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CalRecycle
DRRR-2023-1728
Submitted Electronically to wastechar@calrecycle.ca.gov

RE: SB 343 Preliminary Findings

Dear Director Wagoner,

The Flexible Packaging Association (FPA) is submitting these comments on the Preliminary Findings of CalRecycle's SB 343 Material Characterization Study.

I. Introduction to FPA

I am John Richard, Director of Government Relations at FPA, which represents flexible packaging manufacturers and suppliers to the industry in the U.S. Flexible packaging represents $42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 85,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day—including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry. For CalRecycle's SB 343 Preliminary Material Characterization Study, FPA's members manufacture across the mixed and flexible plastic categories.

Flexible Packaging remains the packaging of choice due to its highly effective design features in lightweighting, durability, and the unique ability to tailor the chemistry of the package to the item being packaged. For food products, which represent 44% and $19 billion of flexible packaging sales in the U.S., FPA's members utilize technologies such as portion control, reclose features, perforated plastics, film toughness, and modified atmosphere packaging (MAP) to ensure the preservation of food. Flexible packaging's unique characteristics provide food loss and waste reduction benefits to every segment of the food supply chain, including after purchase

by consumers. These characteristics include barrier properties of the materials used in flexible packaging which extend transport as well as shelf life, reclosability features, enhanced product evacuation, and the optimization of product-to-package ratios.

Thus, FPA and its members are particularly interested in solving the plastic pollution issue and increasing the recycling of solid waste from packaging. While FPA greatly applauds the initial effort by CalRecycle to determine what products are currently being recycled, FPA has identified important gaps in CalRecycle's data and terminology.

II. Flexible Packaging is Often Recycled Separately from Industrial-Age Materials

According to the "internet research" that CalRecycle staff conducted to compile the jurisdiction section of this report, flexible packaging products are accepted at rates ranging from 0% (other multi-material laminate single-use) to mixed 94% (mixed plastic multi-use).[1] There are several problems with these figures. The Sustainable Packaging Coalition's (SPC) latest data shows that 91.4% of United States citizens have access to recycling programs.[2] The same study shows that 54.3% of people have access to store drop-off programs and about one-third of people nationwide rely solely on store drop-off programs for their recycling needs. FPA strongly encourages CalRecycle to include this vital segment of the recycling market in its analysis in order to have a complete picture of the state of recycling in California. One potential avenue for obtaining this data would be to work with the Flexible Film Recycling Alliance (FFRA), an initiative by the Plastics Industry Association and FPA, on their best-in-class plastic film recycling directory.[3] FPA also urges closer coordination beyond "internet research" with state and local governments as well as industry associations such as FPA, FFRA, PLASTICS, SPC, the Recycling Partnership (TRP) (that also has a Flim and Flexibles Coalition), and the Association of Plastic Recyclers (APR) to ensure data accuracy and transparency.

CalRecycle's preliminary study also does not consider advanced recycling facilities, where flexible packaging is primarily recycled. Common advanced recycling technologies like pyrolysis, gasification, and depolymerization convert used plastics that would be considered waste into high-value materials using methods that are regularly deployed in other industries. Despite being a nascent industry compared to other materials that have had centuries to figure out how to design for a circular economy, our industry has voluntarily invested over $7 billion which has led to a massive 21 billion pounds of plastic waste being diverted from landfills across the nation each year.[4] In time, we are confident that engineers and chemists will be able to definitively make the case for a circular plastics economy.

A common myth that our Association constantly must dispel is that advanced recycling is just burning plastic waste through incineration when in reality, this type of recycling relies on

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[1] CalRecycle Staff, "SB 343 Material Characterization Study Preliminary Findings" (Sacramento: CalRecycle, 2023).
[2] Adam Gendell and Beth Coddington, "2020-2021 Centralized Study on Availability of Recycling" (Charlottesville: Sustainable Packaging Coalition, 2022), Page 12.
[3] Plastics Industry Association, "Plastics Industry Association (PLASTICS) Launches Flexible Film Recycling Alliance to Improve Recycling Rates, Access, and Education." Plastics Industry Association Press Release, March 13, 2024.
[4] Ross Eisenberg & Craig Cookson, Advanced Recycling: Remaking Plastics to Meet Sustainability Goals (Washington D.C.: American Chemistry Council, 2023), 2-3.

cutting-edge technologies that purposefully operate with little to no oxygen (allowing for the recovery of material). Furthermore, advanced recycling produces emissions equal to or lower than similar facilities in other industries with the added benefit of no measurable lead or dioxin emissions.[5] All advanced recycling facilities are subject to the same Clean Air Act standards as mechanical recycling and often outcompete those facilities on environmental indicators. These facilities must be incorporated into CalRecycle's next draft study in order to have a comprehensive understanding of what is recycled.

III. CalRecycle's LVTP Data is Not Useable for the Report's Intended Purpose

With regard to CalRecycle's analysis of materials recovered by Large Volume Transfer/Processors (LVTPs), there are also several issues. Given the brief timeframe of the analysis, the data is not generalizable because it was collected in a single month of 2023 and therefore does not account for changes to the waste stream over time or even the relatively predictable seasonality of the waste stream.[6] If the data is not generalizable, it cannot be used to inform the programs SB 343 commissioned it for. Further, this study did not fully document the technical methodology used in the evaluation of LVTPs, and it is clear that the widely accepted industry standard developed by The Association of Plastic Recyclers was not used.[7] The Evaluation Protocol was specifically designed to determine whether a plastic article will correctly pass over a lab-scale average-sized glass screen that performs similarly to that used in production facilities. FPA and The California Chamber of Commerce both recommend that the Evaluation Protocol be considered in developing the methods employed within future iterations of the LVTP Material Characterization Study to promote accuracy. Additionally, FPA requests that CalRecycle make all data publicly available to inform stakeholder feedback in future iterations of this draft report.

IV. The Material Characterization Study Does Not Make "Recyclable" Determinations

The FPA endeavored to make a distinction between the terms "recyclable" and "recycled." The process SB 343 has established is taking incomplete data on what is currently recycled and using it to determine what is recyclable. This will have the unintended consequence of materials losing their recyclability designations or claims, resulting in the likely diversion of these materials to landfills, undermining millions of dollars of private and public investments to increase the collection and sortation of these materials. The loss of those claims, if measured correctly, will ultimately lead to a decrease in California's recycling rates.

The stated intent of the Preliminary Findings Report is to provide the public with information to identify whether a product or package is recyclable in California. However, CalRecycle's preliminary report does not provide clear guidance as to exactly which products or packaging CalRecycle is considering determining "recyclable" in California, i.e., which material types and forms are (1) collected for recycling by jurisdiction recycling programs that encompass at least 60% of the population of the state; and (2) sorted into defined streams for recycling processes by large volume transfer/processing facilities that collectively serve at least 60% of recycling

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[5] Eisenberg & Cookson, 3.
[6] CalRecycle Staff, "SB 343 Material Characterization Study Preliminary Findings" (Sacramento: CalRecycle, 2023), Page 6.
[7] Association of Plastic Recyclers, "Sorting Potential Test Method: Evaluation of the Size Sorting Potential for Articles with at Least 2 Dimensions Less than 2 Inches" (Washington D.C.: APR, 2020).

programs statewide. These determinations should be made explicitly within the report once a more comprehensive and accurate analysis is completed.

V: Conclusion and Next Steps

Thus, while the goals of CalRecycle's report are laudable, FPA submits that CalRecycle's failure to take into account the entirety of the recycling system, incomplete data, nonexistent coordination with local jurisdictions responsible for recycling programs, as well as organizations such as FPA, TRP, APR, FFRA, PLASTICS, and SPC, charged with assisting members with recycling of packaging, and lack of generalizability make this report far too preliminary to make any sort of recyclability claims about any of the evaluated materials. FPA encourages CalRecycle staff to adhere to widely adopted industry standards, establish accurate and reliable datasets that can be shared transparently, and coordinate with the industry to get an accurate picture of the recycling system before the next draft report is published.

FPA is pleased to provide these comments on the Preliminary Findings of CalRecycle's SB 343 Material Characterization Study and reiterates our and our members' eagerness to work with CalRecycle on improving the packaging nuances that are missing to ensure better environmental outcomes.

In advance, thank you for your consideration. If we can provide further information or answer any questions, please do not hesitate to contact me at (443) 534-3771 or jrichard@flexpack.org.

Respectfully,

John J. Richard
Director, Government Affairs
Flexible Packaging Association