

Testimony
in Support of
Senate Bill 901
in the
Maryland House of Delegates Environment and Transportation Committee

March 27, 2025

Dear Chair Korman, Vice-Chair Boyce, and Members of the Maryland House of Delegates Environment and Transportation Committee.

The Flexible Packaging Association (FPA) appreciates the opportunity to submit testimony in support of Senate Bill 901 (Augustine), which directs the Maryland Department of the Environment (MDE) to establish an extended producer responsibility (EPR) program for packaging in the State of Maryland.

I. Background on FPA and Flexible Packaging

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging represents \$42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 85,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

These are products that you and I use every day—including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain

their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry. Thus, FPA and its members are particularly interested in and deeply committed to solving the plastic waste issue and increasing the recycling of all packaging.

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

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

It is FPA's position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled packaging is an important lever to build that infrastructure. FPA also supports well-

crafted packaging EPR that can be used to promote this needed shift in recycling in the U.S. In fact, FPA was the first trade association in the U.S. to publicly support the Minnesota packaging EPR legislation, which was the only successful packaging EPR proposal to become law in 2024. It is with this background that FPA provides this testimony in support of SB 901.

II. FPA Strongly Supports Maryland's Data-Driven Approach to Flexible Packaging, But Data Gaps Should be Addressed Before Final Implementation

In 2023, FPA offered testimony in support of Maryland SB 222, which directed MDE to conduct a statewide needs assessment to inform the eventual implementation of an EPR program for packaging. While flexible packaging can, at minimum, be mechanically recycled, FPA supports the needs assessment recommendation to establish regional recycling hubs to divert film to specialized facilities. The needs assessment used data from the real world to estimate an increase from an effective 0% recycling rate for flexibles in the state of Maryland to 9% within five years from the finalization of the program, which FPA believes is reasonable.

While FPA appreciates the real-world data that the MDE used for the needs assessment, there are important gaps in the data that FPA believes can be addressed to better inform the packaging EPR program that SB901 would establish. MDE should explore pathways to curbside collection for flexibles not considered in the needs assessment, like the Hefty Renew Program that accepts mono- and multi-material flexibles at curbside. In addition, the overall recycling rate for flexibles in Maryland is not 0% as the needs assessment suggests. Because the materials recovery industry has not invested in technologies for modern packaging types, flexibles are often recovered at store drop-off locations in the State of Maryland. There is no comprehensive data set on how much material is recovered in Maryland under this scenario, but in 2024 FPA helped launch the Flexible Film Recycling Alliance (FFRA) to relaunch a store drop-off locator (plasticfilmrecycling.org) that can help the Department identify current locations where flexibles are recycled in Maryland in order to obtain proper baseline data. Finally, while FPA recognizes that multi-material film is currently a more difficult-to-recycle material, FPA believes that it would be a mistake to not list it as an accepted material under the EPR program as the needs assessment suggests, which is designed to make investments in the circularity of hard-to-recycle materials. FPA appreciates the information that has been gathered thus far and looks forward to assisting with the implementation of SB901.

III. A Note on Advanced Recycling

Common advanced recycling technologies like pyrolysis, gasification, and depolymerization convert used plastics that would be considered waste into high-value materials using methods that are regularly deployed in other industries. Despite being a nascent industry compared to other materials that have had centuries to figure out how to design for a circular economy, our industry has voluntarily invested over \$7 billion which has led to a massive 21 billion pounds of plastic waste being diverted from landfills across the nation each year. In time, we are confident that engineers and chemists will be able to definitively make the case for a circular plastics economy.

A common myth that FPA and others must constantly dispel is that advanced recycling is just burning plastic waste through incineration, when in reality, this type of recycling relies on cutting-edge technologies that purposefully operate with little to no oxygen (allowing for the recovery of material). Furthermore, advanced recycling produces emissions equal to or lower than similar facilities in other industries with the added benefit of no measurable lead or dioxin emissions. All advanced recycling facilities are subject to the same Clean Air Act standards as mechanical recycling and often outcompete those facilities on environmental indicators.

IV. FPA Appreciates Changes to SB901

As stated above, last year, FPA was the first trade association in the U.S. to support Minnesota's EPR legislation as it was going through the legislative process, as FPA appreciates the inclusion of the lessons learned from other state packaging EPR laws that were incorporated into the Minnesota law, and subsequently into SB 901. FPA also appreciates the incorporation of language temporarily exempting critical, but more difficult-to-recycle, protein and dairy packaging from the performance goals that will be established by the producer responsibility organization (PRO) until proper infrastructure is developed.

V. Conclusion & Next Steps

FPA is pleased to offer its support for SB 901 and looks forward to working with MDE on implementation if the legislation is enacted. Thank you for your consideration. We are happy to discuss any of these issues with you and your staff before your vote. If we can provide further information or answer any questions in advance of your decision, please do not hesitate to contact me at (410) 694-0824 or jrichard@flexpack.org.

Respectfully,

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

John J. Richard
Director, Government Affairs
Flexible Packaging Association