

Comments of the Flexible Packaging Association
on the Draft Report
“Recommendations for Managing Plastic Packaging Waste in Washington”
Prepared for the Washington State Department of Ecology
8/26/20

The Flexible Packaging Association (FPA) is submitting these comments as additional feedback to the Draft Recommendations Feedback Form also submitted on the above referenced Report. FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. Flexible packaging represents over \$33 billion in annual sales in the U.S., and is the second largest and fastest growing segment of the packaging industry. The industry employs close to 80,000 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 you and I use every day – including hermetically sealed food and beverage products such as candy, salty snacks, yogurt, beverages, and infant formula; and health and hygiene items and pharmaceuticals, such as aspirin, shampoo, shaving cream and yes, even flexible packaging for PPE and COVID19 and antibody test kits. Flexible packaging is also used for pet food to deliver fresh and healthy meals to a variety of animals. Carryout, take-out food containers, and e-commerce delivery, which are increasingly important during this pandemic, are also heavily supported by the flexible packaging industry. Thus, FPA and its members are vital to the supply chain when addressing the needs of U.S. consumers in their daily lives and particularly now in responding to the COVID-19 crisis.

FPA understands the importance of reducing and recycling solid waste to minimize litter and optimize landfill space. 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 waste. 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 about half of the flexible packaging waste generated, can be mechanically recycled through store drop-off programs. The other half can be used to generate feedstock, though a variety of mechanisms, most of which are not yet to the scale needed. Developing end-of-life solutions and markets therefore, is a work in progress and will take time.

Given these circumstances, at least for flexibles, FPA does not believe the underlying law requiring the assessment and Report, “The Plastic Packaging Evaluation and Assessment” law (Chapter 70.380 RCW), and its goals of all plastic packaging sold into the state being 100 percent recyclable, reusable, or compostable and incorporating at least 20 percent post-consumer recycled content, by January 1, 2025 are realistic. FPA believes that regardless of the mechanisms to achieve such goals outlined in the Report, the timeframe must be revised in any legislation introduced based on the Report’s recommendations to afford more time for any of the mechanisms to work.

Furthermore, there is a reason only 50% of flexible packaging is mechanically recyclable. 50% is single material. The rest is multi-material laminates for a good reason – to create less waste in the first place. Not all flexible packaging is the same – different products require different types of protection. Multiple materials are required to provide the appropriate barrier and protection to prevent contamination, extend freshness and ultimately protect the product by providing puncture, tear and burst resistance and strength. When assessing

sustainability or examining the full life-cycle of packaging, flexible packaging wins hands down. Flexible packaging uses fewer resources, generates fewer emissions and creates less waste. Flexible packaging starts with using fewer materials and resources than other packaging types and has the ability to package the most product in the least amount of packaging possible, reducing energy use, water use, and greenhouse gas emissions in the manufacturing and transportation of the package and product.

FPA agrees that any extended producer responsibility (EPR) scheme in Washington state should include all packaging and not just plastic packaging, as law was drafted. FPA also agrees that the EPR system should focus on residential packaging and not institutional or industrial packaging. All packaging and materials types should be covered, across all sales channels, including e-commerce. Schemes should focus on consumer as industrial and institutional segments already have robust collection and recycling systems in place. These systems may be leveraged on the backend to support consumer packaging recycling where appropriate, however, they do not need an end-of-life management fee to support that infrastructure.

FPA does not agree, however, that legislation enabling an EPR program in Washington state should include progressively increasing recycling targets. Setting performance standards and recycling targets, including any eco-modulation fees should be reserved for the Producer Responsibility Organization (PRO) in order to allow for full lifecycle aspects of packaging; changes in the recycling infrastructure and markets; and new packaging formats over time. Fee allocation and eco-modulation should not be punitive and equitably applied across all packaging formats. The PRO must have the ability to set targets and adjust accordingly, whether increasing or decreasing based on the circumstances. This is not the role of the legislation, which would most likely be as arbitrary as the current 100 percent recyclability

with 10 percent post-consumer content goals. Rather, this should be addressed in the program plan and program plan approval process as well as an annual program report process.

FPA also does not agree that a PRO should solely be responsible for providing all post-collection services, particularly when it comes to disposal, litter clean-up and public spaces. EPR, particularly one for packaging that will use existing infrastructure to the extent possible, is a shared responsibility. This could include, but is not limited to, raw material manufacturers, packaging converters, waste haulers, retailers, consumers and/or federal, state and local agencies. Funds should not be allocated to municipalities solely to reimburse or expand disposal, litter or cleanup activities and any revenue already generated through packaging waste must be directed to the recycling system.

Furthermore, when it comes to covered costs, all administrative costs should be capped, so that generated funds are dedicated to operational costs, including, consumer education to increase recycling and reduce contamination; collection and infrastructure investment and improvement and development of advanced recycling systems to allow for collection and recycling to a broader array of packaging materials, including flexible packaging; and quality sorting and markets for currently difficult-to-recycle materials.

As any EPR system put in place must be designed to increase recycling and invest in the necessary infrastructure to allow for collection and circularity of today's packaging types, FPA strongly opposes the Report's recommendations to ban plastic packaging identified as problematic. As the Report states, it has been generally found that material and product specific bans are inefficient and ineffective at driving systemic change and can result in negative unintended consequences. While the public-private Plastic Pact partnership that the Report references, might produce a list of these supposedly problematic plastic packaging

types, the initiative is in its infancy, so to recommend following whatever directive may or may not come out of the Pact is premature at best.

As for the post-consumer recycled content mandates, both generally and in plastic bags, FPA generally believes that these should be addressed outside of an EPR scheme. This will be highly specific to not only the material type, but to the use of the packaging format. Much like investment in infrastructure, innovation and investment in packaging technology will be needed and is outside the scope of an EPR funding mechanism. While an EPR program may encompass recycled content mandates within the broader scope of performance standards, given the complexity of setting these mandates and the above stated potential unintended consequences of doing so, they should be addressed in a separate policy.

Lastly, legislation implementing EPR schemes should address any regulatory hurdles current laws may impose, such as bans and limits on advanced recycling technology, that would prevent collection and recycling of additional packaging types, such as flexible packaging, and markets for currently difficult-to-recycle materials. Legislation that intentionally or inadvertently incentivizes disposal over recycling should be prohibited. Use of flexible packaging is increasing because of its beneficial environmental and health attributes. Any EPR scheme imposed on packaging must maintain or enhance the current environmental and performance attributes of flexible packages while providing sustainable funding, including funding for R&D for and investment in advanced recycling infrastructure and sustainable end markets, in order to provide an onramp for collection and recycling of all flexible packaging. Lack of current infrastructure and markets should not impede inclusion and flexible packaging should not be banned based on lack of current infrastructure for circularity.