

## FPA Comments: The Recycling Partnership's (TRP) Pathway to Circularity Recyclability Framework (Framework)

Note, the comment submission is through an online format only and while the user guides states that you can leave a general comment, there is no form for that. The comment form provides space for comments only on the specific recyclability Framework criteria themselves. FPA's overall comments will be put in the first criteria, along with specific comments for that criterion as outlined below.

**General Comments** (will be submitted under Design for Circularity) (Does the package follow the respective industry's design guide?).

FPA is deeply concerned with not only the process but the ultimate outcome of this Framework. As this will certainly set a precedent for both states and federal work on packaging circularity, FPA believes that there needs to be much more clarity on the purpose and scope of this Framework, as well as better representation on the Council and a more transparent process before any finalization. As there does not appear to be an area to provide overall comments within the online comment submission system, FPA is providing the comments here, under the first Framework criteria.

As this Framework's stated purpose is the "need to have industry alignment around a single source of truth for determining and increasing recyclability that is transparent, collaborative, and oriented toward action," FPA questions why the process for such was anything but transparent and collaborative and why some industries, such as the flexible packaging, were wholly absent from the conversation. It is unclear what the process was for the Circularity Council's (Council) formation; its mandate; the decision-making format for drafting this Framework; and what other products are envisioned by the Council. With no public meetings, nor meeting minutes and presentations available, it is hard to call the process, let alone this Framework, transparent or industry-aligned. Further, it appears that TRP plans on only one round of public comments to this document. FPA strongly urges TRP to have more than one round to provide for the necessary input from the wide breadth of impacted entities that were not part of the conversation.

While FPA is a member of TRP, we were surprised that there was little to no representation regarding flexible packaging on the Council, nor are any of the current or future mechanisms used to recycle flexible packaging reflected in this Framework. On one of the introductory webinars on the Framework, it was stated that this Framework was designed for curbside recycling only. This is not stated anywhere in the Framework document itself. In addition, it is evident by reading the Framework that it is intended for current curbside infrastructure as well. While the Framework states that it "aims to provide criteria to onramp non-curbside packaging materials to curbside materials," it only reflects current systems for curbside bins. There is no mention at all of other recycling systems across the U.S., including store-drop off, enhanced mechanical recycling, or advanced recycling systems. As currently drafted, FPA fails to see how it would ever provide an onramp for the majority of flexible packaging, much of which is used for food and medical-grade packaging. As 19% of the packaging industry in the U.S., second only to corrugated cardboard, the Council and the Framework has overlooked a major piece of the packaging recycling puzzle.

FPA also fundamentally disagrees with the Framework's approach to packaging recyclability. Packaging provides a critical element in protecting and preserving products. Packaging innovation is ever-changing to provide the right packaging for the product to provide for greater protection and reduced

environmental footprint. The Framework seeks to design packaging for limited curbside recycling systems when we should be focused on designing the future recycling system for all current and future packaging. Under the explanation of what the Framework is, it states that it addresses current and future packaging recyclability challenges. Why is it packaging recyclability challenges and not packaging recyclability infrastructure challenges? Further, the Framework states that material coalitions can be formed that serve to evaluate the action needed to progress packaging towards recyclability, with no mention of coalitions formed to evaluate the action needed for recycling system improvements. At the very least, shouldn't packaging design and recycling infrastructure work together? As drafted, the Framework ensures the status quo of recycling and strands not only multiple types of packaging, but also investments across the country to upgrade mechanical recycling and add alternative recycling systems. The bar is set so high, even for readily recyclable materials, it will result in the lowest common denominator of recycling programs being enabled, instead of resulting in incentives to upgrade systems and stimulate end markets. It will also stymie the very packaging innovation we need to ensure better environmental and health and safety outcomes through packaging.

1. Design for Circularity

- a. Does the package follow the respective industry's design guide?

FPA is concerned that the multiple factors generally taken into consideration in design guides for packaging are being boiled down to just recyclability, when as stated, the primary purpose of packaging is to protect the product. Focusing on recyclability alone or weighting it differently than other factors in design guides could have detrimental environmental and health outcomes. FPA is also concerned about the appearance of a conflict of interest with some of the same industry design guide associations represented on the Council. FPA is pleased to see that the Framework envisions current and future design guides, however, more clarity should be given to avoid implying that the ones listed are the only ones or even the most appropriate for the packaging type, particularly when there may be more than one guide.

- b. Does the package include post-consumer recycled material? (Optional)

FPA is concerned about this criterion, even if optional. There are many barriers to post-consumer recycled content in packaging. Many food and medical packaging is restricted from using post-consumer recycled content or has numerous hurdles to overcome to include such, which is not an issue for other types of packaging. Because of this, many food grade and other packaging materials end up going to non-packaging post-consumer recycled content use, which should be supported. FPA is also concerned about the lack of access to and capacity to produce the amount of post-consumer recycled content needed to meet even today's demand for packaging PCR. Unless and until the recycling system is improved and more packaging is recycled, this will continue to be the case.

2. Recyclability Prevalence – Is 75% of the market volume for the consumer package category in a recyclable format.

FPA is extremely concerned that this criterion will inhibit the very innovation we aim to incentivize concerning packaging recycling. If companies are not rewarded in the marketplace as well as in the industry for striving to make packaging recycling, merely because the current limited curbside recycling

infrastructure will not accept it, FPA believes that these efforts will halt. Instead, we need to strive both for packaging recyclability as well as recycling system upgrades so that all packaging reaches circularity. It appears, without more information, that 75% is an arbitrary number and based on commodity economics instead of advancing packaging recycling, which innovation should also do. Without more information, it is unclear who will make the prevalence determination either.

### 3. Access and Adoption

#### a. Do 60% of U.S. consumers have access to recycling for the packaging?

FPA supports leveraging the FTC Green Guides with respect to recycling access. FPA notes, however, that these guides are set to be updated with a process that will start early next year. Further, as States, such as Oregon, California, and Maine look to statewide access criteria, this criterion as well as others in this criterion (see labeling) may need to change.

#### b. Does the package include accurate consumer recyclability labeling/messaging?

Who will review/determine the accuracy and what will it be based upon? As stated under the access criterion, many states are set to regulate this aspect of labeling, as well as the FTC. We can not and should not have a 50 state approach. The FTC should have jurisdiction, and as they are updating their Green Guides beginning next year, perhaps the Framework is premature or should just reference FTC and update accordingly. The Framework states that some labels are issued by industry associations, while others are created by producers or suppliers. FPA notes that while associations, suppliers, and converters have a role in ensuring packaging is labeled correctly, labeling is the legal responsibility of the product manufacturer and is not issued nor content created by associations, converters, or suppliers.

### 4. Capture Journey – Does the package sort at a 90% MRF capture rate?

This is another example of where the Framework's scope is apparently limited to select curbside programs and this should be clarified upfront. The Framework speaks of "common methods of sortation" at material recovery facilities that disregard enhanced MRFs as well as all other types of sortation and recycling processes for packaging materials across the U.S. How many MRFs can reach this today? Where does the Framework address upgrading the designs of these MRFs instead of focusing solely on the packaging collected? It appears that this has been taken into consideration as there is a "control format" referenced for MRFs that cannot meet this criterion, but nothing concerning improving those systems.

### 5. Packaging Fate

#### a. Does the package fall into the relevant Institute of Scrap Recycling Industries (ISRI) specifications?

FPA has the same concerns as with the industry design guides. As ISRI is part of the Council, the appearance of a conflict of interest being the only named specification in the Framework is troublesome. In addition, while there may be broad acceptance in the recycling community for these specifications, the Framework should again clarify that this is for limited curbside collection and not enhanced mechanical recycling or alternative recycling and reprocessing systems in the U.S. and pertains to bale recyclability, not package recyclability.

#### b. Are end markets for the package sufficient?

FPA agrees that along with environmental impacts, having an end-market for the recycled content is a critical criterion. However, the Framework does not define “sufficient” and states that the Council is developing methodology to weigh various metrics that may be considered in this determination. FPA does not believe that all factors have been identified, particularly with respect to environmental impacts, including environmental justice considerations; and it is unclear who will be making the determination once the terms and metrics are defined, nor how market fluctuations and new technologies and end markets will be evaluated.