper and print materials; agricultural film and boat wrap exclusions in Table 6), it does not describe a systematic methodology for identifying and excluding use-based exemptions across categories. As a result, any aggregation of EPS or similar materials necessarily risks including exempt materials within covered-material tonnage estimates. To preserve statutory fidelity and avoid misattribution of responsibility, MPCA should clearly treat such estimates as provisional and should develop an explicit exemption-screening framework—separate from waste characterization—to be applied in the Needs Assessment and subsequent program implementation.

Residential Bias and Non-Residential Packaging

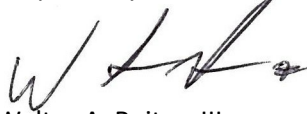
The Draft Assessment relies heavily on residential single-family recycling data while estimating multi-family and school waste streams using out-of-state assumptions (pp. 12, 53–55). This approach risks mischaracterizing non-residential covered packaging, including transport and distribution packaging that is central to durable goods, appliances, pharmaceuticals, and cold-chain logistics.

Conclusion

Correcting these issues before the Needs Assessment phase will strengthen program credibility, protect statutory fidelity, and reduce the risk of inequitable producer obligations as Minnesota's EPR program is implemented.

The EPS Industry Alliance appreciates the opportunity to answer any questions or provide additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. A. Reiter, III', with a stylized flourish at the end.

Walter A. Reiter, III

Director, Advocacy and Regulatory Development
EPS Industry Alliance