



February 21, 2024

Room 1150, Minnesota Senate Building
95 University Avenue W.
Saint Paul, MN 55155

Dear Chair Hawj, Vice Chair McEwen, and Ranking Minority Member Eichorn:

Thank you for your consideration of packaging and recycling legislation in the state of Minnesota. We are writing to you as the Sustainable Food Policy Alliance (SFPA), including member companies Danone North America, Mars Incorporated, Nestlé USA, and Unilever United States. All four companies have each made extensive investments and commitments to make consumer product packaging more sustainable and transition to a circular economy. In turn, we also are focused on finding policy solutions that transform our nation's current waste management and recycling systems. Our advocacy is outlined in our [Packaging and Recycling Policy Priorities](#) and supplemented by our [Extended Producer Responsibility \(EPR\) Policy Priorities](#) and our [Post-Consumer Recycled \(PCR\) Content Policy Priorities](#).

These priorities aim to shift away from the status quo and move toward a waste and recycling future where companies like ours can set and meet ambitious goals to integrate PCR content into our packaging, consumers are educated to better navigate their local recycling systems, and we can all be better stewards of the environment. Within our own companies, we are investing in improving recycling systems around the world, innovating our packaging design, and collaborating with suppliers, local communities, and retail customers to advance forward-looking solutions that help our consumers make a difference and impact the planet. We know it is essential for stakeholders to come together to make end-to-end system changes that will truly transform our waste management system into a circular economy.

SFPA is supportive of Extended Producer Responsibility (EPR) programs. All four companies participate in EPR programs globally and we have worked to set up and support EPR programs and policies in the United States, such as Colorado's Producer Responsibility Program for Statewide Recycling Act. In Minnesota, we appreciated the opportunity to participate in the stakeholder process for the draft bill and are now sharing our feedback on MN SF 3561 which is being considered by the Committee on Environment, Climate, and Legacy. We support a number of the principles underpinning the bill, but wanted to share some concerns and recommendations for consideration in the legislative process:

- As written, the Commissioner has a very broad role in the implementation of the EPR program, and we would recommend shifting several of their responsibilities to the PRO. This should include setting performance targets and the potential consideration of third-party certification on those performance targets.
- We agree that a needs assessment is essential to determining which infrastructure improvements are needed to improve Minnesota's recycling system. Since the PRO will invest in the activities deemed necessary by the needs assessment to achieve legislative goals, we recommend that the PRO have a strong role, along with the state and the advisory council, in how it is conducted.

- We request some additional clarity on fees and recommend removing the provision related to the PRO establishing a financial reserve, which we believe will drive up the cost of the program.
- The legislation does not recognize the important role of a suite of recycling technologies called advanced, chemical, and/or molecular recycling. These methods allow industries to capture and recycle certain plastics, such as mixed plastics, that were previously considered difficult or impossible to recycle, and results in less plastic in landfills. We are supportive of these technologies because they allow for the reprocessing of materials that cannot be recycled through mechanical recycling and providing recycled content that is safe for food packaging. We urge you not to restrict the technologies that can reprocess material to deliver feedstock – not energy or fuel. Additionally, strong air quality, siting, and other permitting processes should be in place to ensure that infrastructure investments do not adversely impact the environment or disadvantaged populations.
- When considering PCR rates, special consideration must be given to packaging that has food contact as it is required to comply with food safety regulations issued by the Food and Drug Administration (FDA) that could conflict with PCR requirements.
 - We would like to see the bill amended to include certain important exemptions from the PCR requirements. For example, we recommend the following language from New Jersey's Recycled Content Law¹: “(1) the manufacturer cannot achieve the postconsumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the United States Food and Drug Administration, or any other State or federal law, rule, or regulation; (2) it is not technologically feasible for the manufacturer to achieve the postconsumer recycled content requirements; (3) the manufacturer cannot comply with the postconsumer recycled content requirements due to inadequate availability of recycled material or a substantial disruption in the supply of recycled material; or (4) the manufacturer cannot comply for another reason as determined by the department pursuant to rule, regulation, or guidance.
- As written, the bill requires a litter study, which we believe is better addressed separately.
- We also believe that there should not be intentionally added toxics in packaging, but also need to recognize the trade-off between recycled content mandates utilizing mechanical recycling and achieving reduced toxicity of covered materials. We recommend removing the provisions addressing toxics and address in separate legislation, given the complexity.
- While composting is essential to a circular economy, we believe it should only be included in an EPR program to note that better recycling can lead to less contamination in the composting stream.

We hope our feedback can help to develop an EPR program in Minnesota that includes best-in-class policy that is the right fit for the unique needs of the state. We look forward to working with you to continue to progress toward a more circular economy.

Sincerely,
The Sustainable Food Policy Alliance

¹ <https://www.nj.gov/dep/dshw/recycled-content/#:~:text=This%20Act%20establishes%20postconsumer%20recycled,of%20polystyrene%20loose%20fill%20packaging.&text=On%20January%2018th%2C%202022%2C%20Governor,391>