Flexible Packaging Association
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California Department of Resources Recycling and Recovery (CalRecycle)
1001 I Street, MS-24B
Sacramento, California 95814
Submitted electronically via ***packaging@calrecycle.ca.gov***

Re: Comments on the Circular Action Alliance Draft Producer Responsibility Plan for California

Dear Director Heller:

The Flexible Packaging Association (FPA) appreciates the opportunity to comment on the draft Producer Responsibility Organization (PRO) Plan submitted by the Circular Action Alliance (CAA). FPA supports timely approval of the Plan and our comments are not intended to delay that, nor the implementation of extended producer responsibility (EPR) in California.

We believe the Plan takes many positive steps to balance the statutory intent of EPR with the practical realities of implementation, and we highlight several of CAA's creative solutions below. We also offer two significant recommendations, related to long-term fee transparency and its role in driving packaging redesign and the value in recognizing multiple certifiers for post-consumer recycled content. We respectfully encourage CalRecycle to consider these comments and to approve the Plan with conditions or amendments that address this issue.

About FPA

FPA represents flexible packaging manufacturers and their suppliers in the United States. Flexible packaging is produced from paper, plastic film, aluminum foil, or combinations of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible formats. For fresh produce and meat in particular, flexible packaging is often the preferred format because it is lightweight and highly protective.

source reduction
less waste in the *first* place.®

Flexible packaging is the second-largest and fastest-growing segment of the U.S. packaging industry, with $51.5 billion in annual sales and approximately 98,000 U.S. workers. In California, our industry employs approximately 6,500 people at manufacturing facilities and generates a total economic impact of more than $10 billion in the state.[1]

1. Unique Challenge Exemptions

FPA supports the Unique Challenge Exemption (UCE) on-ramp strategy proposed by CAA. UCEs are a necessary and constructive mechanism for accounting for the practical realities of scaling recycling systems in California, including infrastructure constraints and delays, market volatility, and the time needed to develop collection, processing, and end-market solutions.

California's statutory and program objectives require steady progress toward higher recycling performance. Achieving those objectives depends on whether the system can realistically scale for each material and the different aspects a program covers (i.e. curbside collection and MRF processing versus single stream collection straight to a recycler). Producers and their supply chains cannot always change designs instantaneously, and recycling performance cannot ramp uniformly across categories and regions, particularly when:

- collection programs and infrastructure are still being built or expanded;
- sorting and processing equipment and operating contracts require lead time;
- end-market acceptance varies and may take time to stabilize; and
- market economics change before new capacity is fully operational.

Under these conditions, a structure without transitional accommodations risks creating unworkable "cliff effects," in which materials or categories are penalized for performance that cannot reach target levels quickly enough because of system constraints outside producers' control.

[1] John Dunham & Associations for FPA (2025) US Flexible Packaging Economic Impact https://www.flexpack.org/economic-impact

FPA shares the objective that California reach its recycling and diversion targets and drive design-for-recyclability improvements. UCEs should be understood not as a relaxation of those goals, but as a mechanism for pursuing them in an operationally achievable manner. They provide an orderly pathway for materials and categories facing legitimate implementation constraints to remain in the program while stakeholders develop solutions that increase recycling performance over time. Investments take time and require due diligence, format redesign requires new testing and regulatory approvals,[2] and consumer education does not happen overnight; tt is often said that a consumer must see a message at least seven times before it sticks.[3] FPA views CAA's proposal for UCEs for flexible packaging as a mechanism to help ensure the program is both ambitious and implementable.

2. Fee Setting and Recyclability Differentiation

FPA recognizes that fee setting in the first program year necessarily relies on limited data, and we appreciate that the Plan anticipates refining the fee structure as CAA gains more information. We offer the following observations in that spirit, as a constructive input to how fees may evolve over time.

Observation on current base fees. As the attached data shows, the proposed 2027 base fees for more recyclable mono-material polyethylene (PE) films and for multi-material laminates, which are among the hardest film plastics to recover, fall within roughly one cent per pound of each other:

Category	Proposed Base Fee (¢/lb)
More recyclable mono-material PE films	
HDPE (#2): Flexible and Film Items	26
LDPE (#4): Clear Non-Bag Film	25

[2] See Packaging Design Roadmap which accompanies this letter for an overview of the process of redesign and its anticipated timeframes.
[3] The Rule of Seven is a classic marketing principle taught in most schools but not attributed to one source.

Category	Proposed Base Fee (¢/lb)
LDPE (#4): Other Flexible and Film Items	24
Harder-to-recycle multi-material laminates	
Multi-Material Laminates: Pouches and Envelopes	25
Multi-Material Laminates: Other Forms	24

Producers weighing redesign investments look to fee signals that reflect relative recyclability over time. We therefore view this initial schedule as a starting point, and we are very interested in understanding how fee differentiation between easier- and harder-to-recycle formats is expected to develop as data matures.

The role of the Plastic Pollution Mitigation Fund (PPMF).

FPA recognizes that California's cumulative fees are significantly higher than those in other states, in large part because of the statutorily required PPMF surcharge. We understand the PPMF applies independent of the recycling and program administration components, and CalRecycle has no ability to amend it. We raise it to justify why we believe CAA's fee approach in California may differ so substantially from its approach in other states.[4]

According to CAA's own data, approximately 59% of each fee dollar is attributable to the PPMF rather than to recycling implementation and program administration.[5] Contrast this to the packaging EPR programs in Colorado and Oregon where 92% and 88% respectively go to collection, processing and education and outreach activities to drive recycling system improvements. We therefore understand that CAA may have reluctance to raise overall fee rates further in California, given the substantial costs producers are already facing.

[4] Please note this is an assumption made by FPA. We have not been able to converse directly with CAA to confirm this may be their justification for the difference.
[5] Taken from CAA website page "California 2027 Fees" and Webinar "Understanding Producer Fee-Setting" https://circularactionalliance.org/ca-2027-producer-fees

Rather than asking CalRecycle to revise the fees now, FPA respectfully requests that CalRecycle encourage CAA to:

1. **Share the methodology behind the initial fees.** Publish, to the extent practicable, the cost-to-manage indices and the rule for assigning plastic film investment costs. This would help stakeholders understand how 2027 base fees for polyethylene (PE) film, polypropylene (PP) film, and potentially less recyclable multi-material laminates span only $0.24 to $0.27 per pound, and would clarify where different film formats will require different strategies and investments.
2. **Provide an indicative, longer-term outlook.** Publish indicative fee ranges or directional guidance for 2028 and 2029, and ideally a broader multi-year view of how the fee structure is expected to evolve as data improves. Such an outlook can be explicitly non-binding and subject to revision.

Packaging redesign takes years and carries real costs and risks for producers. A long-term vision of how fees may change over time will help companies build the business case and return on investment needed to secure internal resources and support for packaging changes. It will also support the Plan's own goal of driving design-for-recyclability improvements.

Malus Fees

The Plan currently applies a 5% malus to all flexible films, beginning in 2027. As with the base fee schedule, this approach does not yet distinguish between film formats with established end markets, such as PE, and those without equivalent options. As CAA gathers more data, FPA encourages it to consider, over time, whether the malus could be scaled to reflect these differences, and to include its anticipated direction in the longer-term outlook described above.

3. Third-Party Validation of Postconsumer Recycled Content Under 14 CCR § 18980.3.4(b)(4)

FPA recognizes that in its Final Statement of Reasons (FSOR), CalRecycle interpreted Public Resources Code (PRC) 42057(a)(2)(B)(i) to allow only one approved third party – currently the Association of Plastic Recyclers (APR) – to validate postconsumer recycled (PCR) content usage for alternative compliance at any given time. We understand the rationale: CalRecycle noted that different third parties "may use different, inconsistent methodologies for validating postconsumer recycled content usage," and a consistent, trustworthy basis for validation is essential to the integrity of the program. We also recognize that CAA's plan operates within this interpretation, and that they believe proposing a different validator would replace the APR program, not supplement it.

We respectfully submit, however, that the underlying concern is inconsistent methodology, and that this concern can be addressed through the same criteria CalRecycle has already established. Under § 18980.3.4(b)(4)(A)-(C), any other third party must apply standards at least as stringent as APR's, be independent and impartial, and hold ISO/IEC 17065 accreditation from a recognized body. These requirements already function as a floor for consistency and accuracy. A validator that meets them would, by CalRecycle's own reasoning, produce reliable assessments of PCR usage. The statute itself is, as the FSOR acknowledges, ambiguous on whether multiple approved parties are permitted, and we encourage CalRecycle to consider whether a framework built on its existing criteria could serve its consistency goals without limiting recognition to a single program. A single-validator structure carries practical risks. Producers sourcing PCR globally, or from supply chains already certified under other recognized schemes, may face duplicative audits, added costs, or barriers to claiming legitimate recycled content. A single point of validation can also limit capacity, innovation and processing technologies, particularly as PCR demand grows to meet SB 54's requirements. Allowing additional certifiers that meet the (b)(4) criteria would widen participation, reduce compliance burdens, and strengthen the supply of verified PCR in California, all while preserving the rigor CalRecycle seeks.

We therefore urge CalRecycle and CAA to work together to explore pathways for recognizing additional recycled content certifications that satisfy the (b)(4)(A)-(C) criteria. This could include a technical working group to evaluate methodological equivalence among existing programs, a process for mapping other certifications against APR's standards, or a clearly defined mechanism for approving compatible programs while maintaining consistent validation methodologies. To assist with that process, we have enclosed a mapping completed by the Recycled Material Standard which helps draw differences from the various certifications available.

4. Alternative Collection

FPA appreciates CAA's recognition that alternative collection is a critical and often more efficient path to increasing real recycling performance in California. We support CAA's efforts to bring additional collection vendors under its umbrella, to the extent permitted under the program design, so that materials collected through these channels can be counted toward California's recycling rate while maintaining end-market certification and appropriate oversight.

This is especially important because, as currently structured, program rules can create a misalignment between what is practically collectible and what can be credited under regulatory thresholds. A structured mechanism for evaluating and crediting alternative collection materials, without requiring the 70% target stated in the regulations to be met in every circumstance, would help prevent undercounting of genuine recycling outcomes.

As explained in the Initial Statement of Reasons (ISOR), SB 54 allows packaging collected outside of curbside programs (such as take-back or closed-loop programs) to be excluded from "covered material" only if it achieves a 65% recycling rate for 2024-2026 and at least 70% annually from 2027 onward. CalRecycle implements this threshold to ensure that only high-performing, verified systems bypass PRO oversight and fees, and FPA supports that objective. We interpret the 70% rate is a condition of complete exemption from SB 54, and it should not apply to alternative collection operating within the PRO framework. FPA believes the approach CAA proposes in the Plan, bringing alternative collection under the CAA umbrella, is an effective strategy to ensure

that film collected through these channels is counted toward the state's recycling rate. This approach keeps alternative collection within the PRO's oversight and verification structure, and it recognizes genuine recycling outcomes that might otherwise go uncounted.

Alternative collection is already performing at scale. Eunomia data for 2019–2020 found that, nationally, 114,000 tons of film were collected through take-back programs versus 10,000 tons through curbside collection, an approximately 11-to-1 advantage in film volumes captured for recycling.[6] In many contexts, this method has also proven less costly and cleaner than curbside film recovery: $250–550 per ton for store drop off collection and processing costs versus about $3,000 per ton for curbside programs. By including these collection points under the CAA umbrella, we ensure that the state does not miss allocating recycled film that is already occurring at scale yet still maintains funding through EPR fees to strengthen the recovery system for films.

FPA also supports CAA's work to identify and incorporate the operational footprint of alternative collection in California, including the number of Alternative Collection System (ACS) sites in the state and verification that material is being sent to responsible end markets.

These efforts complement ongoing work by two other organizations. The Flexible Film Recycling Alliance (FFRA)[7] is developing a third-party validation process to verify that film dropped off at retail depots is indeed sent for recycling. The Sustainable Packaging Coalition (SPC) has verified that the national data on store locations is accurate.[8] Together, these efforts provide increased assurance that these non-traditional depots are working as intended.

[6] Eunomia for APR (2024) "How to Scale the Recycling of Flexible Film Packaging: Modelling Pyrolysis' Role in Collection, Quantity and Costs of a Comprehensive Solution"
[6] Navigate (2025) "Unlocking Curbside Recycling for Flexible Films: What Must Be True" Presentation to SPC Impact (Seattle, WA)
[7] Ffra.org
[8] Email dialogue with SPC based on data completed by RRS

We also note that this alternative collection model is not unique to CAA. Recycle BC, a PRO in Canada, has similar agreements with retail drop-off locations. We have enclosed a sample agreement with this letter.

These collection points are an existing, scalable compliance pathway that can materially improve collection and recycling outcomes if appropriately credited. CAA's plan to include them as a means of accounting for film recycling within California will ensure that a significant source of recyclable film is tracked and measured.

Conclusion

FPA believes that CAA has developed some creative strategies to meet the statutory and regulatory requirements of SB 54 while balancing the practical realities of implementing such an ambitious policy. We do not want to see a delay in EPR in California, and we respectfully encourage CalRecycle to approve the Plan on schedule or approve the plan with conditions for future edits.

We recognize that the fee structure will continue to evolve as CAA gains more data. In that spirit, we respectfully request that CalRecycle encourage CAA to provide greater transparency into how the initial fees were set and to share a longer-term view of how fees may change over time, including how differentiation between more and less recyclable films is expected to develop. This would allow the program to launch on schedule while giving producers additional clarity needed to plan for packaging redesign.

We also respectfully request that CalRecycle and CAA work together to allow more PCR certifiers to participate in the program. Expanding the pool of qualified certifiers would increase the supply of verified PCR available to producers, reduce bottlenecks and costs, and support the recycled content goals of SB 54 without delaying implementation.

Thank you for considering FPA's comments. We would welcome the opportunity to provide additional information and meet with CalRecycle staff if that would be helpful.

Respectfully submitted,



Kyla Fisher
Director of Regulatory Affairs and Sustainability
Flexible Packaging Association (FPA)

Enclosed:

- Packaging Design Timeframe
- Recycle BC Depot SOW
- Recycled Material Standard Simple Standards Comparison