

March 9, 2026

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Submitted via email: [mde.epr@maryland.gov](mailto:mde.epr@maryland.gov)

**Re: COMAR 26.04.14 Packaging and Paper Products—Producer Responsibility**

Dear Mr. Baker,

The Flexible Packaging Association (FPA) is pleased to offer these comments to the Maryland Department of Environment (MDE) in response the proposed regulations *COMAR 26.04.14 Packaging and Paper Products—Producer Responsibility*. published in the Maryland Register on February 6, 2026. We offer the following comments to share our perspective on the practical considerations, implementation challenges, and opportunities presented by the proposed regulations.

FPA represents flexible packaging manufacturers and suppliers to the industry 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. Flexible packaging is the fastest-growing and second largest segment of the U.S. packaging industry, representing \$51.5 billion in annual sales and approximately 98,000 workers in the U.S. Our industry has 660 employees at flexible packaging manufacturing facilities in Maryland, representing a total economic impact of \$909 million.

We appreciate the Department’s thoughtful work in developing the proposed regulations for implementing Maryland’s packaging extended producer responsibility (EPR) program for packaging and the substantial stakeholder engagement that has informed this process. The effort to create a clear and comprehensive framework is evident, and we support the Department’s commitment to improving recycling outcomes and system transparency. At the same time, we respectfully offer several concerns regarding certain provisions of the proposed regulations.

### **Harmonization Where Possible**

Maryland is not alone in identifying covered materials and establishing standards for responsible end markets (REMs). Although the proposed regulations do not provide detailed criteria, we encourage the Department to evaluate opportunities for alignment with peer states that have established EPR programs for packaging —particularly with respect to REM certification frameworks and covered material determinations. Greater harmonization will reduce administrative burdens on both producers and the producer responsibility organization (PRO), minimize duplicative compliance structures for multi-state producers, and promote consistency in recycling market standards across jurisdictions.

### **Records Retention**

We respectfully recommend reconsidering the proposed 10-year document retention requirement. A decade-long retention period exceeds the standard practice in other packaging EPR states, where record retention requirements typically range from five to seven years and are aligned with audit cycles and statutes of limitation. Extending retention to 10 years would create additional administrative and data management burdens for producers without a clear compliance or enforcement benefit. Aligning Maryland’s retention period with peer states will maintain program integrity and auditability while ensuring harmonized, proportional and practical compliance obligations.

### **Alternative Collection System Considerations**

The flexible packaging industry recognizes that the highest volume—and highest quality—of post-consumer flexible films and packaging are collected through depot or retail drop-off systems. Very few communities in Maryland offer curbside access for flexible films, and those that do often encounter challenges in generating bales of sufficient economic value.

For more than 30 years, the flexible packaging industry has worked collaboratively with retailers to collect flexible films and packaging through alternative collection programs.<sup>1</sup> These systems represent one of the most established alternative collection infrastructures in the country.

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<sup>1</sup> Initially via American Chemistry Council’s Wrap Recycling Action Program (WRAP) and now the Flexible Film Recycling Alliance (FFRA) managed by PLASTICS.

For this reason, we feel compelled to comment on the proposed minimum requirements for alternative collection systems (ACS). As drafted within the proposed regulations, an ACS would be required to collect and manage at least 50 percent of the material placed on the market. Based on the data presented in the state’s own needs assessment, it appears unlikely that flexible films—among other materials—could meet this threshold in the near term.<sup>2</sup>

Alternative collection systems are an essential tool for establishing recycling pathways for materials not readily compatible with curbside systems. Curbside programs are often hesitant to add new materials until stable end markets exist. ACS programs help build those markets by providing source-separated material with minimal sortation requirements, thereby demonstrating end-market viability.

We are concerned that maintaining a 50 percent collection and management requirement could inadvertently undermine existing film collection programs at a time when growth and expansion are needed. We encourage the Department to reconsider or modify this threshold to reflect practical feasibility and the state’s own baseline data.

Additionally, to reinforce the value of these programs in advancing recycling solutions for non-curbside materials, we encourage the Department not to condition fee reductions on meeting ACS thresholds that may not be realistically achievable.

### **Covered Services**

Senate Bill 901, the enabling legislation enacted in 2025 did not include a provision that producers must pay for litter pickup, street cleanup programs, or municipal anti-litter efforts outside the EPR system’s waste management scope. We therefore seek clarification as to why litter cleanups are identified within the definition of covered services. To the extent materials collected during litter cleanups are sent to municipal recycling facilities or directly to reprocessors, those materials would already be managed within the EPR system. Including litter cleanup explicitly within covered services will create confusion regarding the intended scope of producer financial responsibility.

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<sup>2</sup> In the State’s Needs Assessment Report, published Feb 21, 2025, Flexible Packaging was identified as one of the top materials generated, the study noted that with planned investment as identified (which includes use of depots and investments into sorting technology), the recycling rate may move upto an estimated 9%. In total, the state’s own collection and processing rate was estimated at 34% with the potential to increase to 50% if all recommended investments were made.

### **Conclusion and Next Steps**

Thank you for the opportunity to comment on Maryland’s draft regulations for *Packaging and Paper Products—Producer Responsibility*, and your consideration of our recommendations. If we can provide further information or answer any questions, please do not hesitate to contact me at (602) 540-7544 [kfisher@flexpack.org](mailto:kfisher@flexpack.org).

Respectfully,



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Flexible Packaging Association