

## Public Comments for California SB54 Advisory Board March 21, 2025

Good afternoon, I'm Kyla Fisher Director of Regulatory Affairs and Sustainability at the Flexible Packaging Association. We are a trade association representing flexible packaging manufacturers and suppliers to the industry in the U.S. 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.

As a trade association, while we are not eligible as members of CAA, as a stakeholder, we want voice support to the effort by CAA to work towards a practical plan for SB 54 within the spirit of the original stakeholder agreements.

Despite everyone's best intent, we believe there were too many uncertainties and tight timeframes within the regulatory framework to permit for smooth passage. We recognize there were considerable efforts to try and work within these restrictions, efforts to pass technical amendments that would not change the spirit of the law were proposed, and received legislative support, to help ensure smooth passage while permitting for more time to address these. Unfortunately it was not enough.

Some of the issues that still need to be addressed include:

1. **Clarity between the interaction of SB 343 with SB54. Specifically more guidance for the on-Ramp of Modern Materials is still desperately needed**—we currently lack a timeline or justification for what is being measured. For example, there is no time-requirement in statute for a material to demonstrate a likelihood to fully satisfy provisions of SB 343 before the next material characterization study update. Additionally, we still lack a clear justification for why MRF material is the primary source of recycling rate data when alternative collection systems exist and have proven successful for some materials. Data from Eunomia for the time period 2019-2020 noted that nationally 114,000 tons of film were collected via takeback programs versus 10,000 tons which came in via curbside. This means we are excluding a collection system that demonstrates 11 times more material successfully collected than the approach adopted in the material categorization study, and has been proven to be cheaper to process. Yet there's no justification for why this is the defecto process for measurement. Timelines and clarity is desperately needed.

2. **The proposed regulations Create a Defacto Ban on Emerging Alternative Recycling Technologies** The proposed regulations incorrectly characterize chemical recycling as hazardous waste management instead of manufacturing, which creates a de facto ban on modern recycling technologies and leaves Californians wholly reliant on mechanical recycling – which is not always suitable for all products. Flexible packaging is critical to all sectors of the economy, including the food and medical sectors. Mechanical recycling can effectively sort some plastic polymers, such as HDPE and clear or white PET, but is unable to address other categories of plastic packaging. For example, protein packaging, as mentioned earlier by Wes, becomes a safety concern preventing them from mechanical recycling. To build the circular economy which SB 54 and producer organizations are collaboratively pursuing, a one-size-fits-all policy approach to materials management is not going to be feasible in reaching the circularity and acceptance goals outlined in statute.
3. **Lack of a de minimis approach**—there are currently conflicting timelines for de minimis criteria and producer reporting, not having clarity here make it difficult to define compliance within the producer plan. In order to produce a plan of high caliber clarity is needed.

I want to end by noting we believe all the stakeholders present today are committed to seeking the implementation of an EPR program that serves the best interest of all stakeholders involved. We urge the Advisory Board to support the need for further clarity and time to ensure we develop a program that is effective. FPA believes much of this could be addressed through minor technical amendments to timelines and regulatory processes, none of which requires a change to the spirit of the law or need to start over.