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October 29, 2026

Attn: Stephanie Caldera
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232
Submitted electronically: RMARulemaking3@deq.oregon.gov

Re: Public Comments, Recycling Modernization Act Rulemaking #3

Dear Ms. Caldera,

Thank you for the opportunity to comment on the third round of proposed rules implementing Oregon's Recycling Modernization Act (RMA). The Flexible Packaging Association (FPA) appreciates DEQ's continued engagement with stakeholders and the substantial effort reflected in this draft. FPA was pleased to serve on the advisory committee for this rulemaking and, as an active participant in the process, generally supports the draft. We recognize the State's efforts to address challenges identified since implementation of the RMA began and value the harmonization that becomes increasingly important as more states adopt extended producer responsibility (EPR) programs for packaging.

FPA represents flexible packaging manufacturers and their suppliers in the United States. Flexible packaging is a $51.5 billion industry in the U.S., the second-largest and fastest-growing segment of the packaging industry and employs approximately 98,000 workers nationwide. In Oregon, our industry supports nearly 400 employees at flexible packaging manufacturing facilities, with a total economic impact of nearly $2.1 million.[1] Flexible packaging is produced from paper, plastic film, aluminum foil, or combinations of these materials, and includes bags, pouches, labels, liners, wraps, roll stock, and other flexible products.

[1] John Dunham & Associates. Economic Impact of the Flexible Packaging Industry (2025)

OAR 340-090-0030: General Requirements, Section 7(B), Expansion of Multifamily and Commercial Collection

FPA supports the proposed requirement to "*ensure adequate space for collection in existing buildings where practicable or provide alternative recycling opportunities approved by DEQ*." Approximately one quarter of Oregon residents live in multifamily housing, and the share is higher in large metropolitan areas.[2] The fact that roughly 33% of Oregon multifamily residences lack recycling services, closely mirroring the national figure of 37% according to The Recycling Partnership (TRP), illustrates the opportunity for rapid improvement.[3] Expanding access in this sector is a value-added approach to increasing recovery.

Providing access to alternative collection also reinforces that, while not all materials can be recycled effectively through curbside collection, alternative collection is equally important to ensuring material recovery.

FPA believes the language balancing expanded access against the physical constraints of existing buildings gives landlords the flexibility they need. We also encourage DEQ to consider how it will oversee and enforce this requirement. In addition, we suggest that DEQ encourage Circular Action Alliance (CAA), the current producer responsibility organization (PRO), to make alternative depots more accessible to multifamily residents, to address both limited physical space and unresponsive property owners. This could be accomplished through partnerships with retailers who already collect films, rather than solely through the Recycle On depots established by CAA.

OAR 340-090-0670: Responsible End Market Obligations of the Producer Responsibility Organization

FPA supports the requirement for a sufficient program to mitigate plastic resin loss, and we appreciate the flexibility the State has allowed in how companies may structure such a program.

We are concerned, however, about the inclusion of requirements to manage microplastics, defined as particles from one nanometer to five thousand micrometers. Although microplastics are a legitimate concern, the World Health Organization (WHO), the U.S. Environmental Protection Agency (EPA)

[2] Portland Housing Bureau "State of Housing in Portland 2023"
[3] The Recycling Partnership "State of Recycling 2024" (no longer web accessible)

and several academic studies have recognized that no validated analytical method currently exists with adequate accuracy, precision, and quality control to assess microplastics in water or other media.[4] We therefore believe a requirement to report on microplastics in water is premature. Until scientific consensus emerges on how to measure microplastics in water, and other media, FPA believes a plastic resin loss management program is the most reliable and effective means of mitigating microplastics in the environment and at this time should be the only requirement.

FPA also supports the proposed amendments addressing the development of new end markets. Recycling markets are dynamic, and emerging markets often face a more difficult operating environment because innovation takes time to scale. Uncertainty means there will be both successes and failures. Allowing CAA to work with DEQ to review and temporarily approve end markets while they pursue Responsible End Market (REM) certification provides the flexibility needed to support innovation. We appreciate this change.

OAR 340-090-0840: Covered Products

FPA appreciates DEQ's decision to exclude certain products, including garbage bags and protein-contaminated flexible films, from certain requirements of the RMA. We recognize that this reflects the State's intent to align EPR fees with materials truly intended for recycling.

Garbage bags. FPA supports the proposal to exempt garbage bags intended to collect consumer landfill waste from the definition of covered products. This reduces the burden on manufacturers of paying fees for products never intended to be recycled and ensures that appropriate disposal methods are used.

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[4] World Health Organization (WHO). (2019). *Microplastics in Drinking-Water*. Geneva: World Health Organization. License: CC BY-NC-SA 3.0 IGO.

Federal Register (June 1, 2026) Revisions To Establish the Sixth Unregulated Contaminant Monitoring Rule (UCMR 6) for Public Water Systems: A Proposed Rule by the Environmental Protection Agency

Cai, T.; Tang, Z.; Gu, T.; Tong, K.; Wang, X.; Chen, H.; Zhou, X.; Long, Z.; Hao, C.; Chen, C.; et al. (2025) "Microplastics in Drinking Water: A Review of Sources, Removal, Detection, Occurrence, and Potential Risks." Toxics: 13, 782. https://doi.org/10.3390/toxics13090782

Chandra, Shaneel; Walsh, Kerry B. (2024) "Microplastics in Water: Occurrence, fate and removal" Journal of Contaminant Hydrology 264, 104360 https://doi.org/10.1016/j.jconhyd.2024.104360

Protein-contaminated plastic films. FPA also supports the term-limited exemption for protein-contaminated plastic packaging films. These films serve a necessary hygienic purpose by protecting human health from biological pathogens and keeping them out of recycling facilities is strongly encouraged to protect health and safety and to avoid contaminating commingled materials.

Recognizing Oregon's support for harmonized EPR programs across states, we hope the planned re-evaluation of this exemption in 2032 will help maintain alignment across states and reflect any advances in innovation, while maintaining a continued focus on health and safety.

OAR 340-090-0860: Producer Definitions

FPA appreciates DEQ's efforts to reduce ambiguity in determining who is the producer when contract manufacturers and other contractual relationships complicate that determination. We also recognize the State's work to align Oregon's definition of "producer" with definitions used in other states. We support these changes.

OAR 340-090-0930: Core Product Category Rule

FPA appreciates the clarification that parties providing life cycle assessment (LCA) data may use the modules specific to *Macroplastic: Packaging* and *Microplastic: Tire Particles* in the Plastic Footprint Network V1 (2023) to conduct their inventory analysis. Emphasizing the alignment with packaging helps establish the appropriate context.

OAR 340-093-0030: Definitions

FPA has some hesitation about the definition of “effectively composted.” We appreciate that composting facilities across the country differ in their capabilities. However, to set a consistent baseline for producers who design and market packaging nationally rather than state by state, and in keeping with the State’s support for EPR harmonization, we believe the definition should reference recognized third-party certifications and standards, such as those from the Biodegradable Products Institute (BPI) and ASTM International. These have been adopted by other states and are widely recognized nationally.

We note that OAR 340-096-0060 (Special Rules Pertaining to Composting: Applicability) would still allow DEQ to define which materials may be collected for composting, granting the Department an independent basis to determine that a material is not compostable in Oregon.

Conclusion and Next Steps

Overall, FPA believes the changes proposed in Rulemaking #3 have been carefully developed to reflect the concerns and needs of all stakeholders while remaining true to the intent of the law. We appreciate DEQ's significant efforts here. With the exception of the requirement to report on microplastics in water, we support adoption of the proposed rules.

Thank you again for the opportunity to comment. If we can provide further information or answer questions, please contact us.

Respectfully submitted,



Kyla Fisher
Director of Regulatory Affairs and Sustainability
Flexible Packaging Association