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October 28, 2024

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

VIA Email [RethinkRecycling@deq.state.or.us]

RE: Circular Action Alliance's second draft program plan submission

The [Can Manufacturers Institute](#) (CMI) appreciates the opportunity to respond to the second draft of the Circular Action Alliance's producer responsibility organization (PRO) plan. CMI is the U.S. trade association of the metal can industry and its suppliers. Our members employ 28,000 workers in 36 states and produce more than 135 billion steel and aluminum cans annually for the food, beverage, aerosol, and general packaging markets. The metal can industry hopes our responses and insights will help shape the PRO plan and aid Oregon in meeting its goals set in the Recycling Modernization Act.

Management of Aerosol Cans

CMI urges the Circular Action Alliance to keep aerosol cans on the Universal Statewide Collection List (USCL). These aerosol cans are used for food (whipped cream, spray cheese), cooking sprays, and household and commercial clean products. When emptied, these cans are valuable sources of aluminum and steel for recycling and remelted into new metal for feedstock. Keeping them in Oregon's USCL also aligns with the Department of Environmental Quality's previous decision to include the cans in the USCL. It also prevents them from being perceived as difficult to recycle. Avoiding this perception is important in encouraging consumers to recycle them in their household bins, helping to increase their recycling rate.

In 2022, CMI and the Household & Commercial Products Association (HCPA) launched the [Aerosol Recycling Initiative](#) to make recycling aerosol cans easier. The initiative's goals are to achieve by 2030 at least an 85 percent recycling access rate for all aerosol cans, which means that households have the ability to recycle their empty aerosol cans in their local recycling programs and label at least 90 percent of aerosol cans as recyclable with messaging about how to recycle them properly. CMI hopes these consumer education initiatives, partnered with aerosol cans acceptance in local recycling collection programs across Oregon, result in higher recycling rates.

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The metal can industry hopes our responses and insights will help shape a PRO plan that meets the Act's goals. Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink that reads "Michael Smaha". The signature is written in a cursive style with a large initial "M".

Michael Smaha
Vice President, Government Relations
Can Manufacturers Institute



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October 28, 2024

Submitted via: RethinkRecycling@deq.oregon.gov

Comments: Proposed Second Draft Producer Responsibility Organization Plan, Submitted by Circular Action Alliance

Thank you for the opportunity to provide feedback concerning the Proposed Second Draft Producer Responsibility Organization Plan as submitted by Circular Action Alliance (CAA).

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging, while advocating an open and fair marketplace for all materials. Our core members include raw material and machinery suppliers as well as packaging manufacturers, which represent approximately 90 percent of the industry. Additionally, a number of distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

We understand that the second draft plan includes some elements that have been approved by DEQ and some updates in response to DEQ and Advisory council comments on the first draft. We also recognize that several of the elements of the proposed plan remain preliminary and we look forward to seeing additional aspects of the plan detailed further in the third submission in December.

Further, we hope that our comments herein support increased diversion opportunities for foodservice packaging, and additional transparency concerning fee setting.

General Comments

FPI notes that under the "Description of the Organization" section, "(t)he CAA National Board of Directors intends to establish a designated governing body known as the Oregon Board, which will have the delegated authority to act on behalf of the National Board of Directors to approve the producer responsibility plan and the budget for implementation of the plan, as well as oversee the implementation of the approved producer responsibility plan under the RMA. The Oregon Board will include Founding Member representatives, other producer representatives, and non-voting members." FPI reiterates its recommendation that the Oregon Board include representation from the foodservice packaging industry and producers of food serviceware as defined by the Recycling Modernization Act (RMA).

FPI appreciates that the second draft plan proposes continued engagement with producers in the development of the plan, and especially in the development of trials to prepare for the addition of materials to the Unified Statewide Collection List (USCL). As CAA prepares for the next submission of the proposed plan and future plan amendments we recommend continued stakeholder engagement that includes the manufacturers of foodservice packaging and FPI as the trade association representing these parties as well as a leader on the recovery of foodservice packaging.

FPI has a number of resources that may be valuable to CAA's planning and implementation efforts, including end markets information, resident messaging and education insights, and work regarding food contamination. We remain available to share our insights and collaborate on efforts to improve the recovery of all foodservice packaging.

We also reiterate our previous suggestion that all covered materials currently collected in Oregon recycling programs be afforded the same opportunity as glass to continue to be collected pending discussions with local governments.

It is our perspective that removing material from the collection list is a challenging communications task and may not be worth the effort, particularly if trials are planned to bring items back on to the collection list. Frequently moving materials on and off the list is counter to the consistency and harmonization that are the core principles of the USCL.

Materials Strategy

Proposed Additions to the USCL

PET Thermoforms

With respect to PET thermoforms, we continue to appreciate that CAA intends to take steps to support the inclusion of PET thermoforms on the USCL. We encourage CAA to maintain the previously proposed date of July 1, 2027, if not sooner.

FPI notes that in [DEQ's analysis](#) of materials against statutory criteria during the 2023 rulemaking PET thermoforms ranked 3 or higher on all categories, which was sufficient for inclusion on the USCL for other materials. New end markets for PET thermoforms are likely to be operational by 2027 and those markets are expected to meet the DEQ responsible end market standards which would directly address some concerns raised in the DEQ analysis.

Also, it is our understanding that forthcoming rules from DEQ will allow local jurisdictions to continue to collect materials that are expected to be included on the USCL in the near future. We encourage CAA to review those rules closely and be sure that the program plan provides sufficient clarity so that those local jurisdictions that wish to continue collecting PET thermoforms (and any other materials) may do so. We welcome opportunities to engage with CAA to implement steps outlined in the plan and to demonstrate the value of including the full range of thermoforms, including single-use cups, on the USCL.

Specifically Identified Materials (SIMs) on the PRO Recycling Acceptance List (RAL)

Aluminum Foil and Pressed Foil Products

In line with our comments above related to PET thermoforms, FPI recommends that CAA explore continuing to collect aluminum foil and pressed foil products in the Metro area (and other areas) where it is currently being successfully collected and recycled. CAA should signal an intent to submit a program amendment that will detail trials, similar to those proposed for single-use cups and polycoated paper

products. These trials will create a pathway for local communities to continue to collect a proven material stream and can be used to satisfy concerns identified in [DEQ's analysis](#) of materials against statutory criteria during the 2023 rulemaking. DEQ noted concerns with respect to food contamination as the reason for a SIMs designation for these materials. It may be valuable to review the existing recycling efforts in the Metro area and others in advance of determining next steps.

Proposal to Trial Commingled Collection of Non-USCL Materials

FPI appreciates that CAA has clearly stated an intent to collaborate with producers in the development of trial programs to address DEQ concerns related to SIMs that are not on the USCL or part of the PRO Depot materials list. FPI recognizes the value of detailing the specifics of material trials through the plan amendment process. We encourage CAA to submit the necessary plan amendments in 2025 and would be happy to collaborate with CAA on those efforts. FPI has experience in the implementation of material collection trials. It is our hope that trials of these materials are undertaken with a view to adding them to the USCL by July 1, 2027 (similar to the date stated for PET thermoforms in the first draft program plan).

FPI encourages CAA to request and review studies that have been cited by DEQ as the reason for removing certain items from the USCL and designating them SIMs as detailed under "*Attachment 1: Summary of public comment and DEQ's responses*" from the [Rulemaking #1](#). To our knowledge, DEQ has still not released the full study of the inbound contamination assessment, the details of which would substantiate the concerns as well as provide insight into possible next steps for addressing them in trials.

We are also concerned that some of the proposed tasks may be duplicative of efforts that have already been undertaken and that not all relevant stakeholders have been considered. We offer our additional perspective by material type below.

Polycoated Paper Packaging

With respect to polycoated paper packaging, we are, again, pleased to see CAA's intent to work with all relevant stakeholders. As one of those stakeholders we continue to welcome opportunities to offer our expertise as it relates to the recovery of polycoated foodservice packaging. As CAA is aware, FPI has extensive experience with addressing the specific aims of the proposed trials to understand, "*waste generators' ability to differentiate*" various polycoated paper formats. We believe that subsets of the Portland Metro area can meet the stated parameters of the trials such as strong (and consistent) control over materials lists, consistent service populations, consistent flows to specific CRPFs, CRPFs willing to participate, and responsible end markets.

On the proposed effort to undertake an in-depth study of "*CRPFs that sort polycoated cups into mixed paper bales separately from those that sort cups into grade 52 carton bales*", we continue to note that the proposed plan states that "*(i)t is CAA's understanding that Oregon's CRPFs currently include cartons in mixed paper bales and do not sort cartons into a separate PSI 52 grade bale. To date, CRPFs have not seen the value in marketing cartons separately from mixed paper.*" Therefore, we are uncertain on the ability to conduct such a study.

Additionally, on the matter of the recommended assessment of "*re-pulpability yield of mixed paper trials*" we would recommend that CAA work with organizations with expertise in this area and ensure that industry standards are leveraged.

We also reiterate our request for clarification of the following statement to better understand the objective "*(t)he trials would aim to track materials very specifically from route to bale to market and ensure no other material changes to the stream or service changes are happening at the same time.*"

Further, as we have cited in other comments above, it is important to note that in [DEQ's analysis](#) of materials against statutory criteria during the first rulemaking process, paper cups ranked 3 or higher on all categories except one (when sorted for a mixed paper bale). While DEQ had noted concerns with contamination as a factor in removing these items from the originally proposed USCL, to our knowledge no further information has been released to support this perspective.

Single-Use Cups

As noted above, PET and PP cups were initially included on the USCL based on DEQ's initial assessment of these materials. FPI is supportive of trials to address the reasons provided by DEQ concerning the removal of these items.

We believe it is important to recognize that thermoformed PET cups use the same materials and manufacturing process and provide the same quality of materials to the same end markets as do other PET thermoforms. Similarly, PP cups use the same material as other PP formats that are also being collected on the USCL. Finally, DEQ identified PET thermoforms as a potential source of contamination when deciding to remove single-use plastic cups from the USCL. However, if PET thermoforms are added to the collection list, they would no longer pose a contamination risk, as they would become part of the accepted recycling stream. This would eliminate the concern and allow for PET cups to be collected as well. This also suggests that a geography where thermoforms are currently collected, such as the Portland Metro area, may make the ideal location for trials of single-use plastic cup collection.

FPI welcomes opportunities to support these trials and share our experiences with respect to the recovery of single-use plastic cups (and all foodservice packaging).

Random Bale Audits

We understand the need to undertake random bale audits as a part of robust chain of custody control. FPI also appreciates that CAA is prioritizing those materials that have been identified as those that may have overseas end markets.

It remains our view that all materials where there are overseas markets should be treated equally as it relates to the need for random bale audits.

Financing

Membership Fee Structure and Base Fee Rates

Product Specification for the Fee Structure

FPI appreciates changes made to the categories of materials for more consistent classification of PET and PP lids. However, certain material categories appear inconsistent with both the USCL and the PRO list collection plans. Examples include:

- **Single-Use Cups:** Single-use polycoated paper cups and plastic cups are embedded within broader material categories, yet they have been designated by the DEQ as SIMs. The SIMs designation dictates that these specific categories require special attention as they are moved into the recovery space, potentially on a separate timeline from the other materials in their currently designated categories. Does including these cups in broader categories imply that the entire category will be transitioned to the recovery stream at the same time? Additionally, would any costs associated with addressing SIM-specific challenges be shared across the entire category?

- **Small format plastics:** The category includes all small format plastics, and lists that they are accepted on the PRO Recycling Acceptance List, however, only certain small format plastics are designated for PRO collection (e.g., caps). Given that fees are required to be higher for materials that are not collected for recycling, it would seem necessary to have separate categories for small format plastics that are designated for collection and those that are not. If all small format plastics are designated for collection, other sections of the plan should be updated.

We look forward to more details on the categories and fees in the third draft program plan.

General Comments Regarding Fee Setting

While FPI recognizes the proprietary nature of the fee algorithm, we continue to request further details regarding CAA's approach.

With regard to fees, the plan still does not provide sufficient insight into the activity based costing formula to justify the differential in fees among material types. Without this insight, it is unclear whether the fees are equitably distributed, ensuring that each material is contributing its fair share.

A comparison of the proposed Oregon fees to those in existing Canadian programs indicates that the Oregon fee model allocates greater fees to plastics, and lesser fees to paper categories. It is unclear why this would be the case, particularly at the rates proposed. Even simple inputs, such as commodity revenues, are not clearly defined. That is, are commodity revenue inputs based on market indices, or CRPF reported actual revenue?

More information is needed to understand the fee model and whether the cost allocation is fair.

Thank you for your consideration of FPI's feedback and we look forward to working with CAA and DEQ on improving the recovery of foodservice packaging and the implementation of the RMA.

Sincerely,



Carol Patterson
Vice President, Government Relations
cpatterson@fpi.org

October 28, 2024

via electronic submission to rethinkrecycling@deq.oregon.gov

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232-4100

Subject: HCPA Comments on the Proposed Second Draft Producer Responsibility Organization Plan Submitted by Circular Action Alliance

The Household & Commercial Products Association (HCPA)¹ appreciates the opportunity to provide input on the second draft of the Producer Responsibility Organization (PRO) program plan submitted by Circular Action Alliance (CAA). We look forward to continuing to work with CAA and the Oregon Department of Environmental Quality (DEQ) on operationalizing Oregon's Plastic Pollution and Recycling Modernization Act (RMA)².

Background

HCPA represents approximately 240 member companies engaged in the manufacture, formulation, packaging, distribution, and sale of products for household, commercial, institutional, and industrial use. HCPA members are continuously working to improve products and packaging in line with the principles of a circular economy to decrease waste and enable economic growth without greater resource use. Company members utilize several different materials for packing and shipping their products to ensure that products arrive undamaged, uncontaminated, safe for use, meet user expectations, have a lower environmental footprint, and generally enhance the quality of life of the consumers and workers who depend on these products daily. We have many members who sell products into Oregon or otherwise have a presence in the state and are committed to ensuring that Oregonians have access to high-quality products with reduced environmental impacts.

In addition to representing various categories of household and commercial products (regardless of packaging), HCPA represents products packaged in the aerosol delivery form. The aerosol delivery form is used to dispense a wide range of products, including but not limited to

¹ The HCPA is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

² <https://www.oregon.gov/deq/rulemaking/Pages/Recycling2023.aspx>

adhesives, air fresheners, antiperspirant, asthma inhalers, body spray, cleaners, degreasers, deodorant, disinfectants, dry shampoo, hair spray, insect repellent, insecticides, lubricants, paints, pan sprays, sealant, shaving creams and gels, sunscreen, and whipped cream. HCPA has represented the U.S. aerosol products industry since 1950 through its Aerosol Products Division, which includes companies that manufacture, formulate, supply, market, and recycle a variety of products packaged in an aerosol form.

HCPA's comments below address both areas of CAA's second draft program plan that are generally applicable to household and commercial products and requirements specific to aerosol products.

Operations Plan – The PRO Recycling Acceptance List

HCPA supports CAA's intent to explore adding Producer Responsibility Organization (PRO) materials to a curbside container service, separate from the regular curbside collection service for materials on the Uniform Statewide Collection List (USCL), in areas where barriers exist in establishing depots in line with Oregon's convenience standards. Curbside collection is known to result in significantly higher capture rates for recyclables than drop-off systems. HCPA agrees that CAA should be guided by economic viability when considering whether to expand curbside collection services, construct a new facility to act as a depot, or host collection events.

On page 34, HCPA believes the correct citation for how aerosol cans should be managed is OAR 340-090-0650(3)(b).

HCPA notes that according to OAR 340-090-0650(3)(b), aerosols and pressurized cylinders should be managed according to federal universal waste standards pursuant to 40 CFR part 273, which may not be the same as managing aerosols as household hazardous waste (HHW) in Oregon. The universal waste regulations provide a clear, protective system for managing discarded aerosol containers while alleviating regulatory burdens for managing waste. The universal waste regulations also encourage the recycling of the container after collection and processing any material that may be leftover, which is fully in line with the goals of Oregon's Extended Producer Responsibility (EPR) program. HCPA recommends that CAA explicitly state that it will manage aerosols according to universal waste standards instead of saying that aerosols will be managed as HHW items.³

HCPA questions the basis for the projected material tonnages for aerosols on p. 61-62. As described in our publicly available Aerosol Recycling Initiative white paper, published together with the Can Manufacturers Institute (CMI) earlier this year,⁴ HCPA regularly conducts a survey of all U.S. aerosol product manufacturers, as well as aerosol container and valve manufacturers

³ Specifically, HCPA recommends making this change on pages 54, 60, and 62.

⁴ The Aerosol Recycling Initiative white paper can be found at <https://www.thehcpa.org/wp-content/uploads/2024/07/Aerosol-White-Paper-FINAL-1.pdf> and information on the latest initiative activities can be found at <https://www.thehcpa.org/aerosol-recycling-initiative/>.

(the U.S. Aerosol Pressurized Products Survey). The most recent version of this survey shows that 739,597,000 aluminum aerosols and 2,882,428,824 steel aerosols were sold in the U.S. in 2019. Taking into account the size of Oregon's population,⁵ we estimate 9,348,506 aluminum aerosols and 36,433,900 steel aerosols are sold into Oregon. HCPA recommends using 0.068 and 0.190 pounds as standard industry weights per aerosol for aluminum and steel, respectively. After converting to tons, this results in an estimate of 29 tons of aluminum and 3140 tons of steel from aerosol containers sold in Oregon, or about 3,169 tons total, higher than CAA's estimate of 2,800 tons.

HCPA tentatively supports CAA's proposed path forward for aerosol containers, pending publication and review of the methodology and results for the practicability studies CAA refers to. As HCPA understands it, under this approach, full or partially full aerosols would be managed outside of the Oregon EPR system, likely via existing HHW programs, while empty aerosols would be proposed for inclusion on the USCL. As CAA notes, aerosol containers are currently collected in many Oregon communities via curbside comingled collection. On-ramping empty aerosols to the USCL while addressing potential and perceived hazards will allow for these communities to continue collecting empty aerosols at curbside and increase the flow of valuable metal in the recycling system.

HCPA supports including awareness of emptying aerosol containers in resident education and, through our joint Aerosol Recycling Initiative with CMI, is working to improve industry labeling on the importance of emptying the can before you recycle it. Additionally, the Aerosol Recycling Initiative continues to explore developing data to support the recycling of empty aerosol containers. HCPA, CMI, and the sponsors of the Aerosol Recycling Initiative appreciate CAA's statement of intent to engage with us and look forward to collaborating on aerosol manufacturing, consumer and end markets, and recycling to improve the overall recyclability status of aerosol cans.

CAA Management and Compliance – Reporting

HCPA encourages CAA to make it as simple as possible for producers to identify the factors they need to report on in order to be in compliance and to achieve eco-modulated bonus fees or avoid malus fees. Larger producers may already have sufficient administrative capacity and advanced information management systems in place that enable them to readily access and process the various types of data needed to comply and take advantage of eco-modulation. In contrast, smaller producers with fewer resources or less influence over suppliers likely do not have such capacity and systems readily at hand and may experience disproportionate challenges with reporting. HCPA recommends that CAA take into account these potential inequities in producer reporting capability and conduct targeted education and outreach to small businesses on upcoming requirements.

⁵ Approximately 1.264% of the total U.S. population according to the most recent annual census bureau estimate available (July 2023).

Conclusion

HCPA thanks DEQ and CAA for the opportunity to provide input on the second draft of the program plan for operationalizing the RMA. HCPA looks forward to continuing to engage with DEQ and CAA to support the success of RMA implementation. We invite any questions about this submission and look forward to DEQ's and CAA's response.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly R. Blessing". The signature is fluid and cursive, with the first name "Molly" and last name "Blessing" clearly distinguishable.

Molly R. Blessing
Vice President, Sustainability & Product Stewardship



October 28, 2024

TO: Director Leah Feldon, Oregon Department of Environmental Quality

FR: Derek Sangston, Oregon Business & Industry

RE: OBI Comments on CAA's Second Draft Program Plan

Thank you for the opportunity to comment on Circular Action Alliance's (CAA) second draft program plan to serve as the producer responsibility organization (PRO) under Oregon's Plastic Pollution and Recycling Modernization Act (RMA).

Oregon Business & Industry (OBI) is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. In addition to being the statewide chamber of commerce, OBI is the state affiliate for the National Association of Manufacturers and the National Retail Federation. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

Generally, OBI remains extremely concerned about the compressed timeline on which the Oregon Department of Environmental Quality (DEQ) and CAA plan to implement the RMA. That concern is amplified by the second draft of the program plan reserving discussion of required system expansions and the PRO Recycling Acceptance List collection network until CAA's third draft of the plan. While it is understandable for CAA to wait for the results of a system cost survey and the Recycling Optimization Project, the issues of system expansion and knowing which materials will be on the PRO Recycling Acceptance List is important to producers. Providing as much information on those issues as soon as possible would allow producers to aid the implementation of the RMA. Unfortunately, the current timeline under which producers must comply is insufficient.

Under the current timeline, producers in Oregon will first learn their proposed responsibilities under those areas of the program plan in December 2024. They will not know their responsibilities for certain until February 2025. Thus, producers will have no more than five months to make currently unknown changes to contracts with their vendors and potentially establish new relationships with vendors that are currently unforeseen. Oregon's producers need more time and will struggle with that timeline.

While the second draft of the program plan is more detailed than the first draft, essential plan elements are still vague or lack sufficient detail. For instance, more detail is needed on the penalties imposed against non-compliant producers; especially on the scale or guidelines that will regulate potential non-compliance.

Several elements described in the second program plan also seemingly gloss over significant and necessary steps to implement the RMA. This draft of the program plan glosses over portions of it requiring CAA to establish contracts with local governments, service providers, and end-markets.

The current draft of the plan forecasts that these contracts will be finalized between DEQ's final approval of the plan in January 2025 and when program is currently scheduled to come online in July 2025. Based on current supply of adequate infrastructure and equipment, CAA is likely to struggle to complete those contractual obligations in that timeline.

The second draft also still does not appropriately recognize producers and industry as stakeholders who have a role in the RMA. Trade associations, outside of those focused on waste management, seemingly were not relied on in crafting this draft of the program plan. Significant portions of the plan could benefit from adding a producer perspective to the portions of the plan regarding: registration, data collection, market share calculations, developing responsible end-markets, opportunities to modify packaging to enhance compliance with the RMA, and reducing fees via eco-modulation. All of which are essential elements of the RMA.

OBI is equally concerned with the extreme cost projections now forecasted by CAA to implement the program. The preliminary budget, which has decreased only slightly from the first program plan, still calls for an initial annual budget ranging from \$219 million to \$287 million in 2025. The proposed fee structure anticipates the RMA's costs could grow to as high as \$483 million by 2027. Not only will this significantly increase the costs borne by industry to do business in Oregon, but it will significantly impact the costs imposed on consumers of products sold in Oregon.

There remains little to no explanation for the dramatic cost increases associated with the implementation of the program between now and 2027, especially since producers, local governments, and service providers expect the costs of the RMA to decrease as infrastructure comes online and producers innovate to reduce covered packaging materials. With those outcomes, the costs for the RMA should decrease, or at least flatten, over time, not increase.

The fee rate methodology is still not provided in the second draft of the program plan. Rather the methodology is identified as a confidential formulation. Recognizing the complexities of setting fees, OBI again requests that the regulated producer community be given the opportunity to review and provide comments on these proposed fee formula methodologies.

Though generally lacking specific details, several portions of the second draft of the program plan unnecessarily exceed the requirements SB 582 imposes. By adopting provisions that are stricter than what is statutorily required, and in some cases more stringent than what is required by other states, CAA and DEQ unnecessarily increase the costs of implementing the RMA.

OBI remains interested and engaged in helping to create a new recycling system in Oregon that complies with the intent of the RMA. Unfortunately, due to its extremely compressed timeline and extravagant costs, the second draft program plan attempting to implement the RMA remains concerning. Please do not hesitate to contact me with questions. Thank you.

Sincerely,

Derek Sangston
Policy Director and Counsel for Oregon Business & Industry



OREGON REFUSE & RECYCLING ASSOCIATION

October 28, 2024

Via email only: RethinkRecycling@deq.oregon.gov

Ms. Nicole Portley
Program Plan Lead, Paper and Packaging EPR
Materials Management – Product Stewardship Team
Oregon Department of Environmental Quality
700 NE Multnomah ST #600
Portland, OR 97232

RE: Comments on Second CAA Proposed Producer Responsibility Organization Plan

Dear Ms. Portley:

Thank you for the opportunity to offer comments on the second draft of Circular Action Alliance's (CAA) proposed Producer Responsibility Organization (PRO) Plan.

Oregon Refuse and Recycling Association (ORRA) is the statewide trade association representing solid waste management companies in Oregon. ORRA members collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities, compost facilities, and many of Oregon's municipal solid waste transfer stations and landfills.

ORRA appreciates CAA's ongoing efforts to craft the PRO Plan. It is a complicated implementation, with many moving parts and aggressive timelines. As ORRA has consistently noted in every comment since the passage of the Recycling Modernization Act (RMA), the speed of the process driven by the RMA's statutory deadlines continues to raise concerns about a successful launch of the RMA on July 1, 2025. ORRA believes there are efforts to solve some of those concerns through other administrative processes; if so, ORRA is ready to participate in any discussions that will help ensure success.

Plan Review. ORRA understands that many of the comments offered to the first PRO Plan will not be considered, or shown as any update, until the third draft of the Plan. Therefore, ORRA will not reiterate any of its previously offered comments.

Current Comments. ORRA's comments focus on two sections of the Plan that have changed since the first draft was submitted. The bulk of ORRA's comments are on the Materials Strategy, with one comment on living wages.

Page Number References. References to Page Numbers in ORRA's comments are based upon the printed page numbers of the .pdf file Oregon_ProgramPlan_v2_Changes Accepted. The table of contents heading for the relevant section will also be identified.

1. Materials Strategy. ORRA continues to advocate and assert that CAA should not be offering additional items for inclusion on the USCL, or for trial, in this first program plan, or at any time until the recommended new material satisfies a review of the material's performance against statutory RMA criteria.

In its opening statement on Materials Strategy on page 61 of the PRO Plan, CAA writes:

In addition to the specific material actions identified below, CAA will continue to work with stakeholders in reviewing other RMA material issues and options. For example, CAA noted support in its Phase I RMA Rules submission for the inclusion on the USCL of PE and PP lids and caps and HDPE package handles. While CAA does not have a specific action plan in relation to these materials at the time of this submission, the group will continue to assess these materials and potentially other USCL additions with Oregon stakeholders in the context of other materials management discussions. All recommendations for the addition of other materials to the USCL or recommendations for trial assessments of other materials will be presented as program plan amendments within 2025. (Emphasis added).

This statement goes directly to the crux of the problem with this entire section. CAA notes it has no specific action plan for these materials, yet expects to either recommend them, or other materials, to the USCL, or for trial collection, **within 2025**. Why is there an ongoing expectation that a material will be added to the USCL, or even included in some trial, until it meets the statutory requirements set forth for inclusion in the USCL, and why the rush to do so in 2025? The USCL needs to be a stable list of proven recyclable materials, or it could destroy the public's confidence in the program.

The continued, repeated effort to add materials to the USCL at the start of the RMA implementation, without first satisfying those components, requires the same responses in opposition because nothing has changed that would support adding the materials since they were first suggested. It is a return to "wishful recycling" which was a driving force behind the adoption of the RMA. ORRA is not opposed to adding materials to the USCL, but ORRA is opposed to the continued effort to include them when they will do nothing more than increase contamination in the recycling stream, if accepted and managed under current recycling system conditions, with no attempt to address the obstacles that caused the material to be rejected as a USCL material in the first place. The RMA is not a waste diversion program, it is a recovery program. If a producer wants to add a material to the USCL, let them do the work to show the material should be there, through trials in PRO material programs at depots, for example. Until then, we should proceed with what is verifiable and already agreed upon, in statute and in rule, before we are asked to add more. It's time to be done with this discussion and devote our limited time and effort to get the RMA launched in 2025.

As an example of when it is appropriate to add a materials to the PRO Plan, there is one example of a material that does meet the statutory requirements in the PRO Plan, the Transparent Blue and Green PET Bottles (p. 62, PRO Plan), which meet the statutory requirements, and the plan is able to cite to third party sources of support.¹ As a result of meeting those requirements, it makes sense to offer and add Transparent Blue and Green PET Bottles to the USCL at this time.

Contrast that to the proposed future addition of PET Thermoforms (p. 64, PRO Plan). One statement apparently in support of adding the material is, "...even when not accepted as a part of curbside commingled collection, thermoforms can make up to 10% of the average PET bale." The statement

¹ One question to answer – will every CRPF be equipped with optical sorting, and if not, how will contamination be controlled and materials recovered?

that “it’s already in the bale” is not a valid argument for its inclusion to the USCL. In addition, the performance of the material reviewed against statutory criteria reads as a “build it and they will come” wish list. There are the same contamination, lookalike issues. There are the same limited market issues. In essence, nothing has changed that would warrant the inclusion of PET Thermoforms since they were offered, and rejected, in the first RMA rulemaking.

What is the appropriate pathway for thermoforms? The producers need to do the hard work to prove the material is ready to be successful if added to the USCL, and the way to do that is not to add the material and hope it works out. For example, producers could support adding thermoforms to the PRO list, start them off in depot collection, support the markets needed, ensure product designs that stop causing customer confusion, and make the case that they can be successfully recovered first. Next, they will need to make the case that thermoforms meet the statutory requirements for inclusion on the USCL, which should include data, perhaps from programs in other states where they are currently collected in commingled collection programs, that demonstrate that it can be effectively collected and sorted post collection, and sent to the appropriate responsible end markets. Then, and only then, should the Plan be modified to add them to the USCL. Unfortunately, in the absence of such steps, it’s just too soon to include them, especially if doing so will make implementation of the RMA more difficult.

Specifically Identified Materials (SIM) on the USCL (p. 67, PRO Plan). ORRA continues to doubt that polycoated gable-top cartons, aseptic cartons, and nursery packaging will be anything more than “tolerated” at best in the USCL, and more likely a contaminant that will devalue other more recoverable materials, at least until sufficient investment in technologies that will allow for effective sortation are made at the CRPF’s, and until consistent and stable markets are in place. These materials follow the theme of the argument for inclusion of thermoforms – i.e., they are already there, so we may as well add more. Instead, what would make more sense is to fund solutions that will help reduce the contamination caused by the materials. For cartons, there is not enough value to sort them into separate Grade 52 bales, and little information on actual recovery of cartons from the commingled stream. For nursery packaging, there are lookalikes causing contamination, which will not be solved by education. All nursery packaging is sorted by hand, and opticals do not work on black plastic, unless an additive is included when manufactured. One suggestion that could assist is to require all producers of nursery packaging selling into Oregon to include that additive in their packaging.

Specifically Identified Materials (SIM) on the PRO Recycling Acceptance List (p. 70, PRO Plan). While CAA recommends limiting collection of steel and aluminum aerosol containers that are empty, how will CAA confirm this? It would be helpful to understand who and how proper identification of empty containers will be achieved at the point of acceptance from the public, for instance. ORRA agrees this is a significant safety issue for any facility managing this material.

Variance Requests (p. 73, PRO Plan). Until CAA can confirm how only empty aerosol containers will enter the system, ORRA recommends they be removed from the PRO acceptance list. As for expanded polystyrene (EPS), ORRA requests a specific timeline for when CAA will propose acceptance in a future Plan, including how long the trials will last until that decision is made. ORRA also recommends that the trials expand beyond two west-side metropolitan areas. For example, there is a manufacturer in Pendleton that produces a large quantity of EPS and would be an excellent location for a trial now.

Proposal to Trial Commingled Collection of Non-USCL Materials (p.74, PRO Plan). Simply put, polycoated paper packaging and single-use cups are not appropriate in any trial of commingled collection. There are so many other ways to consider the viability of collecting this material, it is difficult to understand why the approach recommended in the plan is to include these materials in the commingled system. As ORRA has previously stated in this document, the material should meet the statutory standards first. Why should there be a trial when there is no information to support including these materials? CAA should study how these materials have fared in other programs, perhaps in neighboring states using the metrics in Oregon's criteria for acceptance on the USCL, and use that information to develop a trial in the same way it should for other items – start with a depot, figure out the markets, learn about lookalikes and contamination, and study the material's sortability and impact on outbound bale quality/cross-contamination, and residual.

Initial Plastic Recycling Rate Projections (p. 77, PRO Plan). ORRA understands that CAA is recommending more plastic packaging be added to the USCL in order to work toward meeting the 25% plastics recycling goal in the RMA. ORRA supports the 25% plastics recycling goal in the RMA. It is part of the statutory requirement. However, ORRA objects to using inclusion on the USCL to meet the recycling goal prior to those materials being vetted through the same process that all other USCL materials went through. At no point during the legislative process or during negotiations was it suggested, or added to statutory language that the 25% goal should be reached through some particular form of collection. Let the producers find the solutions for the plastic packaging they create, and don't contaminate the commingled recycling in some misguided effort to meet the goal. Look at the research of the DEQ, consider where we are currently, identify where there are opportunities to recover what is recyclable (including alternatives to the USCL), and then set measured steps toward meeting the goal.

2. Living Wages. Page 147 of the PRO Plan refers to compensation for collection point staff, and notes that CAA plans to build in a living wage for Community Based Organization (CBO) managed depot sites. Please clarify why a living wage is only required for CBOs and not for all sites, and how that meets legal requirements.

ORRA appreciates CAA's efforts to build out the PRO Plan, and CAA's engagement and consultation to get important details and information correctly stated. It is an ongoing effort to improve and complete this Plan in a very short period of time, and a heavy lift from all of Oregon's partners to consider and offer comments on this effort. We all have a shared goal to successfully implement this complex law, designed with shared responsibility at the forefront, to improve the sustainability and resiliency of Oregon's recycling system.

We look forward to continuing as a partner in this effort.

Sincerely,



Kristan Mitchell

c: ORRA Leadership; ORRA PRO Plan Workgroup; Kim Holmes, CAA

RE: Circular Action Alliance Oregon Program Plan, submitted to DEQ 9/27/24

Submitted by:

PakTech
Jonathan Levy
Manager, Public Policy and Sustainability
Jonathan.Levy@paktech-opi.com



July 24, 2024

Nicole Portley
Oregon DEQ
700 NE Multnomah
Materials Management
Suite 600
Portland, Oregon 97232

RE: Circular Action Alliance Oregon Program Plan, submitted to DEQ 9/27/24

Dear Ms. Portley,

PakTech would like to thank DEQ for giving us an opportunity to share our thoughts related to Circular Action Alliance's Oregon Program Plan (Program Plan) which they submitted to DEQ on September 27, 2024. Overall, we are supportive of the Program Plan and will detail our reasoning below. We hope our comments are received in the spirit it was written and hope DEQ finds it helpful as they come to their final decision.

Founded in 1991, PakTech's facilities are located in Eugene, Oregon and is a manufacturer of HDPE plastic carrier handles that exclusively utilize recycled resin as a feedstock. We use approximately 1.4 million pounds of recycled HDPE resin per month, which is part of our commitment to sustainability and ensuring this material remains in the circular economy. Our commitment to sustainability doesn't end with the use of recycled resin as we also use over 170,000 pounds of recycled fiber per month.¹ From purchasing shipping containers and boxes that contain recycled fiber, to using energy efficient and sustainable power sources, to sustainable water use, we are committed to utilizing sustainable business practices throughout the manufacturing process. Our commitment to sustainability and good manufacturing procedures demonstrates our belief a manufacturing facility can provide a quality product while still being environmentally responsible.

DISCUSSION:

1. The PRO Recycling Acceptance List/Materials Strategy

4-pack and 6-pack HDPE package handles are currently designated as materials on the PRO Recycling Acceptance List. As we have discussed in other public filings with DEQ, we do not believe that our 4-pack and 6-pack package handles should be collected through the depot system, and it would be more efficient and convenient for the public if they were allowed to be placed in the curbside bin. Nevertheless, for the time being our package handles are to be collected through the PRO Depot Network and we are working with stakeholders to affect a transition from the PRO Recycling list to the USCL list.

¹ Through the use of purchasing shipping containers made with recycled fiber content. As such, we are a significant market for recycled fiber products and are proud to support the recycled fiber industry.



Because of this transition, the elements within the plan that directly related to CAA's materials strategy are of particular concern to us.

Within the Program Plan, CAA has offered several interesting alternatives to ensure materials on the PRO Recycling List are collected through means other than the depot. We agree that it would be far more convenient for the public to use drop-off locations at retailers for some materials such as PE film, block white EPS and pressurized single-use containers. We would be interested in exploring how additional items such as our package handles could be collected at these retail locations and what the ramifications of adding our products to this list would have on the overall ability to increase collection of these items.

Further, CAA recommends direct service for the collection of PRO materials in metropolitan areas where on-route glass collection currently exists. In addition to the retail locations mentioned above, adding on-route collection for PRO materials would add a level of convenience for the public and would increase the ability of these materials to be collected. CAA's suggestion of adding an additional curbside bin, separate from USCL materials, is a welcome suggestion. We are hopeful that such innovative thinking will encourage increased collection of our handles and other items on the PRO List that that can be collected through the use of a curbside bin. Again, we would be interested in discussing with CAA what such service looks like with a focus of adding our handles to that system.

Overall, we applaud CAA for its "out of the box" thinking on the subject of increasing the collection of PRO materials outside of the traditional depot network it is developing. It is our contention that most people, when faced with either driving some distance to a depot or throwing our package handles in either the recycling bin or trash bin, will opt for the latter. We believe their suggestion of adding a separate curbside bin for certain PRO Recycling List materials will not only help increase the collection of these materials but can also provide great data on the ability to increase collection of items which can be easily transitioned to the USCL.

In addition to finding new opportunities to ensure HDPE package handles are collected through means other than a depot, CAA has stated that it is interested in transitioning such materials to the USCL. Specifically, CAA states:

"CAA believes this material, inclusive of HDPE package handles, should eventually be introduced into the USCL list, as lids and caps that are screwed or snapped onto containers are already an accepted USCL material. CAA is in contact with an Oregon-based manufacturer of HDPE package handles that has completed further CRPF-focused studies since the rulemaking process. CAA proposes to discuss the findings of this new research with DEQ and Oregon CRPFs, as well as exploring other research needs, potential design improvements among producer members and ways of better



communicating to residents once the Program commences, with a view to making the case for their inclusion on the USCL”²

We enthusiastically commend CAA for its forward-looking thinking with regard to the inclusion of HDPE package handles onto the USCL. To ensure a smooth transition, we have worked tirelessly in achieving industry standard certifications related to design and recyclability such as gaining APR Design for Recyclability Recognition, and approval from How2Recycle³ as materials that can be sorted and recycled. Although CAA does not have a written plan to transition such materials to the USCL at this time, we are encouraged with their public statements to do so. We look forward to working with CAA, DEQ and other stakeholders in the near future to transition our handles to the USCL.

2. Responsible End Markets

As mentioned earlier, PakTech consumes approximately 1.4 million lbs. of PCR HDPE per month. It is our understanding that although we are an end user⁴ of PCR, we not considered an “end market” as defined in Rulemaking 1. As such, we believe the verification scheme CAA intends to establish does not apply to us. Although we may not be subject to CAA’s verification scheme, we are interested to learn if CAA has plans to extend its audit of end markets all the way to the final end user (i.e., a plastics manufacturer) or if such audits end at the reclaimer’s door. This is important to us as we purchase feedstock from plastics reclaimers located throughout the West Coast. The description in the Program Plan gives no indication of how such audits will impact final users of feedstock materials. As CAA begins to put requirements on plastic reclaimers that may qualify as an end market, we are concerned this might impact our ability to procure the quantities of feedstock we need to continue our operations. We currently have procurement contracts in place with several reclaimers that may qualify as an end market and are interested to know how CAA’s plans will impact these business relationships. We suggest the Program Plan include a description of how CAA will provide guidance and support materials to end users on their responsibilities and the role they play in the supply chain CAA is endeavoring to establish.

We note with some concern that although CAA claims it has no ownership of materials on the USCL⁵, it also has indicated that it may be the buyer of feedstock materials under certain conditions. We have built our business model on a free, fair, and open competitive marketplace where all entrants have the ability to purchase recycled materials from suppliers based on contracts between the buyer and seller. An entity the size of CAA can have an outsized influence on the marketplace and upend existing

² CAA, Oregon Program Plan (2025-2027), 64.

³ Our package handles have received a “check locally” How2Recycle designation, indicating in those programs that specifically accept our handles they can be recycled easily.

⁴ We use “end user” as a term defined as a manufacturer that utilizes recycled feedstock supplied from a plastics reclaimer for the manufacture of a new product.

⁵ Although CAA only references materials on the USCL, we are *assuming* this would also include materials on the PRO Recycling Acceptance List. If CAA has different obligations related to PRO materials, such as directly claiming ownership of these materials, we suggest that the Program Plan clearly indicate this is the case.

contracts in place between buyers and sellers. We suggest should CAA go forward with such plans, that guiderails and safeguards be placed on CAA so it cannot use its outsized influence to impact the purchasing of feedstocks by other buyers of these materials. We would be open to discussing our experience as a buyer of feedstock materials and how CAA can facilitate the buying and selling of materials without upending existing contracts or negatively impacting the competitive nature of the marketplace.

3. Reporting

As an end user of recycled feedstock and supplier of component parts that are manufactured at the direction of our customers, we believe we are neither a “Producer” or “Responsible End Market”. However, as our customers are defined as “producers” we will inevitably be called upon to provide reporting data to them, which we are fully prepared to do. While we have taken responsible actions to prepare as fully as we can, we would appreciate assistance from both DEQ and CAA in helping us anticipate the financial, operational and logistical challenges we can anticipate at the start of the program.

In order to help us prepare for the start of the RMA, we suggest CAA provide more guidance and support to end users. We believe the more support we can receive, the easier it will be to help our customers comply with reporting requirements CAA has set forth. At the present time, the lack of information being supplied to entities that are neither a “producer” or “end market” is shaping up to be a huge blind spot in the program. We note this as a point of information and stand ready to discuss further at the appropriate time.

CONCLUSION

As noted throughout our comments, PakTech encourages DEQ to look favorably upon the program draft and to work with CAA to resolve any deficiencies it may find. As a major purchaser of PCR HDPE pellets and an important business located in Oregon, PakTech has a vested interest in seeing this plan work as intended. We stand ready to collaborate with all stakeholders to help make the vision of the RMA as intended by the Legislature a reality.





October 28, 2024

Submitted via electronic submission to RethinkRecycling@deq.oregon.gov

The Department of Environmental Quality (DEQ)
Oregon Recycling Modernization Act
700 NE Multnomah St.
Suite 600
Portland, OR 97232

Re: Public Comment on the Second Draft of CAA's Program Plan for Oregon's Recycling Modernization Act

To Whom it May Concern:

On behalf of Ridwell, I would like to express our gratitude for the opportunity to provide public comments on the second draft of the program plan submitted by the Circular Action Alliance (CAA) for Oregon's Recycling Modernization Act (RMA). As we have indicated in our prior comments, Ridwell strongly supports Oregon's initiative to modernize its recycling system and expand opportunities for responsible recycling and waste diversion across all communities and sectors, particularly those that have been underserved by traditional systems.

The latest draft of the PRO Plan is a solid foundation for a program that appears to be well-positioned to expand recycling across the state of Oregon. For a supplemental alternative collection service like Ridwell, we appreciate that the plan includes several opportunities to utilize a service like ours to help the PRO achieve the high goals and convenience standards that have been set by the legislature. Ridwell is already helping tens of thousands of Oregon households reuse and recycle millions of pounds of household items, particularly hard-to-recycle plastics that cannot be recycled through on-route collection programs. We are ready to put our expertise and infrastructure to work on behalf of the PRO.

As the PRO finalizes their plan, we encourage further specificity around how and where alternative collection systems, such as Ridwell's, can be leveraged to meet recycling goals, including the state's plastic recycling targets, and achieving greater access and equity to recycling for all sectors. We support the flexibility built into the current draft plan, which enables the PRO to adapt to evolving pressures and demands that smaller, nimble operations like ours are uniquely positioned to meet. However, including additional details on the use of alternative collection systems in the final PRO plan would improve planning and investment, helping the PRO accelerate its impact while still meeting the RMA's goals and targets.

Again, we look forward to supporting the PRO's work to make the RMA successful and achieve the state's waste reduction goals. We are eager to contribute our expertise and infrastructure to support the implementation of this program and welcome further collaboration as the plan moves forward.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Caleb Weaver". The signature is written in a cursive style with a long horizontal flourish at the end.

Caleb Weaver
Vice President of Public Affairs
Ridwell

PORTLEY Nicole * DEQ

From: Alaina Labak <vp@wastefreeadvocates.org>
Sent: Monday, October 28, 2024 4:00 PM
To: RethinkRecycling * DEQ; znpettit@gmail.com
Subject: Public comment regarding inclusion of Recycle Right messages on garbage trucks

You don't often get email from vp@wastefreeadvocates.org. [Learn why this is important](#)

Dear Oregon Department of Environmental Quality,

We are writing today on behalf of Waste-Free Advocates, a 501(c)(3) organization that is dedicated to encouraging Oregonians to create a sustainable future by empowering and connecting communities to minimize over-consumption and waste.

Waste-Free Advocates encourages DEQ to include the suggestion for Recycle Right messaging to be added directly on waste disposal trucks in the RMA's plans for education and outreach. We see this messaging channel as a highly focused medium for consumer education that brings the information right into the neighborhoods where residents are sorting their own waste, right when they are thinking about their waste.

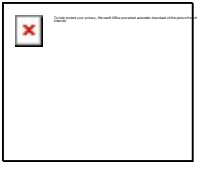
Most of us are more than familiar with the slogan "Think Green, Think Clean" displayed prominently by a notable hauler. If you have seen that messaging, then rest assured learning recyclers would see Recycle Right information if it were displayed in that same spot. Simplified messaging like "No Small Stuff in Recycling," "No Tanglers", and "Food Glass Only" could help slash the wish-cycling by well-meaning home recyclers who are driving up contamination rates in the recycling system to anywhere from 10 to 20 percent. Since contamination increases processing costs for sorting and handling recyclables and contaminated materials, we can assume that waste processors could see decreased processing costs if diversified messaging channels manage to bring Recycle Right skills to a greater audience and succeeds in reducing contamination.

There would be multiple avenues to accomplishing this end result in terms of whether MRFs, PROs, or haulers create this messaging (and coordinate and pay for decal install). Mandating this on-truck messaging would require a city code change and would be a less desirable option. But, by way of the RMA and directives to PROs, the messaging to consumers could "belong" more to the companies paying into the PROs, or the haulers themselves, designed to include their logos and otherwise celebrate their branding within the educational poster. Through our work as Master Recyclers we know that it is very challenging to get materials sorting information to residents where and when they need it. We believe that the novelty and visibility of this new-to-Oregonians avenue of messaging will catch people's attention and teach them the basic principles behind the reasoning for what materials are allowed in the bin, and could very well forge some new symbiotic relationships between producers, haulers and their customers.

Offered with gratitude on behalf of Waste-Free Advocates and our membership,

--

Alaina Labak
she/her
Vice President, Waste-Free Advocates
cell: 503.312.9584
www.wastefreeadvocates.org





Oregon Department of Environmental Quality
700 NE Multnomah, Suite 600
Portland, OR

October 28, 2024

RE: Comments related to CAA's Draft 2 proposed program plan for implementation of the Oregon Recycling Modernization Act

On behalf of the American Forest & Paper Association (AF&PA), thank you for the opportunity to provide comments on the second draft of the Circular Action Alliance's (CAA) proposed program plan for implementation of the Oregon Recycling Modernization Act (RMA). We look forward to continued engagement with CAA as we refine the approach toward improving paper recycling.

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$350 billion in products annually and employs approximately 925,000 people. The industry meets a payroll of approximately \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

In Oregon, the forest products industry operates 136 manufacturing facilities, employs nearly 36,000 individuals with an annual payroll of over \$2.6 billion, and produces over \$148 billion in products each year. The estimated state and local taxes paid by the Oregon forest products industry totals \$276 million annually.

Paper Recycling Works

Paper recycling is an environmental success story. Paper is one of the most widely recycled materials in America, and paper recycling rates in the U.S. have consistently increased in recent decades. The paper industry recycles nearly 70% more paper today than it did in 1990, when the industry set its first recycling rate goal.

In calendar year 2023, U.S. pulp, paper and paperboard mills consumed 31.3 million tons of recovered paper to manufacture new products, and that the U.S. exported another 14.8 million tons for use in manufacturing new pulp, paper and paperboard around the world.

Additionally, the paper industry is working to capture even more paper from the waste stream for recycling. Since 2019, our industry has announced or is expected to complete projects by 2025 that will use more than 9 million tons of recycled paper. These projects include building new mills, converting or expanding existing mills, and updating machinery and equipment.

October 28, 2024

Comments on Circular Action Alliance Program Plan

Please find below our feedback on CAA's proposed program plan for implementation of the RMA, with comments focused on the updated areas in draft 2 that have the greatest impact to the paper and fiber-based packaging industry.

Verification Standards

To minimize the burden of the auditing and verification process on responsible end markets, CAA should prioritize simplification where possible. Alternative standards and third-party certifications should be used as methods to achieve verification standards and processes. Many of our members use third-party certifications already that meet the burden of proof required by the Act through robust internationally recognized programs such as the Sustainable Forestry Initiative (SFI) and Forest Stewardship Council (FSC). An additional program would not achieve any new results but would be duplicative and an unnecessary use of program funds. We urge CAA to allow a single-step certification process, with the option for responsible end markets to self-certify—at least under certain circumstances, such as facilities that accept highly recycled materials within industries with established sustainability programs and standards.

Variance Proposals

We support the inclusion of a variance for domestic paper mill yield verification in the Operations Plan Section C (viii) "Ensuring Responsible End Markets" starting on page 107. We appreciate DEQ's openness to feedback from us and our partners, including domestic paper mills, the Technical Association of the Pulp and Paper Industry (TAPPI), and Moore & Associates.

Bale Auditing

We support CAA's decision to not use battery-powered tracking devices for random bale auditing. Companies that process large amounts of flammable material, such as paper facilities, need to be vigilant in managing fire safety risks and liability. Knowingly exposing those facilities, and their employees, to heightened fire risk by introducing mandated GPS trackers that would most likely use lithium batteries is irresponsible and unnecessary. The obligation under the Act can be accomplished in a less dangerous manner. The National Fire Protection Association states "the likelihood of them [batteries] overheating, catching on fire, and even leading to explosions increases when they are damaged or improperly used, charged, or stored."ⁱ The environmental stressors (such as heat and water exposure) and physical manipulation of bales that can be inherent in the shipping, sorting, and processing of recyclable materials are counter to most guidelines for battery safety and best practices. A chain of custody approach to random bale auditing will meet the needs of the statute without undermining safety and security.

We urge CAA and DEQ to allow the use of third-party chain of custody standards, such as SFI and FSC, to meet the responsible end market requirements under the Act. Chain-of-custody standards, which apply to suppliers and manufacturers, require the tracking of certified fiber through the supply chain, and allow use of certified content claims and labels on products. These standards function as an accounting system to track forest fiber content through production and manufacturing to the end product. They are backed by extensive research to capture the necessary data without double-counting or putting facilities at risk.

Our full comments to CAA on the dangers of battery-powered tracking devices can be found in the Appendix.

October 28, 2024

Comments on Circular Action Alliance Program Plan

Ensuring Responsible End Markets

We support CAA's anticipation of processing collected material in North America. Most paper mills in the Pacific Northwest region consume recycled paper as manufacturing feedstock. Our industry has longstanding concerns about the potential negative impacts of extended producer responsibility on competitive markets for recovered materials. The purpose of the RMA is to improve overall recycling, not serve as a conduit for access to raw material for particular manufacturers. We encourage CAA to include "domestic paper mills" as the responsible end market to not sway the market in favor or against any manufacturer.

Graduated Fee Structure & Ecomodulation

We appreciate the graduated approach CAA is proposing to integrate ecomodulation into the fee structure. However, we have concerns about the timeline given to producers and the potential costs to conduct a life cycle assessment (LCA) to qualify for Bonuses A and B. As CAA acknowledges, the cost of conducting an LCA varies from company to company. Without knowing the exact fees and resultant bonuses, companies will not be able to know if the ecomodulation bonus will help meaningfully offset the cost of the LCA.

Additionally, the SKU level LCA is unattainable for certain products our members produce. For example, a company may produce paper plates with many different color and pattern options. Each of those paper plates will have a different SKU even though the product remains otherwise the same in each variation. It is not financially feasible for a company to conduct a separate LCA for each paper plate variation, but it may pay to conduct an LCA for paper plates as a category. CAA should take a more macro approach to product LCAs and allow companies the flexibility to apply one LCA to multiple product SKUs. Furthermore, as an industry, we favor an approach based on recycling rate or overall industry utilization of recycled material rather than at the individual product level.

We look forward to more clarity on Bonus B that will be awarded to producers who have demonstrated significant impact reductions to their packaging. We seek clarification on the start-year wherein packaging changes will begin qualifying for this bonus and how the environmental impact reductions will be weighed to make this determination. Not all packaging choices lead to environmental impact reductions across the board, e.g., a choice may decrease scope 1 GHG emissions but could increase marine debris or other theoretical trade-offs.

We encourage CAA to examine how to incentivize producers to qualify for this bonus since it is explicitly stated that the cost should not exceed the cost of performing the LCA. Unless an LCA makes clear financial sense for producers they are unlikely to participate. In addition, new product innovation is occurring constantly as we seek to improve sustainability and recyclability within the paper industry, much faster than the every 3 years that producers are eligible to re-apply for these bonuses. As sustainability improves with the implementation of the RMA, we expect the goal posts to shift even more. A clear process on how that might impact the ecomodulation fees will be necessary.

Equity

AF&PA values the effort that DEQ and CAA have undertaken to integrate equity into the larger program goals of the Act. It is essential that the implementation of the RMA does not impact the communities in the rural, coastal parts of Oregon that depend upon the living wage jobs that the paper industry provides. For example, the Georgia Pacific mill in Toledo, OR, is one of the only major employers in that region of the state. Depot centers and facilities that process recovered materials should hire from the

October 28, 2024

Comments on Circular Action Alliance Program Plan

local community, so the economic benefits of those centers go back into the communities that manage those materials.

Plastics Goal and On-Ramp

We are concerned that plastic will be held to an unequal standard compared to other material categories. Our high recycling rate exceeds the 2025 (25%) and 2040 (50%) recycling goals for plastics yet non-plastic industries must pay to help carry the burden for underperforming materials that for decades have not taken the same steps to invest in recycling. The program plan should be material agnostic and hold each industry to the same set of standards and expectations.

We encourage CAA to include a *de minimis* threshold for plastic content found in paper bales. Failure to include a *de minimis* threshold has the potential to create a scenario where a highly recyclable paper bale is held to a lower standard of recycling for plastic. This could result in otherwise readily recyclable fiber ending up in landfill. Furthermore, we suggest that where there are industry standards the *de minimis* should align with that standard.

Thank you for your consideration of our comments. We appreciate the ongoing collaboration between AF&PA and Oregon DEQ to advance a sustainable recycling system. We remain available to discuss the feedback herein in greater detail and look forward to your response. Please contact Shoshana Micon at shoshana_micon@afandpa.org or Erin Hall at erin_hall@afandpa.org if you have any further questions.

Sincerely,

Terry Webber
Vice President, Industry Affairs
American Forest & Paper Association

¹ <https://www.nfpa.org/education-and-research/home-fire-safety/lithium-ion-batteries>



August 30, 2024

Ms. Kim Holmes
Executive Director, Oregon
Circular Action Alliance
via email: kim.holmes@circularaction.org

RE: Concerns with Battery Powered Tracking Devices in Paper Bales

Dear Ms. Holmes,

On behalf of the American Forest & Paper Association (AF&PA), we appreciate the opportunity to weigh in on the use of battery-powered tracking devices in bales to address the random bale tracking requirements of Oregon's Plastic Pollution and Recycling Modernization Act (the Act). On this subject, AF&PA must firmly advise against this course of action as an unnecessary, duplicative measure that raises serious safety concerns.

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recyclable resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately 5% of the total U.S. manufacturing GDP, manufactures about \$350 billion in products annually and employs about 925,000 people. The industry meets a payroll of about \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

Recycling is integrated into our business to an extent that makes us unique among material manufacturing industries – our members own and operate over 100 materials recovery facilities (MRFs) and 80 percent of U.S. paper mills use some amount of recycled fiber. With our members both owning many MRFs that process recovered material and representing nearly 80 percent of US consumption of recovered fiber, AF&PA is particularly qualified to weigh in on subjects related to safe and effective recycling methods.

GPS-Based Tracking Device in Bales is Unnecessary

Existing chain of custody standards such as the Sustainable Forestry Initiative (SFI) and Forest Stewardship Council (FSC) are sufficient to track the needed information for responsible end markets under the Act. Chain-of-custody standards, which apply to suppliers and manufacturers, require the tracking of certified fiber through the supply chain, and allow use of certified content claims and labels on products. These standards function as an accounting system to track forest fiber content through production and manufacturing to the end product. They are backed by extensive research to capture the necessary data without double-counting or putting facilities at risk. A secondary process involving inserting GPS tracking devices into bales adds complexity but is unlikely to result in new or more useful information than is already registered by AF&PA members through SFI and FSC requirements.

Safety is AF&PA's Top Priority

Companies that process large amounts of flammable material, such as paper facilities, need to be vigilant in managing fire safety risks and liability. Knowingly exposing those facilities, and their employees, to heightened fire risk by introducing mandated GPS trackers that would most likely use lithium batteries is irresponsible and unnecessary. The obligation under the Act could be accomplished in a less dangerous manner. The National Fire Protection Association states “the likelihood of them [batteries] overheating, catching on fire, and even leading to explosions increases when they are damaged or improperly used, charged, or stored.”ⁱⁱ The environmental stressors (such as heat and water exposure) and physical manipulation of bales that can be inherent in the shipping, sorting, and processing of recyclable materials are counter to most guidelines for battery safety and best practices.

The random bale tracking program would entail intentionally adding batteries to paper bales despite guidelines from Oregon officials explicitly advising against similar actions.

1. The City of Portland launched a curbside battery recycling service in June 2024 to reduce battery fires in garbage trucks and recycling centers. Their battery recycling page states: “Never put batteries - or things with batteries in them - in your garbage or mixed recycling. They can spark and cause fires... Battery-caused fires in garbage trucks and waste processing facilities have increased dramatically in recent years. These fires put workers’ lives in danger and can cost millions of dollars in damage. To prevent fires, batteries must be collected separately from other waste, and the batteries most likely to cause fires must be taped.”ⁱⁱⁱ
2. Similarly, Beaverton, OR advises “discarded batteries can spark fires. Please, never place batteries or items with batteries in them into your garbage or mixed recycling.”^{iv}
3. Clackamas County says, “Discarded batteries can spark and cause fires when not handled properly, creating dangerous situations for garbage and recycling truck drivers, processing facilities, and our communities.”^v

Thank you for the opportunity to weigh in on this important topic. AF&PA believes that intentionally introducing lithium batteries to paper bales is an unnecessary risk to our members’ employees and facilities when there is already a proven and internationally accepted process to track recovered fiber. Any steps taken to lessen the potential risk of adding batteries to the bales is still adding risk when a safe, proven procedure is already in effect. We look forward to continued dialogue with Circular Action Alliance and the State of Oregon on this and other matters.

Sincerely,

Terry Webber
Vice President, Industry Affairs
American Forest & Paper Association

ⁱⁱ <https://www.nfpa.org/education-and-research/home-fire-safety/lithium-ion-batteries>

ⁱⁱⁱ <https://www.portland.gov/bps/garbage-recycling/battery-recycling>

^{iv} <https://beavertonoregon.gov/1542/Batteries>

^v <https://www.clackamas.us/recycling/batteries>

October 28, 2024

Comments submitted via RethinkRecycling@deq.oregon.gov

Nicole Portley
PRO Program Plan Lead
Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

*Re: Circular Action Alliance Producer Responsibility Organization Program Plan **Second Draft Submission** 2025-2027 Program Plan Period*

Dear Nicole Portley:

The Association of Home Appliance Manufacturers (AHAM) appreciates the opportunity to comment on Circular Action Alliance's Producer Responsibility Organization Program Plan **Second Draft Submission** for the 2025-2027 Program Plan Period.

Plan Application Provides Few Examples of Cost Containment

Circular Action Alliance's Producer Responsibility Organization Program Plan **Second Draft Submission** provides producers and interested parties with additional information on certain aspects of how their plan would operate. In many areas, CAA's Program Plan Second Draft Submission provides more depth to the details and descriptions of how, as Oregon's PRO, they would implement the Recycling Modernization Act (RMA). AHAM appreciates the Application's continued work to harmonize Oregon's plan with other packaging EPR programs. However, AHAM remains concerned with areas of the proposal that are less detailed. AHAM commented on the original draft submission that the opaque "Financing Strategy" does not provide producers with transparent information as to how CAA is determining material fees. These concerns remain with the Program Plan Second Draft Submission. As the RMA's Rulemaking is finalized, it is vital that Oregon recognize its leadership role as one of the first packaging EPR states in the nation and the precedents this program will set.

Program Fees Determined by CAA Proprietary Algorithm

AHAM appreciates the packaging product breakdown provided in the "*Interim Base Fee Rate Estimates – Simplified Fee Schedule*" but remain concerned with the methodology used to establish Program Fees. While CAA determined the "Fee-Setting Guiding Principles" that will guide the fee structure, the ability for producers outside of the structure of CAA to provide input and accountability to their adherence is limited and remains opaque.

As AHAM previously commented, according to the Application, in the fall of 2023, CAA began discussions with its "Founding Members to develop a national fee-setting methodology to be

deployed to all EPR enacted states.” CAA’s seven founding members are identified in the “Articles of Incorporation” (Appendix H) and are all producers of high-volume fast-moving consumable consumer goods. Producers who do not produce similar consumable goods should not be kept in the dark as to why they are paying fees determined by these seven producers.

Producers that join CAA’s Oregon PRO, will likely be mandated to join CAA’s PRO in other states. As the Application notes, with respect to fee setting, “we also considered its potential for “nestability” with other EPR programs, such as California, to enable producer reporting synergies between Oregon and other state programs. This calls for unique levels of transparency in Oregon’s program, as it will be likely replicated in nearly every state in the Union. Providing producers with generalizations and self-determined “guiding principles” does not provide producers with the cost detail or confidence necessary to determine which packaging materials to use based on an established fee structure.

Reliance on Secret Algorithm May Explain Fee Variations

The proprietary fee algorithm that will be used to determine fees, is incorporated into the *Detailed Fee-Setting Methodology* (Appendix G) and listed as “confidential”. While the methodology to create the algorithm is listed as “shared with DEQ”, it should also be shared with members of the PRO.

The potential overreliance on an algorithm that is immune from scrutiny may explain the wide range of “Interim Base Fee Rate Estimates” (Table 17), which provides 16 material categories. It remains difficult to draw conclusions or understand the basis for the range of fees for the 16 material categories listed without additional details or information that will reflect the full list of reporting categories and the amounts that will be charged. Producers who pay to participate in the program should have a detailed understanding that material fees and overall fees are what CAA claims them to be.

“Ecomodulation” is a key fee-setting principle and is a factor in the “development of the Base Fee Algorithm.” AHAM supports the inclusion of “Ecomodulation” fees that are based on the environmental impacts of the material or its ability to be recycled. The proprietary fee algorithm, which all members of the PRO will pay as the “base fee”, includes fees for the environmental impact of the packaging material (ecomodulation). As the Application notes, “a portion of total gross costs of managing covered products in Oregon would be allocated to individual materials according to their relative recycling rate, such that the materials with higher recycling rates would be assigned a smaller portion of the cost and vice versa.” DEQ should establish regulations that prevent CAA and its algorithm from mitigating the impact of fees by minimalizing ecomodulation or overstating “recycling rate”.

While AHAM appreciates the factors and uncertainties CAA must include as they estimate program costs and fees, recycling or recovery of a material does not mitigate the environmental impact of the material. Accordingly, Oregon must also recognize its place as a leader as it becomes one of the first packaging EPR programs in the nation. A strong program in Oregon will encourage harmonization among future programs.

Guardrails in the RMA Limit Scope of Covered Materials and Must be Safeguarded

AHAM continues to appreciate that the RMA limits the inclusion of certain packaging generated outside of the scope of Oregon's packaging EPR laws. This provision of the law remains one of the few, if only, examples of cost containment for producers of non-consumable goods or durable goods. Additionally, AHAM appreciates DEQ's inclusion of EPS and clear polyethylene (PE) film in the Oregon Adopted Recycling Acceptance Lists and in the Uniform Statewide Collection List.

Worker safety in warehouses, distribution centers or during transportation/delivery must be considered, especially when dealing with large appliances such as refrigerators, freezers, dishwashers, cooking ranges, clothes washers and dryers. Once assembled, major appliances are often packaged, stored and moved in very large warehouses or distribution centers. These facilities often have limited climate control and can experience extreme temperature and humidity changes. Low temperatures can cause packaging materials to become brittle while humidity and heat can affect the packaging's structural integrity and limit the effectiveness of adhesives or the strength of packaging products made from fiber.



Appliance packaging is used to protect the appliance and factory personnel during storage, transport and delivery. The safest and most effective materials for this use are lightweight, can withstand multiple impacts, and maintain their integrity in humid conditions. Unlike smaller, fast-moving consumer goods, packaging for heavy durable goods have different requirements and must be able to ensure the protection of workers during transportation and at distribution centers. Large appliances such as refrigerators, freezers, dishwashers, cooking ranges, washers and dryers are stacked as high as 30 feet and packaging cannot fail while products are warehoused, regardless of environmental or climate

conditions.

For safety purposes, it is vital to maintain the structural strength of packaging materials, particularly with respect to major appliances that are regularly stacked vertically with multiple units above ground. Furthermore, these appliances are often moved around by clamp truck and the packaging must withstand the force of the clamps to be moved efficiently. Other paper alternatives such as cardboard, molded pulp or honeycomb can only handle a limited number of impacts and are more apt to lose structural integrity in hot and humid environments.

A fiber-based alternative to EPS would be bulkier and heavier. Consequently, this increased unit size leads to more truck loads need to transport the same number of units, more fuel to move them, and more warehouse space required to store them. The environmental impact of alternative packaging materials, such as cardboard, should also be considered. It is estimated that there would be an increase in size of 5-10% in all directions for the equivalently designed protective packaging, which equates to an increase of about 20-30% more trucks needed to deliver large appliances.



Additionally, thin plastic film (PE) is used to protect the finish of appliances as well as the display screen. Fiber alternatives, such as paper, are like sandpaper and would scratch the product and would lead to consumers either accepting a damaged product or refusing delivery and the distributor returning the product to the warehouse. There is no alternative to the use of plastic film to protect the finish of appliances or the display screen.

Conclusion

AHAM appreciates the opportunity to provide comments on *Circular Action Alliance Producer Responsibility Organization Program Plan **Second Draft Submission** 2025-2027 Program Plan Period*. Manufacturers of consumer products need flexibility in choosing appropriate materials for packaging their products to avoid situations that cause product breakage and damage during transport (which ultimately increases the lifecycle impact of the product) as well as to deter theft of smaller, high value electronics from retail establishments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jacob Cassady'.

Jacob Cassady
Director, Government Relations
(202) 202.872.5955 x327
jcassady@aham.org

About AHAM

AHAM represents more than 160 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly \$200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than \$50 billion.

In Oregon, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Oregon is \$1.5 billion, nearly 10,000 direct and indirect jobs, \$160.4 million in state tax revenue and more than \$514.0 million in wages. The home appliance industry, through its products and innovation, is essential to consumer lifestyle, health, safety and convenience. Home appliances also are a success story in terms of energy efficiency and environmental protection.

PORTLEY Nicole * DEQ

From: Kellie Alvarado <Kellie.Alvarado@anchorpac.com>
Sent: Monday, October 28, 2024 2:54 PM
To: RethinkRecycling * DEQ
Subject: Public Comments on CAA Second Draft Program Plan

You don't often get email from kellie.alvarado@anchorpac.com. [Learn why this is important](#)

To whom it may concern,

Below is feedback on the 2nd draft of the Oregon Program Plan which is focused on three main categories:

- Statewide Plastic Recycling
- Ecomodulation/LCA
- Equity

Statewide Plastics Recycling Feedback:

Polypropylene and PET, majority of food serviceware plastic containers, are valuable materials. Packaging sustainability is evolving and includes many end users specifying post-consumer recycled (PCR) content goals by certain dates – example Walmart Private Brand packaging 15% PCR by 2025. Food contact packaging has high regulatory hurdles and must meet FDA food safety standards. Creating circular systems that collect, process and reuse food grade PP & PET materials enables packaging companies to evolve their product portfolio's, which includes targets to reduce virgin resin usage by increasing the use of PCR materials. PP & PET Clamshells are accepted and recycled in almost every state demonstrating that collection & recovery is possible. California, which Oregon models for other portions of the EPR bill, currently accepts both PP clamshells and PET thermoforms at high rates. [Community Recycling Program Acceptance Data \(recyclingpartnership.org\)](#)

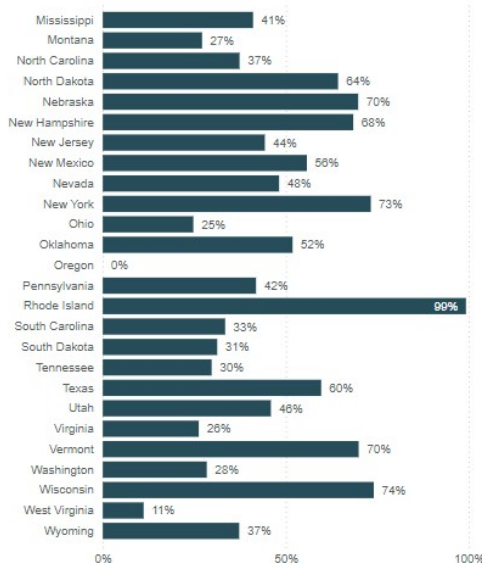
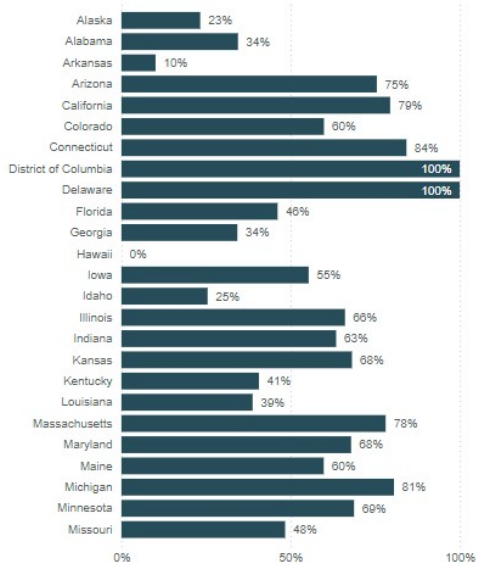
Community Recycling Program Acceptance Data

Publication Date: Sept 16, 2024



Acceptance Rate by State for PP clamshells

Includes all households (single-family and multifamily) in a community if the primary program accepts the category.



Select option below to filter visual.

Recycling Category

PP clamshells

Reset

View National Data

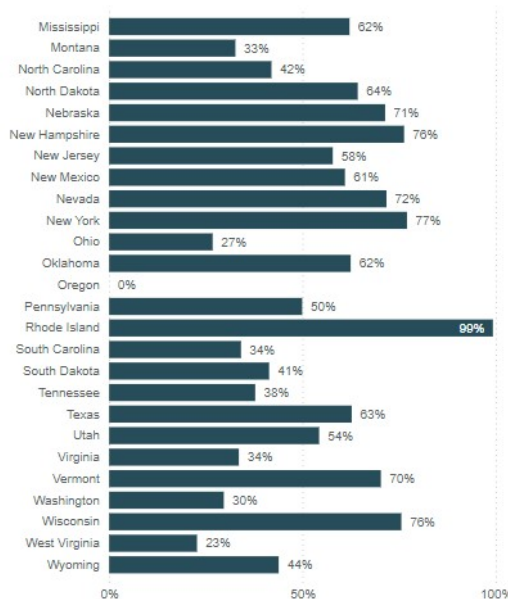
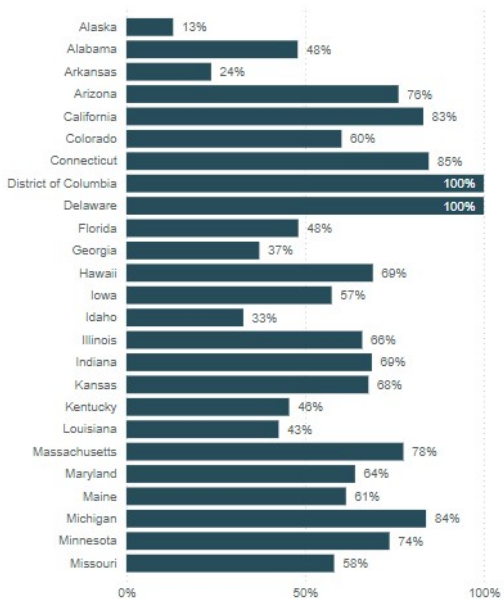
Community Recycling Program Acceptance Data

Publication Date: Sept 16, 2024



Acceptance Rate by State for PET thermoforms

Includes all households (single-family and multifamily) in a community if the primary program accepts the category.



Select option below to filter visual.

Recycling Category

PET thermoforms

Reset

View National Data

The exclusion of foodservice packaging from recycling/recovery efforts is at odds with the goals laid out for rigid plastic container recycling in Oregon (per Oregon.gov – and page 65 of 2nd draft proposal). Objectives to reach 25 percent recycling rates by 2028 have the potential to fall short of the goal. Including PP & PET food serviceware in the USCL will further enable CAA to achieve the 25% recycling rate by 2028, the material assessment in Table 11 (page 84 [RMA-proplanv2.pdf \(oregon.gov\)](#)). The original intent of the RMA program was to increase the amount of plastic packaging and food serviceware recycling. Below is a section taken from the DEQ website that clearly communicates the intention to include food serviceware (highlight for emphasis is mine).

[Department of Environmental Quality : Rigid Plastic Containers : Recycling : State of Oregon](#)

In the same manner that SB 66 positively impacted the recycling of rigid plastic bottles and containers across Oregon, the recycling of rigid plastics will also see a boost from the 2021 enactment of SB 582, [The Recycling Modernization Act](#).

The shared producer responsibility scheme, scheduled to come online July 1, 2025, will establish several efforts that will benefit the recycling of rigid plastics in Oregon. For example:

- A uniform statewide collection list for curbside collected materials, which will bring back into the system plastics that were eliminated in many Oregon communities – due to National Sword – and possibly add new rigid plastic materials as well.
- Require the producer responsibility organization to provide for the drop-off and mobile collection of materials not suitable for curbside collection (e.g. small-format rigid plastics, such as pill bottles and lids).
- Statewide recycling goals for plastic packaging and **food serviceware**:
 - 25 percent by 2028;
 - 50 percent by 2040; and
 - 70 percent by 2050. The goal for 2050 is not enforceable.

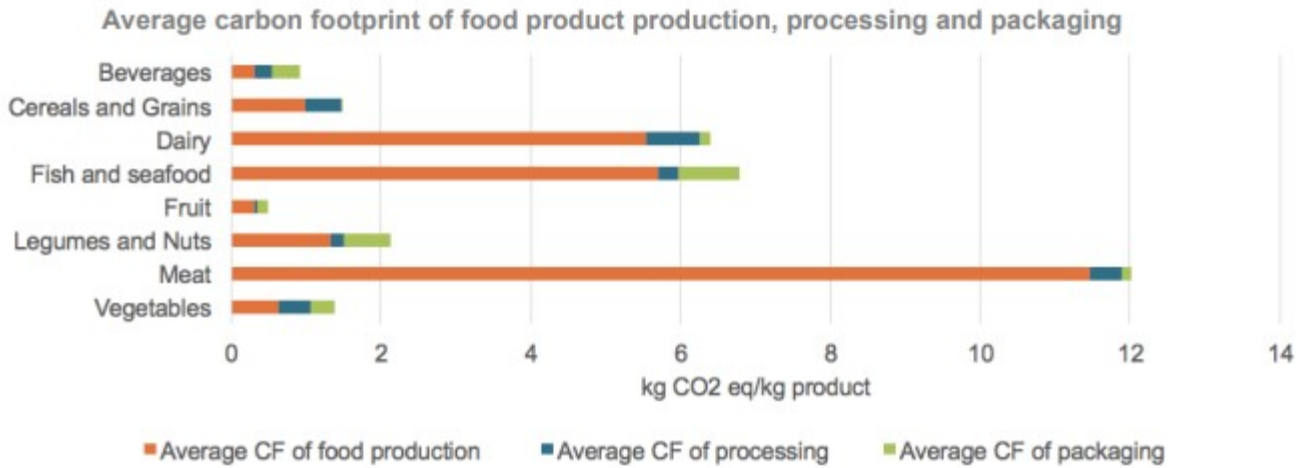
It should be noted that, on or after January 1, 2038, the statewide plastic recycling goal may be adjusted based on consideration of environmental, technical, and economic conditions. However, such an adjustment may not change the goal to less than 35 percent or more than 70 percent.

Recycling and material sorting is seeing an increase in capital investment and innovation that further enables material sortation and capture. Rumpke, Republic, Eureka and Waste Management are among the MRFs investing millions of dollars in infrastructure that allows for capture and recovery of PET thermoforms, plastic & paper cups as well as PP food containers. MRF's operating in Oregon likely have access to the same or similar technology improvements and will have access to funding, thru the EPR fees collected. Not including food serviceware into the USCL misses the opportunity to take advantage of the rapid changes and the ability to move towards more circular systems for all materials. As we move our economic systems towards a more circular economy, it is necessary to increase the collection of valuable plastic materials and unlock the ability of food packaging companies to increase the use of recovered materials in their products. BloombergNEF article, [Companies' Circular Plastic Ambitions Slow as Costs Bite | BloombergNEF \(bnf.com\)](#), details how supply of PCR is falling well short of companies goals. Especially for polypropylene materials, collection and recovery of food packaging is necessary to ensure that the materials captured & returned to the market place are appropriate for use in food contact products. We urge you to identify a path towards PP food packaging inclusion on the USCL.

Ecomodulation/LCA:

Beyond the missed opportunity to drive circularity for food serviceware, plastic & paper materials, the second draft proposes a fee structure that is fundamentally biased and unfair for plastic food serviceware. Plastic food serviceware is used to protect and preserve food. Food generates a much greater GhG footprint than the packaging used to protect & preserve the item. Example – rotisserie chicken represents a resource/GhG footprint 99x greater than the plastic chicken roaster used to protect & preserve the food during its journey from cooking to consumer eating experience. Penalizing the use of a protective packaging material that enables shelf life longevity and food consumption increases the carbon emissions by sending more food to the landfill. Selecting the right material for the right use situation enables material circularity and can prevent food waste.

Findings of the Food Product Environmental Footprint Literature Summary: Packaging and Wasted Food (Martin Heller, September 2017) found that packaging affects food waste in multiple ways including shelf life, contamination throughout the product chain and can influence food waste in many other ways. [Food Product Environmental Footprint Literature Summary: Beer \(oregon.gov\)](#)

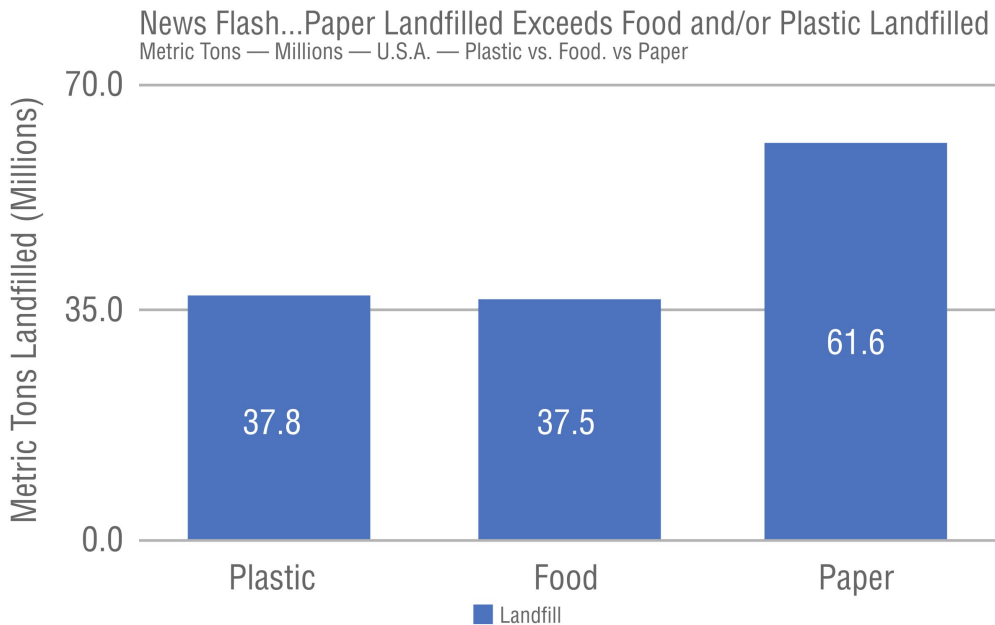


This summary of the environmental interplay between food packaging and food waste offers a number of valuable conclusions:

- In general, the GHGE associated with manufacturing food packaging is typically small relative to the emissions associated with producing and processing the food itself.
- Packaging can influence food waste in a variety of ways. Often, changes in packaging can lead to reductions in food waste, even though these changes, such as increases in packaging weight or a shift to a non-recyclable material, may be perceived as undesirable.
- The literature demonstrates that changes in food packaging that lead to food waste reductions can result in net reductions in environmental impacts, even if the impacts of the packaging itself increases.
- Future research and abatement strategies are likely best focused on foods with high environmental impacts (e.g., meats) and those with high loss rates (e.g., fresh fruits and vegetables).

Equity

The bias against plastic and in favor of paper comes through in the inequitable fee structure. While every material has benefits, paper landfilled exceeds food and/or plastic packaging going to landfill ([Chasing Fiber \(resource-recycling.com\)](#)). If fees were assigned equitably, paper would take a great share of the burden.



Source: U.S. Department of Energy's National Renewable Energy Laboratory (NREL)

In order to address the climate crisis and plastic pollution crisis, there must be an approach that is material agnostic and collaboratively solves problems. It is unreasonable to remove plastic from our lives completely, the material serves a valuable role in protecting food and reducing GhG. Rather we need to focus on the right material for the right job and recognize that there are tradeoffs when switching from one substrate to another.

Please let me know if there are any questions. We would be happy to engage in further discussions.

Best regards,

Kellie Alvarado

Director of Sustainability

[Anchor Packaging](#)

Phone: 502-424-3070

Email: Kellie.Alvarado@anchorpac.com



October 28, 2024

Oregon Department of Environmental Quality
Via email to RethinkRecycling@deq.oregon.gov

RE: Proposed Producer Responsibility Organization Plan

Dear Oregon DEQ staff:

The Association of Plastic Recyclers (APR) is committed to improving plastics recycling in Oregon and supporting the effective implementation of the Plastic Pollution and Recycling Modernization Act (RMA). We appreciate the opportunity to provide written comments on the Proposed Producer Responsibility Organization Plan submitted September 27, 2024.

[The APR is a U.S.-based, international non-profit association](#) and the only North American organization focused exclusively on improving the recycling of plastics. APR members are the entirety of the plastics recycling industry from design to collection to recovery to remanufacturing, including two Oregon-based processors (reclaimers) and more than 10 regional West Coast processors. Plastics recycling is what APR does every day. APR understands the challenges facing the industry and the solutions needed to scale recycling effectively to move toward a more sustainable, circular economy.

APR appreciates the robust work that went into the Program Plan and the historic milestone of creating the first PRO Program Plan in the US. The revised Program Plan reflects a tremendous amount of work and a strong work plan for reaching the state's goals. We recognize this as an iterative process and provide these comments in a collaborative spirit to modernize Oregon's recycling system. In this letter APR provides constructive suggestions on some areas of the Plan related to plastics recycling, and looks forward to continuing discussions with DEQ, Circular Action Alliance (CAA), and other stakeholders to find solutions and begin this new era for Oregon.

SUMMARY OF KEY CONCERNS & SUGGESTIONS

- Responsible End Market (REM) verification criteria are unduly onerous and over-reaching for the start of this first-of-its-kind program. Streamline the criteria in Tables 13-14 to distinguish between required elements and suggested best practices, and move the majority of criteria to suggestions rather than compliance violations.

- Strengthen manufacturing demand beyond REMs to ensure recycled content is sold to new and stronger markets.
- Support verification for plastic REMs at reclaimers
- Lowest cost principle creates risk
- Battery trackers jeopardize safe recycling
- Prioritize recycled content in eco-modulation fees
- Add thermoforms to USCL list

RESPONSIBLE END MARKET VERIFICATION

APR appreciates, and would like to underscore, the stated intention of CAA to review the proposed REM verification with stakeholders and trade associations, and to field test the proposed methodology with end market entities. APR represents over 90% of the processing capacity for post-consumer plastic packaging in the US and Canada. Many of our members have been responsibly recycling plastics from Oregon communities for decades, and these long-standing, successful partnerships should be the backbone of the RMA. Unfortunately, many of our members have expressed serious concerns with the complexity and over-reaching scope of the proposed verification standards and the disclosure of sensitive business information under the RMA implementation.

It is critical to recognize Oregon's REM verification requirements as the first program of its kind. CAA's goal to develop a system of identifying responsible end markets (REMs) and tracking material flows (Material Flow Management System) will be a huge undertaking and achievement in and of itself, not even taking into consideration all the other program components CAA is launching in Oregon as the first packaging PRO in the US. By comparison, other state EPR and recycled content laws to date only reference moving toward third party certification programs as these programs become more widely available. This phased transition to certifications speaks both to the newness of the field of verification as well as the complexity of setting up procedures, certification standards, vetting certification bodies, and several key operational steps. In short, all of this will take time and significant stakeholder engagement to build out properly. It is critical to establish the base program to start, and then iterate more complex reporting and compliance as the program matures.

APR is committed to working closely with CAA and other stakeholders to align reporting standards with existing systems and create a solid foundation for this first of its kind program. Once a strong baseline and system has been created, then additional

conversations can begin about adding other potential criteria in stages. Having best practices included as voluntary criteria signals an evaluation of those criteria in future iterations, which aligns with DEQ's goals to improve the quality of recycling.

As the proposal stands, APR objects to the onerous and over-reaching scope of all proposed criteria for REM verification and non-compliance factors outlined beginning on p.96. The amount, scale, and complexity of many of these preliminary criteria are misaligned with existing programs and capabilities, and while many are admirable in their intent, there is limited current practical application given the state of the industry. Further, this verification will add significant new expense and burden to existing US responsible recyclers, without any added benefit of increased prices for their recycled resin, commitments from companies to buy only recycled content from verified REMs, a broader range of buyers for recycled resins, or any other safeguard that reclaimers will be able to sell their recycled resin at fair market prices.

Oregon is less than 1.5 percent of the US population, and this program only covers some of the plastic products generated in the state. This is relevant because Oregon does not have the market influence to change the behavior of REMs in other jurisdictions. What this means is that plastic reclaimers and converters can choose to no longer buy bales from Oregon due to the reporting burden. The loss of major domestic REMs would destabilize markets, disrupt existing responsible recycling, and raise the overall system costs. **APR has already heard from several reclaimers that would strongly consider not buying materials from Oregon under these proposed requirements.** Plastic reclaimers we talked to questioned why such onerous regulations are being imposed upon existing REMs that have processed materials from Oregon for decades.

To promote the success of the program and the continued participation of many key responsible plastics processors, APR raises the following concerns with several of the proposed verification criteria under Table 13:

- **Environmental Impact Management:** Requiring additional measurements beyond legal requirements should be an optional recommendation. This criteria can be streamlined to focus first on reporting applicable local and state permits, or for overseas markets, the equivalent of US legislation. There are existing environmental impact studies and comparison tools that clearly demonstrate the environmental benefits of recycling. That type of data is better measured through agency studies, national labs, or other analysis conducted by experts in those fields rather than put on each individual facility operator.

- **Chemical Management System Components:** The vague and far-reaching scope of “chemicals of concern” is troublesome to individual recycling operators. Non-compliance should focus first on only chemicals introduced or used during the operation, and to which Safety Data Sheets (SDS) are required. Recyclers do not have responsibility or tools to track chemicals that may be already present in the recycled packaging in CRPF bales. Further, analytical methods to define, identify, and measure the wide range of “chemicals of concern” are still emerging across all industries and not appropriate for the program start.
- **Chemical of Concern Disclosure:** There are over 900 chemicals listed under Proposition 65. This places an enormous burden on recyclers when similar regulations do not exist on other types of operations that are known to use much higher levels of chemicals. Concerns about toxins in products or packaging should be addressed through separate laws applicable to all manufacturing and not solely on recycled content for this subset of covered products. This section could be cut for the requirements above pertaining to SDS sheets.
- **Transparency Audits and Records:** More information is needed on who is considered a Supply Chain entity, what is meant to be “named,” and how proprietary information will be handled to protect business relationships for CRPFs and REMs. Further, as stated in previous comments, APR members are strongly opposed to naming their downstream buyers due to business concerns and contractual restrictions. DEQ received at least four letters from stakeholders during its July 2024 comment period stating opposition to disclosure of end market buyers. APR supports CAA’s request to verify end markets for plastics at the reclaimer facilities (p.107).
- **Quantification of material disposal:** It is not the responsibility of the end market to ensure that the landfill or other disposal site is compliant with active permitting. Disposal facilities are regulated by the state agency. Proof of contract with a licensed hauling company and/or disposal site is sufficient to demonstrate that REMs are complying with state regulations. From there, the state agency could flag problematic disposal sites to CAA, but it is not the responsibility of the recycler to track down the permits and violations from the disposal site.
- **Yield documentation:** Oregon materials will be processed alongside recyclables from other regions. Oregon is not a large enough generator to warrant its own markets or to solely influence the yield quality at recycling facilities that process regional or even nationwide materials. This means the yield calculations specifically to the Oregon-generated materials will be very difficult, if not impossible, to specifically calculate since yield depends upon the quality and

composition of the entire stream of materials. The Plan could include a petition process for REMs to submit for a waiver if lower yields can be shown to be the result of materials received from other non-Oregon programs.

- **Yield documentation by plastic types:** The requested information on separate yield rates for different types of plastic formats does not align with how plastics are separated in CRPFs or processed at plastic reclaimers. For example, PP (#5) bottles, tubs, pails, and nursery containers would be sorted into a single bale, not separate bales by each format. It is not feasible to calculate separate yields for each packaging format within the PP bale. In addition, this calculation is further complicated because the recycler will be processing materials from several states and sources, not just materials from Oregon. The granularity of this data is not feasible based on current operations for the categories listed and should not be required for REM compliance.

APR is committed to working through these concerns with CAA and DEQ. Our recommendation is to streamline this list of criteria to the essential data needed to start the verification process, taking a start and strengthen approach. Other criteria can be listed as optional performance indicators and recommended best practices, which is a modification of the tiered approach outlined by CAA under Table 14. Currently Table 14 identifies which violations would be considered disqualifying, major, or minor violations. APR agrees that some criteria should be a disqualifying component and represent a minimum standard. However, **many of the “minor” violations should not be considered non-compliance. They should instead be recommendations to drive continuous improvement.** The label of non-compliance is not appropriate for facilities that are meeting the most essential criteria and have been responsibly recycling Oregon’s materials for decades. The starting point for this new program cannot be the absolute highest tracking criteria, and in some cases, not even well-established practices. To be clear, we are not asking for the bottom floor—APR members support responsible processing and have been committed partners to Oregon programs for decades. We are asking for a tiered approach that starts with the most critical, most well-established indicators that will curb the use of irresponsible overseas markets that previously processed Oregon’s materials. Once this program is built, it can be strengthened over time, but starting too hard and too fast would likely drive some recyclers away from buying materials from Oregon, thus undermining the efforts and goals of OR DEQ. APR requests to reclassify several criteria in Table 14 and move the minor violations that are currently considered non-compliance to instead be classified initially as a recommended best practice that does not result in non-compliance.

This tiered, start and strengthen approach aligns with CAA's goal to include recommendations, as stated on p. 104: "CAA's non-compliance methodology also includes a "Recommendation" category. This category allows CBs' auditors to suggest best practices to assist with continuous improvement when entities are within compliance or could easily mitigate non-compliance risk."

Lastly, nothing in this verification process measures the environmental benefits of greater recycling. DEQ's own studies show recycling is a net benefit to the environment. Focusing only on the potential emissions from recycling facilities does not address the larger reasons of why recycling is important because of its reduction in energy use and emissions compared to virgin resource production. APR urges OR DEQ to focus first on the proven benefits of having more recyclable materials being recycled domestically into new products and packaging where the greatest gains can be made, rather than putting too much onus on the details of the REM processing standards.

STRENGTHEN MANUFACTURING DEMAND BEYOND END MARKETS

While there is substantial attention to the REM verification in the Oregon rules and CAA plan, there is much less work on how to build stronger manufacturing demand for the use of recycled plastics, which is fundamentally critical to the success of this program. APR looks forward to working with CAA to develop more specific market development strategies for plastics, as stated on p. 113. While CAA has earmarked up to 5 percent toward these efforts, we recommend further study in this area to identify the needed types and amount of investments to fully scale more remanufacturing demand and greater processing infrastructure to meet the recycling goals set for covered materials.

The REM is not the final step of the recycling process. REMs sell their recycled pellet and/or flake to be made into new plastic products and packaging, displacing the use of virgin plastic production. **There are no substantial components to this plan that will push or mandate manufacturers to buy more recycled plastics from Oregon's programs.** The program will scale up collection, sorting, and processing at the CRPFs that ship to the REMs. But there is not enough that ensures the REMs will have more manufacturing demand to use the additionally collected materials. With insufficient manufacturing demand, REMs will be unable to sell enough or more of their outputs. This means they will slow down what they buy from the CRPFs, or will not be able to expand operations to accept the additional plastics captured by Oregon's program modernization.

There were two elements of the RMA specific to increasing recycled plastic manufacturing demand:

- The requirement for 10% PCR in roll carts can help increase the manufacturing demand for recycled plastics, primarily mixed color HDPE. Similar requirements or commitments to require the use of recycled plastics is necessary for REMs to be able to compete to sell their recycled resin against the cheap and prolific virgin plastic on the market.
- The state procurement study underway to support recycled plastics. In particular, this should be tied back specifically to markets for products on the USCL and depot list. For example, PCR in nursery packaging, commitments to buy composite lumber to support film plastics markets, recycled content in all recycling bins in state agency buildings,

More is needed from CAA on how it can leverage producer purchasing contracts and other tools to ensure the recycled resin created by REMs has adequate and growing manufacturing demand to make new products.

LOWEST COST PRINCIPLE CREATES ADDITIONAL RISK

On p. 114 under Guiding Principles for Competitive Proposals, the plan states CAA will prioritize contracts “at the lowest cost.” The singular focus on lowest cost as the metric for success is alarming. This plan should be built to achieve environmental outcomes required in this law in a cost-effective manner. Past experience in recycling markets has shown the pursuit of lower costs will drive recyclables overseas where markets consistently have lower labor costs than domestic or North American processing. For many years leading up to China’s National Sword policy, many Oregon MRFs and haulers chose to produce and ship highly contaminated mixed paper and plastic bales to China rather than producing cleaner bales that could have been recycled responsibly through domestic markets. More contamination lowers yield and the amount of recycled resin produced, thus lessening the environmental benefits. While Oregon has set MRF and REM standards to address these concerns, the stated focus on “lowest cost” still raises concerns and poses risks to undermine the goals of more responsible recycling. While cost is an important factor, this reference should be adjusted to reflect a variety of metrics used to evaluate proposals, including but not limited to cost, or reflect the goal of cost-effectiveness rather than just lowest cost.

BATTERY TRACKERS JEOPARDIZE WORKER SAFETY

APR strongly opposes the intentional introduction of battery trackers into any point of the recycling process. As stated in our letter referenced in Appendix O, there are substantial dangers posed by introducing batteries into collection vehicles, CPRFs, and processors. APR is committed to robust chain of custody verification, as demonstrated by our own development of PCR certification program and continued dialogue with CAA on this important topic. Robust chain of custody is a global best practice that can be successfully implemented without the significant risk and potential damage created by battery trackers.

PRIORITIZE RECYCLED CONTENT IN ECO-MODULATION FEES

A 2017 [DEQ review of environmental packaging attributes](#) found recycled content was the only consistent driver of improved environmental outcomes, or more simply put, adding more recycled content was consistently shown to lower the packaging footprint. Based on this, APR recommends prioritizing the implementation of eco-modulation incentives to increase the use of domestically-produced recycled content. This will help strengthen and build end markets, directly translating back to a stronger recycling system. APR recommends DEQ direct CAA to focus on recycled content as the first factor developed under eco-modulation and rolled out under the initial voluntary program.

ADD THERMOFORMS TO USCL LIST

APR supports CAA's goal to add PET thermoforms to the USCL in 2027. We suggest more specific actions that emphasize product design and strengthening end market demand for recycled resin produced from thermoforms as critical steps toward successful implementation. Key action steps should include:

- Develop financial mechanisms to accelerate product design changes to improve recyclability, most critically in switching away from large labels and adhesives, through ecomodulation or other factors.
- Identify financial mechanisms within the PRO and by individual producers, such as producer contracts with reclaimers/converters to purchase rPET thermoform flake, that will increase the use of recycled PET thermoform flake back into thermoform tray manufacturing. External policies and incentives should also be explored.
- Extend financial assistance services beyond CRPFs to include plastics reclaimers and converters in order to reduce yield loss and fines generation, and match rPET specifications with the needs of thermoform producers. Options could include equipment grants, R&D, and more.

- Explore additional end market demand in durable goods to complement food packaging uses in order to build robust markets for rPET thermoform flake.
- Identify and collaborate with stakeholders including APR, NAPCOR, FPI, and others.

ADDITIONAL SUGGESTIONS

- APR strongly supports the **variance to track REM verification to the plastic converter** for food packaging and toys. As expressed in APR's comments in July 2024, reclaimers have substantial proprietary business concerns with sharing buyer information. Under its draft rulemaking for SB54, CalRecycle has proposed the point of measurement as the reclaimer, and APR strongly recommends alignment on this across EPR programs.
- APR supports the **use of self-attestation** to start the program and does not agree with DEQ's response on July 29, 2024 for more detail. The state has already screened the existing markets for plastic packaging and used this evaluation to create the material acceptance lists.
- **APR supports the variance approach** and intention to build upon existing certification programs. APR encourages CAA to list eligible standards to start, building upon the study conducted by Eunomia. Specifically, the Plan should list **APR's PCR Certification** as an example program on p. 107, 2a.
- All industries should be given the opportunity to **meet yield requirements through industry-wide studies**, as is proposed on p.107 for the paper industry. This would address many of the proprietary business concerns expressed by recyclers for all material streams.
- **Reconsider the need for CAA staff to accompany audits** because the use of the third party certification body is meant to streamline the process and reduce duplication while providing a buffer between any potential conflicts of interest and/or proprietary information.
- CAA's proposal to use an outside organization to manage the verification process raises concerns over **potential conflicts of interest**. This is not a critique of RMS or GreenBlue as the named partner, but rather a concern for any entity that is tasked to run a verification program under which they also have their own product (certification). Another approach would be to use a fully independent organization to conduct the verification process, such as TÜV SÜD, Bureau Veritas or NSF.

- APR strongly supports CAA's focus on processing most covered materials through North American markets (Example end markets, p. 88). **APR disagrees with DEQ's feedback to CAA (dated July 29, 2024) to add international markets in order to show the law does not restrict free trade.** The law places no requirement on the PRO to send materials overseas, and any push from DEQ or others toward overseas markets stands in contrast to the goals of greater transparency and environmental outcomes. Oregon has worked hard to modernize its recycling program after the problems with sending materials overseas. CAA should be commended for its commitment to North American processing, not encouraged to do the opposite.
- **Address processing challenges through changes in product design.** Many of the challenges faced by plastics REMs can be improved through product design changes, such as changes to labels, adhesives, colorants, etc. While the described incentives and investments in reclaimers on p.112 are welcome, producers also play a critical role in reducing contamination and improving quality at plastics reclaimers by adhering to design for recyclability standards. CAA could integrate an ongoing review of design opportunities that would improve REM yield and lower system costs Suggested steps could be:
 - Identify and publish problematic materials at reclaimers, and recommend design changes based on APR Design Guide and recognition programs.
 - Provide financial incentives and technical training to producers to implement design changes that improve reclaimer yield and reduce costs.
- **Split categories for different types of film and flexible plastics** to provide more actionable data on this varied and challenging packaging format. APR recommends:
 - Separating HDPE / LDPE Film and HDPE / LDPE Flexible Packaging (non-film) into two separate categories, which reflects the current recycling for PE films.
 - Separating PE-only film into a sub-category to align with its status as a depot material.
 - Separating PP Film and PP Flexible Items (non-film) as sub-categories similar to PE film and PE flexibles to reflect the different challenges to recycling flexible items.
 - Separating Mixed Polyolefin Flexibles (non-film) as a separate category

MOVING FORWARD

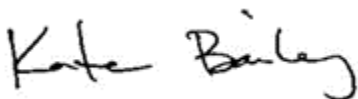
In closing, while our comments are focused on areas for improvement, APR deeply appreciates the hard work conducted by CAA to revise the draft plan and its commitment to improve recycling in Oregon. In particular, APR flags several strong improvements from the first plan in response to DEQ and stakeholder concerns, including:

- New principle 5 to support regional and domestic markets (p. 114)
- No investments in overseas infrastructure
- Distinct higher costs for non-recoverable materials under the Interim Base Fee schedule
- Support for the work to add thermoforms to the USCL to expand collection and the trial for single-use plastic cups
- Extension of bale auditing to haulers and collection routes
- The use of verification from curbside to CRPFs (p. 110), including from depots and non-curbside collection points

APR would like to restate our commitment to continue to work with CAA and other stakeholders over the coming weeks to draft a more practical and still impactful verification program to start this first of its kind program. APR is committed to making this successful, but also to taking a more approachable timeline to the implementation based on operational reality.

Our staff and members are available at your convenience to discuss these comments, share further information, and collaboratively craft solutions for the effective implementation of the RMA. Please contact Kate Bailey, Chief Policy Officer, at katebailey@plasticsrecycling.org.

Sincerely,



Kate Bailey, Chief Policy Officer, Association of Plastic Recyclers (APR)



turn back the toxic tide

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October 28, 2024

RE: PROs second draft program plan

While CAA's proposal to use on-site verification and chain of custody documentation for specific loads is a step toward accountability, the Basel Action Network (BAN) has extensive experience with such methods and has found that on-site verifications and paper trail audits often fall short in revealing the true chain of custody for materials. Paper-based tracking systems are limited by their reliance on reported data and can easily be disrupted or misrepresented, which hinders transparency and accountability.

In contrast, BAN's work has shown that GPS tracking captures the full journey of materials in real-time, providing an indisputable record that cannot be manipulated or misreported. GPS technology offers unique insights into the actual destinations of waste, including any stops or deviations along the way, which are often missed in traditional auditing methods.

In response to concerns regarding the use of battery-powered tracking devices, it's worth highlighting the extensive experience that the BAN has had in this area. Since 2015, BAN has conducted thousands of successful GPS tracking deployments into electronic and plastic waste streams without any cases of fires. This track record demonstrates that GPS trackers can be safely used in recycling systems without significant risks to facility safety.

Additionally, BAN's trackers have the ability to use alkaline batteries, widely considered the safest battery type. Alkaline batteries are less prone to overheating and fire risks compared to lithium-based alternatives and are already commonly found in household recyclables, suggesting that their presence would not introduce new contamination risks into the recycling process. Given this, using trackers powered by alkaline batteries could align with CAA's goals of verifying material flow without compromising facility safety and achieving a higher standard of verification, offering full transparency.

BAN's experience indicates that a careful approach to GPS tracking can provide robust chain-of-custody verification and enhance transparency throughout the recycling process with minimal risk. Detractors of this tried-and-true method attempt to sow fear around safety risks to justify operating in secrecy. This resistance to transparency serves only to enable irresponsible actions to continue in the shadows, free from scrutiny. The reality is that embracing GPS tracking would

expose the true pathways of waste, preventing the industry from hiding unethical practices and ensuring that materials are handled responsibly from start to finish.

Sincerely,

Hayley Palmer
Chief Operating Officer
Basel Action Network

October 18, 2024
Oregon DEQ, Nicole Portley
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232-4100
rethinkrecycling@deq.oregon.gov

Re: CAA Program Plan Draft 2 Public Comment

Dear Nicole,

Thank you for the opportunity to submit comment on the Circular Action Alliance (CAA) Second Draft Producer Responsibility Organization (PRO) Plan related to the implementation of the Plastic Pollution and Recycling Modernization Act (PPRMA). We are grateful to DEQ staff and Recycling Council members for their tireless work in moving PPRMA through its implementation phases. We also recognize the significant effort that CAA has committed to designing and refining its extensive program plan.

This comment letter is a collaborative effort between solid waste staff from Metro, Counties of Clackamas, Lane, Multnomah, Washington, Cities of Beaverton, Gresham, Hillsboro, Eugene, Lake Oswego, and Portland. Our commitment and priorities are grounded in equity, including opportunity to access recycling, protection of workers in the recycling system and communities that are home to processing and recycling facilities. Our commitment is also based in protection of our natural resources and reduction in materials impacts at all stages of the lifecycle, in particular greenhouse gas emissions and toxics.

We applaud the tremendous effort of CAA and their partners to create this plan and move the Plastic Pollution and Recycling Modernization Act into implementation phase. We largely support this plan and are excited to move forward in partnership with CAA and DEQ to elevate the Oregon recycling system to be a national leader in Extended Producer Responsibility for printed paper, packaging, and service ware.

The following are concerns and recommendations from a coalition of Metro local Governments, City of Eugene, Lane County and BRING Recycling:

Collection and Recycling of Uniform Statewide Collection List (USCL) Materials

- USCL development. We support continued additions to the USCL through the initial program plan period (July 1, 2025, to December 31, 2027). Our customers expect a modernization of the recycling system will include additional materials, without jeopardizing responsible end markets.
- USCL materials. Materials we expect to be added to the USCL during the first program plan period include spiral-wound containers, pressed aluminum products, plastic lids and package handles, PET thermoforms (to-go clamshells), non-hazardous aerosol cans, and blue and green PET bottles.
- Collection service rates. Collection of USCL materials is expected to reduce and ultimately eliminate the cost of processing paid by customers.

PRO Recycling Acceptance List

- Center multifamily. To ensure that multifamily properties benefit from access to depots, we encourage CAA to identify stand-alone depots in areas with higher density of multifamily residents and return-to-retail options where PRO materials are sold.
- Staffing collection points. A collection system of drop-off locations across the state has the potential to increase illegal dumping unless properly managed. We recommend that in highly dense/high-traffic locations staff are provided to guide customers to use the drop off locations correctly, remedy litter and keep locations and the neighborhoods they are in clean.
- Auditing collection points. All depot collection points in Oregon should have at least annual on-site audit by CAA.
- Propane tanks and block foam. We strongly believe that both materials should be included in the PRO list. Starting with fewer locations for block foam is reasonable but the number should ramp up over time. Propane tanks should be collected through existing Household Hazardous Waste (HHW) systems, with compensation, and through return-to-retail sites. Locations where those tanks are used, including public campgrounds, should be considered as collection sites. We also encourage the exploration of small refillable propane tanks.

Materials Strategy

- Create more transparency for materials not on the USCL. In the second draft, we're happy to see more information about each material proposed to be on-ramped onto the USCL. We also would like to see more information about the status of these materials. How close are they to meeting the USCL requirements? What is needed? Market creation? Sorting technology? How will CAA be working to close these gaps, so we can have confidence in the feasibility and timing of inclusion in the USCL.
- Trial collection of USCL materials. We anticipate pilot projects to sort poly-coated paper packaging and single-use cups at CRPFs. We ask that DEQ and CAA inform us of when these trials are conducted and their results.
- Responsible End Markets (REMs). REMs are a focal point of the PPRMA and one that we continue to support as public trust and transparency are crucial. For this to be successful, we support producer disclosures of emissions and effluent at all end markets. The goal of the PPRMA is to reduce environmental and societal impacts. Disclosures help establish baselines and the pathway to negative impact reduction.
- Random Bale Tracking. We are aware there is concern related to random bale tracking and the risks associated with hidden battery-containing tracking devices in commodity bales. We understand random bale tracking of materials collected from routes (customers) can be achieved using non-hazardous batteries, such as alkaline, that do not pose a fire risk. Random bale tracking data is critical to confirming the use of responsible end markets.

Education and Outreach

We commend CAA and The Recycling Partnership on their significant efforts toward developing a robust education and outreach plan. We support the plan's approach and advocate for its full implementation statewide.

- USCL Messaging. PPRMA rules will allow us to request an interim local acceptance list to avoid customer confusion that would result from removing certain items from our list that have long been collected on-route, knowing that during the first program plan period, depots will be established and the USCL should grow. In keeping with this, to reduce customer confusion that would result from multiple changes while materials are being on-ramped, those of us in this situation would maintain locally distinct outreach materials until after the USCL has expanded, or after the initial program plan period.
- Customer service and website. We support a clearer plan for responsive customer service tools. We provided comments on staffing and tools for the public to navigate what and how to recycle in response to the First Draft PRO Plan, including a multi-EPR database hosted by DEQ that could be accessed widely by the public and by other tools (apps, hotlines, etc.).
- Cell phone applications. Some cities and counties use apps to provide resources and information to customers about their garbage, recycling and composting services. We recommend CAA develop a data system to be integrated into existing cell phone applications through the development and integration of PPRMA related information.
- Language translation/transcreation considerations. We strongly support the option of creating (more than simply translating) an original Spanish language campaign that would parallel the English statewide campaign.
 - Offer a consistent full-service language support hotline people can call, then select their language to leave a voicemail and get a call back in the selected language
 - Use traditional media like Spanish language radio stations
 - Collaborate with CBOs to hold community meetings to reach rural areas, as well as get feedback from underserved communities after events via post-event surveys and interviews
 - Expand language support to indigenous communities including but not limited to Mixtec or Zapotec which is commonly used by migrant workers
- Oregon Visitors. We suggest “welcome to Oregon” outreach materials for tourists from out of the state/country.
- Youth audience. Consider youth as a primary audience. Youth and children are often involved in household waste and recycling responsibilities. In addition, children of immigrants often translate for parents and other family members and can be more integrated into the fabric of the community through school and other activities.
- Alignment of education materials. We have invested a considerable amount of time and resources developing educational materials. We encourage CAA to start by considering these materials when creating new PPRMA educational materials.
- Continuity of container labeling. To ensure access and awareness of multifamily residents, we encourage in-mold and/or sticker labels on top and on the front of collection containers. Also, as the USCL list changes over time, we encourage CAA to plan to update educational information on these containers.

Equity

We support a greater effort to contract with small, local, and minority-owned businesses. We encourage CAA to clarify how it will measure success on equity goals. Specifically, we would like to see:

- An equity plan that is measurable, sustaining and clearly defined.
- CAA partnering with local governments, community-based organizations and directly with community to learn more about the unique needs throughout the state.
- A baseline market share for COBID firms in the current market.
- A goal to drive a greater market share to COBID firms in the interest of equity.
- How CAA will broadcast job opportunities, and whether they will reach out to job markets specific to BIPOC individuals, particularly for executive-level positions.
- How contracts for statewide transport of materials from depots will be approached, regarding equity, and
- How contractors will be encouraged to apply equitable and inclusive hiring practices.

Management and Compliance

- We support CAA's expanded plan to communicate and educate producers. Current and ongoing webinars and infrastructure to support producers are essential to closing the loop of responsibility and accountability.

Thank you for the opportunity to engage on the review of CAA's plan, we look forward to working with CAA and DEQ to implement the Plastic Pollution and Recycling Modernization Act.

Sincerely,

Local governments

- Tom Egleston, Policy and Program Development Manager, Metro
- Scott Keller, Senior Program Manager, Sustainability & Recycling, City of Beaverton
- Garian Cika, AIC Waste Prevention Program Manager, City of Eugene
- Shannon Martin, Solid Waste & Sustainability Manager, City of Gresham
- Andrew Bartlett, Program & Support Manager, City of Hillsboro
- Amanda Watson, Sustainability Program Manager, City of Lake Oswego
- Eben Polk, Solid Waste & Recycling Manager, City of Portland
- Pete Chism-Winfield, Sustainable Materials and Waste Policy Manager, City of Portland
- Ryan Largura, Environmental Specialist, City of Troutdale
- Rick Winterhalter, Solid Waste & Recycling Manager, Clackamas County
- Angie Marzano, Waste Reduction Program Manager, Lane County
- Heidi Konopnicki, Solid Waste & Recycling Program Specialist, Multnomah County
- Erin Stein, Interim Solid Waste & Recycling Manager, Washington County

Nonprofit Reuse Organization

- Sonya Carlson, Executive Director, Bring Recycling