



RETAIL INDUSTRY LEADERS ASSOCIATION

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December 18, 2020

Attn: Emily Dominiak
Bureau of Waste Reduction and Recycling
New York State Department of Environmental Conservation (NYSDEC)
625 Broadway
Albany, NY 12233-7253

Via e-mail: 1-4D.HCPCproducts@dec.ny.gov

Re: 1,4-Dioxane Limits for Household Cleansing, Personal Care & Cosmetics Products

Dear Ms. Dominiak,

The Retail Industry Leaders Association (RILA) appreciated the opportunity to participate in the NYSDEC's December 2, 2020 public meeting on implementation of the newly enacted 1,4 dioxane limits for household cleansing, personal care, and cosmetics products. RILA is filing these written comments to summarize our input during the meeting.

RILA's members include the largest and most innovative retailers. The retail industry employs over 42 million Americans and accounts for \$1.5 trillion in annual sales. The vast majority of RILA's members have retail stores located in New York state. Many of RILA's members sell household and personal care products that are implicated by the new 1,4 dioxane limits, and some carry private label products that would require reformulations under the new restrictions.

RILA members have robust compliance programs in place and work closely with trusted suppliers to ensure that all products that they sell meet or exceed all applicable U.S. and state standards and legal requirements. RILA and its members also support the goal of state and federal environmental regulators in mitigating the release of toxic substances into the environment and mitigating the risk of human health exposure. While retailers support the strengthening of product safety standards, the timeline for implementation of any new standard should account for the complexities of the supply chain—from reformulation of products by manufacturers to distribution and eventual sale in retail stores.

As NYSDEC moves forward with implementing the new 1,4 dioxane limits, RILA makes the following recommendations to strengthen regulatory certainty and clarity for the regulated community:

NYSDEC should:

- Add clarity and streamline the waiver process; and
- Include a reasonable sell-through period following the December 31, 2022 compliance deadline.

Each of these recommendations is discussed in more detail below.

1. The NYSDEC should improve its waiver process with additional clarity and streamlining

As you heard during the December 2, 2020 public meeting from the Household Cleaning Products Association (HCPA) and others representing household cleaning product and personal care products manufacturers, reformulations of products and production of new compliant products will be time and resource intensive. Likewise, retailers will need time to work with their suppliers to ensure compliance with the new requirements. In addition to the time needed to reformulate and produce new product, the time from date of product manufacture to when that product is available for sale on a retailer's shelves can be 6 months or more. The cumulative time needed to get compliant product on retail shelves chisels significantly into the two-year timeframe to comply by December 31, 2022.

Additionally, the regulations may have the unintended consequence of hindering COVID-19 protection efforts. Many of the potentially impacted cleaning products are essential for disinfecting surfaces as part of the Centers for Disease Control's recommended COVID-19 cleaning protocols. Manufacturers, suppliers, and retailers are already challenged to try to keep up with steadily increasing consumer demand for products effective in killing the coronavirus. Reformulation of these critical products will take time and could lead to shortages leaving consumers with fewer options to protect themselves and their families from COVID-19.

Given the time required for reformulation, and supply chain complexities, the NYSDEC should establish a more clearly defined timeline and process for seeking waivers to extend the compliance deadline for products that will require longer transition periods. RILA encourages NYSDEC to begin accepting waiver applications as early as is feasible. Additionally, streamlining the application process so that one application can be submitted per manufacturer rather than per product will greatly reduce paperwork burdens and time. Finally, guaranteeing NYSDEC will respond to a waiver application in less than six months will greatly assist industry with planning and prioritizing product transitions.

2. The NYSDEC should include a reasonable sell-through period for products manufactured prior to the compliance deadline.

In addition to improving the waiver process, allowing a sell-through period for products manufactured prior to the compliance deadline will provide the regulatory certainty and clarity needed to transition products safely and effectively. A reasonable sell-through period that will allow products manufactured by a certain date to be sold for a period following the December 31, 2022 compliance deadline will minimize disruptions and supply chain delays and provide greater certainty.



A reasonable sell-through period will help to ensure that retailers are not left with high volume of unsaleable product come January 1, 2023. Not only will a sell-through period alleviate the future cost and resource burdens on retailers and their suppliers to remove and properly dispose of any non-compliant products, it also will prevent the unintended environmental consequences resulting from a glut of non-compliant products containing 1,4 dioxane and packaging from entering the waste stream and in turn the environment.

RILA recommends that NYSDEC work with retailers and manufacturers to identify an appropriate sell-through period.

Closing

RILA appreciates the opportunity to provide these brief comments to the NYSDEC on its 1,4 dioxane limits. RILA looks forward to further engagement as NYSDEC moves forward with implementing the new limits.

If you have any questions or need any additional information, please contact me at susan.kirsch@rila.org or (202) 866-7477.

Sincerely,



Susan Kirsch
Senior Director, Regulatory Affairs and Compliance
Retail Industry Leaders Association

