

Testimony
on
Hawai'i House Bill 750
in the
House Energy & Environmental Protection Committee

January 28, 2025

Dear Chair Lowen, Vice-Chair Perruso, and Members of the Hawai'i House Committee on Energy and Environmental Protection,

The Flexible Packaging Association (FPA) **appreciates the positive changes that have been made to the Hawai'i needs assessment effort, introduced this session as HB 750**, which would direct the Hawai'i Department of Health to conduct a statewide needs assessment for the recycling of packaging products.

I. Background on FPA and Flexible Packaging

FPA 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.

Thus, FPA and its members are particularly interested in solving the plastic waste issue and increasing the recycling of solid waste from packaging. FPA commends Representative Lowen for her hard work on this data-driven approach to packaging extended producer responsibility (EPR).

Flexible packaging is in a unique situation as one of the most environmentally sustainable packaging types from the standpoint of water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoint. But circularity options are limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging at its end of life. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single-material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs, however, end markets are scarce. The other half can be used to generate new feedstock, through pyrolysis and gasification.

Developing end-of-life solutions for flexible packaging is a work in progress, and FPA is partnering with manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include The Recycling Partnership (TRP); the Materials Recovery for the Future (MRFF) project; the Hefty® ReNew® Program; and Consortium for Waste Circularity; and the Flexible Film Recycling Alliance (FFRA). All these programs seek to increase the collection and recycling of flexible packaging. Also, increasing the recycled content of new products, including packaging, will not only create markets for the products, but will also serve as a policy driver for the creation of a new collection, sortation, and processing infrastructure for the valuable materials that make up flexible packaging.

It is FPA's position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled products is an important lever to build that infrastructure. FPA also supports well-crafted packaging EPR that can be used to promote this needed shift in recycling in the U.S. In fact, FPA worked with the Product Stewardship Institute (PSI) and jointly drafted a set of principles to guide EPR for flexible packaging (<https://www.flexpack.org/end-of-packaging-life>). The dialogue looked at the problems and opportunities for EPR to address the needs of the flexible packaging industry to reach full circularity.

It is with this background that FPA provides this testimony to inform the needs assessment approach included in HB750.

II. FPA Appreciates the Change to the Codified Definition of Producer

Last session, FPA urged the bill's authors to strike or amend the definition of producer. Following other packaging EPR programs throughout the country and internationally, for the EPR program to work the definition of the producer should be the owner of the item that uses packaging to protect, contain, transport, or serve the item and not the manufacturer of the packaging itself.

The primary responsibility for fee collection, remittance, and reporting under any packaging EPR program must be on the consumer packaged good (CPG) companies, which encompasses food manufacturers and retailers in their role as brand owners. They, and not the manufacturers of the packaging (converters), have the ability to track consumer sales in a given jurisdiction and control how products are packaged. FPA greatly appreciates the earlier prescriptive language not being included in HB 750.

III. Antitrust Protections for PRO

HB750 directs the Hawai'i Department of Health to consult with existing producer responsibility organizations (PROs) but provides no method or antitrust exemptions for creating any PRO. U.S. law prohibits competitors from gathering to discuss price, costs, market shares, sales, and market allocation – some of which must be examined to form a PRO. The first step to establishing a PRO is to provide an exemption so competitors can focus on the formation, fee schedule and cost allocations for a program. FPA suggests that any legislation resulting from this needs assessment include the antitrust exemption for the PRO used in existing EPR laws around the nation.

IV. A Note on Alternative Collection

Flexible packaging is primarily collected at store drop-off locations throughout the State of Hawai'i due to the general lack of curbside recycling for flexible packaging, including through initiatives like the Hefty ReNew program. Also, FPA is a founding member of the Flexible Film Recycling Alliance (FFRA), which hosts a store drop-off locator for flexibles that include several locations in Hawai'i. Should HB750 be enacted, FPA stands ready to assist the Department of Health by providing data on existing collection infrastructure.

V. Conclusion and Next Steps

FPA offers these comments to inform the needs assessment outlined in HB 750. We look forward to working with you to provide the necessary investment in new infrastructure and markets for all packaging, including flexible packaging. 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,

A handwritten signature in black ink, reading "John J. Richard". The signature is written in a cursive style with a large, stylized "J" and "R".

John J. Richard
Director, Government Affairs
Flexible Packaging Association