Chair Beyer, members of the Committee;

Thank you for the opportunity to share broad coalition feedback and suggested exemptions for SB 582.

SB 582 and the -1 amendments propose an ambitious recycling program, funded by manufacturers and retailers. As you know, several industry groups have expressed concern with the current version and have suggested changes to help reduce costs, eliminate overly burdensome requirements and provide additional compliance opportunities for regulated entities. While those conversations are continuing we also believe the current amendment is missing some critical exemptions that are necessary for clarity as well as product/program safety.

Our coalition represents many of the users of the currently defined "covered products" as well as the manufacturers of such products. In addition, our manufacturers bear the cost not only for the proposed Produce Responsibility Organization, but currently have significant compliance requirements for both the labeling and contents of many of our agricultural, commercial and residential products. Many of the products our members produce and use are already designed to ensure consumer safety and/or meet federal standards. These products have specific packaging mandates, testing standards, complex and diverse chemistries, and complexity in the supply chain already, beyond consumer recyclability: either to ensure safe transport, safe consumer use, or product safety on the shelf – including for children like child-resistant packaging. As written, SB 582 assesses fees on producers based on certain factors including post-consumer recycled (PCR) content that would put many of these products at a disadvantage given higher PCR rates are not feasible or are federally restricted.

For these reasons, we encourage the Committee and the Department of Environmental Quality to consider exempting products subject to the following federal statutes:

- ***Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)*** - *7 U.S.C. s.136 et seq.*
- ***Other hazardous materials and Child Resistant Packaging***
    - Packaging used for consumer products regulated by the Poison Prevention Packaging Act (*15 U.S.C. §§ 1471-1477*);
    - Packaging used for consumer products requiring a signal word of Danger and/or Poison on the product label as defined under the Federal Hazardous Substances Act (*15 U.S.C. §§ 1261-1278*);
    - Manufactured for use in the shipment of hazardous materials and is:
        - Prohibited from being manufactured with used material by federal packaging material specifications set forth in *49 C.F.R. s.178.509 and 49 C.F.R. s.178.522*;

    - Subject to the testing standards set forth in *49 C.F.R. s.178.600 through 49 C.F.R. s.178.609*
    - Subject to the recommendations of the United Nations on the transport of dangerous goods;
- ***Aerosol Containers*** - These products are under pressure and need to meet safety standards. Plastic aerosols are actually prohibited from using PCR (*49 C.F.R. Sec.178.33b*)
- ***Fertilizer Bags*** **-** Contents from fertilizer bags can leach if the bags are not sufficiently strong. Suggested language (this is in the New York EPR proposal): *"Covered products that could become unsafe or unsanitary to recycle by virtue of their anticipated use."*

As a reference, New York is considering a similar approach in S.B. 1185-B. While our coalition does not endorse S.B. 1185-B, we provide an example of language exempting such products (emphasis added):

"(D) For the purpose of this title, the products covered designation does not include the following:

(I) Covered materials or products that could become unsafe or unsanitary to recycle by virtue of their anticipated use;

(II) Literary, test, and reference bound books;

(III) Beverage containers as defined in section 27-1003 of this article on which a deposit is required to be initiated;

(IV) Architectural paint containers collected and managed pursuant to title twenty of this article

(V) Medical devices and covered materials and products regulated as a drug, medical device or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2€ of 21 U.S. Code of Federal Regulations of the Dietary Supplement Health and Education Act;

(***VI) Covered materials used to contain toxic or hazardous materials, or regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. sec. 136 et seq. or other applicable federal law, rule or regulation."***

We look forward to continued discussions on this bill and answer questions you may have regarding the highly regulated space of these types of products and containers and implications for recycling programs.

Thank you,

Katie Murray, Executive Director
Oregonians for Food and Shelter