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Testimony in Opposition
to
House Bill 3512
in the
Oregon House Committee on Climate, Energy, and Environment

March 13, 2025

Dear Chair Lively, Vice-Chairs Gamba and Levy, and Members of the House Committee on Climate, Energy, and Environment,

The Flexible Packaging Association (FPA) appreciates the opportunity to submit testimony on House Bill 3512 (Neron), which by 2027 would prohibit the sale of certain products that contain PFAS.

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 extended producer responsibility (EPR) that can be used to promote this needed

shift in recycling in the U.S. FPA continues to work to ensure that Oregon's packaging EPR law – the Recycling Modernization Act (RMA) – provides the necessary investment for our critical packaging material. It is with this background that FPA provides this testimony in opposition to HB 3512.

II. HB 3512 Goes Further Than Other Landmark Legislation

Various state-led initiatives to ban PFAS across different subsets of products have propelled PFAS to the forefront of toxics legislation across the country and FPA's long been identifying and removing PFAS from their manufacturing processes ever since the first ban. PFAS is not intentionally added to flexible packaging materials for any properties in the final package. Other landmark legislation, like Amara's Law in Minnesota allow flexibility for unintentionally added PFAS.

While there is no consistent definition of PFAS, the PFAS used in the manufacturing of flexible packaging are typically referred to as fluoroelastomers. These compounds have been used for years as polymer processing aids to improve the runnability for the production of films. The fluoroelastomer polymers used as processing aids are made from the monomers vinylidene fluoride, hexafluoropropylene, and/or tetrafluoroethylene. These substances are subject to the strictest scrutiny in the United States and is therefore authorized for **food contact use** by regulations 21 CFR 177.1380 or 177.1550 and various FCNs. The European Union and China have also approved this limited use.

The current test used for PFAS is a broad total fluorine test, often with a low de minimis level of 100ppm. The use of this test equating all fluorine to PFAS is not scientifically valid as fluorine is ubiquitous in the environment and the test does not accurately distinguish between types of fluorine. That said, our members are working to get out of these materials because of well-intentioned laws that wrap these chemistries up in broader bans. FPA requests a delay in Section C of the "intentionally added" PFAS definition until three years after the law is set to take effect and an option for packaging manufacturers to petition for an exemption based on available substitutes.

III. PFAS, Recycling, & Recycled Content

Because Oregon has considered PCR mandates in the past, and is one of the leading packaging EPR states, FPA believes it necessary to point out that any recycled content mandates will, by necessity, introduce some amount of PFAS into packaging. FPA requests a proactive exemption for packaging that may be required to use recycled content, since while the manufacturer is aware of the possible contamination, they would be required by law to use that content.

IV. Conclusion & Next Steps

For the reasons above, FPA and requests that you reject HB 3512 until the above changes are amended into the bill. 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,

John J. Richard
Director, Government Affairs
Flexible Packaging Association