



December 12th 2024,

Honorable Bob Smith
Chairman, Senate Environment and Energy Committee
State House
125 West State Street
Trenton, NJ 08625-0068

Re: Oppose NJ S 3398 Senate Committee Substitute (SCS) – Extended Producer Responsibility

Dear Chairman Smith and Members of the Senate Environment and Energy Committee,

We are writing to respectfully **oppose** S. 3398 that would require producers of plastic packaging and certain other plastic products to reduce the amount of plastic sold and restricts additional substances under the “Toxic Packaging Reduction Act.”

S. 3398 has broad impacts on many industries as well as residents and consumers in the state. While our organizations recognize recycling and sustainability goals are critical, this legislation has many concerning provisions.

This legislation amends the Toxic Packaging Reduction Act by adding fourteen chemistries to the list of banned substances in packaging and allows a Toxics Packaging Task Force to recommend additional substances to ban.

In addition to banning advanced recycling technologies, this proposal expands the list of heavy metals currently banned under the Toxic Packaging Reduction Act to include ortho-phthalates, bisphenols, PFAS, benzophenone, flame retardants, carbon black, perchlorate, formaldehyde, toluene, and PVC among other substances.

The designation of substances to be banned will affect a significant amount of current packaging within two years of the bill’s effective date. For example, the bill arbitrarily bans all packaging from using these valuable chemistries without regard to the practical impacts to public health and safety. The bills also ignore the cost to consumers that would occur in eliminating such packaging, particularly in the areas of food and health care. Another example is carbon black, the pigment used in all black printing inks. It is not toxic when used in ink and black plastic is now readily separated for recycling. The greater impact is that no printing with black ink or four-color process images can be used on packaging or packaging labels. Banning it will also prevent any company from using any packaging with post-consumer fiber, thus eliminating the use of recycled paper-based packaging.

This overly broad prohibition disregards sound science and could potentially have major unintended socioeconomic, environmental, and public health consequences by arbitrarily eliminating packaging best suited for, among other uses, food preservation, medical supply and device protection, and hazardous materials containers. Many of the chemicals arbitrarily banned in packaging include those that have been studied and allowed by federal regulatory agencies for various packaging applications including those related to food contact.

The legislation specifically precludes Advanced Recycling from the definitions of “Recycling.”

As written, the bill excludes advanced recycling from the definition of “recycling” (shall not include: (1) energy recovery or energy generation by any means, including but not limited to . . . pyrolysis, gasification, solvolysis, waste-to-fuel; (2) any chemical conversion process. It also therefore excludes advanced recycling outputs from the definition of “post- consumer recycled material.”

The limiting definition in S.3398 therefore would prevent NJ from the economic and environmental benefits of advanced recycling. In just the past three years, more than \$5 billion in private sector investments including advanced recycling has been announced to help modernize the U.S. recycling infrastructure and expand the types of volumes of plastics that can be reused or incorporated into a circular economy. These new investments have the potential to serve new markets in the coming months and years, and these facilities are expected to recycle up to 9 billion pounds of material per year. The limiting definition in S. 3398 therefore would close a 9-billion-pound market to New Jersey communities and material facilities.

Advanced Recycling legislation has passed in 25 states including Michigan, New Hampshire, Pennsylvania, and Virginia.

These states recognize advanced recycling can contribute significantly to a circular economy wherein plastics are repurposed rather than disposed, which helps keep plastics out of waterways and the environment. Ongoing and emerging advances in mechanical recycling are capturing more types of post-use plastics, while advanced recycling is poised to capture primarily used plastics that are not widely recycled today.

Some mistakenly equate advanced recycling to incineration. Advanced recycling is **NOT** incineration. Advanced recycling converts post-use plastics into their original building blocks to be reused in the formation of specialty polymers, feedstocks for new plastics, waxes and other valuable products. This process takes place in the absence or near absence of oxygen. Contrarily, incineration combusts waste with no intent of recovery and produces primarily ash and heat. Combustion requires fuel, oxygen and heat up to 2700F while advanced recycling heats plastics to a temperature up to 750F.

There is no burning or incineration. These occur in the presence of oxygen and at much higher temperatures of 1,800 to 2,700 F (980 to 1,500 C). Besides being 3-4 times hotter, incineration requires oxygen, whereas Advanced Recycling has little to no oxygen.

This bill promotes plastics deselection and unworkable source reduction mandates.

S. 3398 requires source reduction of plastic packaging and plastic products and includes aggressive goals by certain dates. As stated, we are strongly supportive of recyclability and sustainability; however, comprehensive market research is necessary to ensure that these goals are feasible. For example, finding alternatives to plastic packaging often requires years of research and testing, and even then, if adequate alternatives are identified, manufacturers may run into unexpected challenges such as supply chain issues that could prevent them from complying with mandates.

This legislation includes unworkable mandates to reduce plastic packaging and bans critical chemistries from packaging, which will disrupt commerce threaten human health and product

safety and yet will not accomplish meaningful sustainability goals. **For this reason, we urge the committee not to advance this legislation.**

Thank you,

American Chemistry Council

American Petroleum Institute – Northeast

AmSty

Alkylphenols & Ethoxylates Research Council

Alliance for Automotive Innovation

Alliance for Chemical Distribution (ACD)

American Apparel and Footwear Association (AAFA)

American Fuel and Petrochemical Manufacturers (AFPM)

AGC Chemicals Americas

Association of Equipment Manufacturers (AEM)

Association of Home Appliance Manufacturers (AHAM)

Association of the Nonwoven Fabrics Industry(INDA)

BASF

Berry Global

Braskem

Braven Environmental

Color Pigments Manufacturers Association

Consumer Technology Association (CTA)

Communications Cable and Connectivity Association (CCCA)

The Chemours Company

Covestro

CropLife

Dupont

EPS Industry Alliance

Gujrat Fluorochemicals (GFL)

Household and Commercial Products Association (HCPA)

Hydraulic Institute

IDI Distributors

International Bottled Water Association (IBWA)

International Sleep Products Association (ISPA)

ITI

Juvenile Products Manufacturers Association (JMPA)

Milipore Sigma

Motor & Equipment Manufacturers Association (MEMA)

Motorcycle Industry Council (MIC)

National Association of Chemical Distributors (NACD)

National Association of Printing Ink Manufacturers

National Council of Textile Organizations (NCTO)

National Electrical Manufacturers Association (NEMA)

National Marine Manufacturers Association (NMMA)

Outdoor Power Equipment Institute

Plastic Energy

Plastics Industry Association

Pine Chemicals Association

Polyisocyanurate Insulation Manufacturers Association (PIMA)

PRINTING United Alliance

Recreational Off-Highway Vehicle Association (ROHVA)

Responsible Industry for a Sound Environment (RISE)

Sabic

Sealed Air

Specialty Equipment Market Association (SEMA)

Syensqo

Specialty Vehicle Institute of America (SVIA)

Styrene Information and Research Center

Trinseo

The Toy Association

Vinyl Institute

Windows and Door Manufactures Association (WDMA)