

October 15, 2025

Leah Feldon, Director
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232
Submitted electronically: rethink.recycling@deq.oregon.gov

Re: Public Comments, CAA Plan Amendment 2: Responsible End Markets (REM)

Dear Director Feldon,

The Flexible Packaging Association (FPA) respectfully submits these comments to the Oregon Department of Environmental Quality (DEQ) regarding the Producer Responsibility Organization (PRO) proposed Plan Amendment 2 to the Oregon Producer Responsibility Program Plan.

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging represents \$42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 83,000 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, roll stock, and other flexible products.

I. Cover Letter Appendix A: Alignment with Oregon's Rules on REM

FPA understands that the intent of Appendix A is to provide a quick reference crosswalk between the program plan proposal and what is required in the regulations. We understand that Appendix A does not reflect the plan per se, however we would be remiss if we did not note that any documentation submitted to the state for public comment is a legal document subject to interpretation. We note that on the first page of Appendix A, the last column, first row within the crosswalk – the CAA Plan Approach—states that: “...CAA does not anticipate materials will be sent to non-mechanical recyclers.” It is our understanding from reading the plan, and through discussions with Circular Action

Alliance (CAA), the producer responsibility organization (PRO), that this statement only refers to the current review period as CAA has not identified any commingled recycling processing facilities (CRPF) that are currently directing materials to non-mechanical recyclers. FPA understands that it is the intent of both the legislation and CAA, that non-mechanical recycling is an eligible technology if it can demonstrate adherence to the criteria for responsible end markets (REMs) and meets a need to recover material at its highest and best use. With this understanding, FPA is concerned that if this timeframe is not clarified, there is a possibility this statement could be misinterpreted to indicate long-term exclusion of non-mechanical recycling by CAA. It is important that this plan, and accompanying documentation, maintains some flexibility so that CAA can respond as needed when innovation advances. FPA believes non-mechanical recycling may be required in the future to ensure the recovery of multi-material flexible films and to establish safe recycled content for food contact films. As a result, we would prefer if this statement could be either struck, or amended with the following clarification:

“CAA does not anticipate sending any materials to non-mechanical recyclers in the current plan period. Non-mechanical recycling may be considered in future plan amendments if a viable pathway is presented that meets statutory requirements.”

II. Program Plan - Consultative Approach

FPA appreciates the considered approach through which CAA engaged in dialogue with recyclers and stakeholders to understand the level of support for a proposed REM program and explore how they could best align with existing practices already employed by industry. One area we specifically appreciated within this approach was the evaluation and support to leverage existing certification schemes to help align REM efforts. Many companies across the packaging and waste industry are required to respond to multiple stakeholder surveys and audit requests. This is a time-consuming and costly effort which also incurs legal risk as a public statement made in one survey or certification but missed in another can create a litigious risk. Additionally, as there are many stakeholders across the flexible packaging value chain, all with different processes and needs, identifying one practice to meet all needs can be difficult. We see this in the use of multiple calculation methods for recycled content (i.e., mass balance versus physical separation) just as much as we do in the development of standards and processes. We support the plan’s current approach to let organizations align existing surveys with

REM requirements and encourage CAA to consider this approach over the long-term as they develop their REM standards. FPA believes if CAA can work with certifying bodies to leverage REM needs into their process, this is a more efficient and cost-effective approach. With this approach, the CAA REM standard serves as an umbrella standard under which all others can roll up into. This model is used by Operation Clean Sweep (OCS) as well as the Programme for Endorsement of Forestry Certification (PEFC).

III. Requests for Temporary Variance in REM Disclosure

FPA considers the requests for temporary variances in the CAA plan for REM to be reasonable, and well informed based on careful exploration of challenges, opportunities and concerns amongst stakeholders. There are a few variance requests we believe would significantly strengthen the program and ensure the efficiency of the REM process as it scales:

i. Variance #1: List End Market aligned with REM requirements when another recognized PRO has already verified and approved the end market.

In a global commodity market, alignment with other programs and countries creates efficiencies that benefit all stakeholders. Consistency and alignment reduce costs and labor while providing a harmonized message on what is deemed important. FPA believes the approach to adopt existing attestations from global recyclers working with extended producer responsibility (EPR) programs that already require similar approaches helps ensure a harmonized expectation and can support alignment across cascading programs, extending the reach of Oregon's REM vision beyond the state into a global context. While initial efforts may be focused on adopting current processes supported by the Recycle BC and Valipac programs, discussions over the long-term amongst these and other EPR programs could help introduce new concepts and create a more aligned global waste management system.

ii. Variance #2 List end market aligned with REM requirements when a recognized certification has already verified and approved the end market.

Pursuant to our statements above, we concur that aligning CAA's REM verification with existing standards and certification helps create a baseline of minimum expectations and a drive for continuous improvement. We would encourage the state, and CAA, to consider this not just for on-ramping REMs,

but over the long term as well, as each organization is unique, and the ability to adapt processes to meet expectations is necessary in a market economy

iii. Variance #4- List plastic and glass converters aligned with REM requirements.

FPA has concerns with this statutory requirement requiring reporting from converters of certain materials. We are hopeful that this is a topic that can be addressed in the forthcoming 2026 rulemaking process. Placing additional requirements on plastics and glass converters so that they are subject to additional reporting and costs that are not required of other packaging materials may create unjust inequities that could disincentivize these materials solely based on economics. Additionally, as CAA notes in their plan proposal, we already have robust regulatory systems in place to ensure that food contact and children's packaging is meeting federal and state safety standards. The additional reporting process is unnecessary, duplicative and will result in unnecessary and burdensome costs. We strongly support this variance and encourage the Department to consider this request over the long term as it enters its third period of rulemaking.

Conclusion and Next Steps

Overall, FPA believes the CAA Amendment Plan for Responsible End Markets in Oregon has been carefully developed to incorporate the concerns and needs of all stakeholders while remaining true to the intent of the legislation. We support the adoption of this plan as is, with a request for one clarifying statement in Appendix A. Thank you for the opportunity to comment. If we can provide further information or answer any questions, please do not hesitate to contact me at (602) 540-7544 kfisher@flexpack.org.

Respectfully,



Kyla Fisher
Director of Regulatory Affairs and Sustainability
Flexible Packaging Association

CC: Kim Holmes, Oregon Executive Director, Circular Action Alliance