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House Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Written Testimony: Opposition to HB 342 - Environment - Plastic Products - Postconsumer Recycled Content Program

Dear Chair Barve, Vice Chair Stein, and House Environment and Transportation Committee Members,

Thank you for the opportunity to share our respectful opposition to HB 342 - *Environment - Plastic Products - Postconsumer Recycled Content Program* (HB 342).

Founded in 1933, the Foodservice Packaging Institute (FPI) is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging, while advocating an open and fair marketplace for all materials. Our core members include raw material and machinery suppliers as well as packaging manufacturers, which represent approximately 90 percent of the industry. Additionally, a number of distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. More information on these groups and their efforts can be found [here](#).

In principle, FPI fully supports policies and programs that result in more recycling and/or composting of foodservice packaging. However, while the intent of HB 342 may be to increase the recycling and recovery of plastics via post-consumer recycled content (PCR) targets, the bill does not reflect regulatory requirements and market realities for foodservice packaging and sets unachievable targets.

There are a number of considerations that need to be taken into account when considering the addition of PCR resins to rigid plastic foodservice packaging, including U.S. Food & Drug Administration (FDA) requirements, supply of PCR resins, and product considerations.

U.S. Food & Drug Administration (FDA) Considerations

According to the FDA, PCR resins must meet the same specifications as virgin plastic resin. In this regard, all foodservice packaging manufacturers have to follow strict FDA guidelines for all manufacturing processes and materials used in the making of foodservice packaging as per the [Guidance for Industry: Use of Recycled Plastics in Food Packaging \(Chemistry Considerations\)](#). Of note, food contact materials used in the manufacture of foodservice packaging are required to obtain a letter of no objection (LNO) from the

FDA, this extends to PCR resins. Also, an LNO for a certain resin does not indicate that all foodservice packaging of that resin type is approved for PCR. The LNO is specific to a manufacturer and the defined application.

Supply of PCR Resins

With FDA requirements, the amount of PCR resin types available for food contact applications has historically been at lower supplies than non-food contact PCR resins. This can also vary from resin type to resin type.

Further, as various food and beverage companies continue to make commitments to use PCRC at higher rates, for an increasing number of products, the supply of available material dwindles. There is currently not enough PCRC resin in the marketplace to meet the voluntary demand driven by retailers. In fact, a recent study by [AMERIPEN](#) which analyzed U.S. company recycled content goals against available supply, states that “*domestic supply and reprocessing capacity for plastic resin concludes that based upon demand stated through public commitments for plastic PCR, the U.S. currently lacks the available supply and, in some cases, domestic reclamation capacity to meet those goals*”.

Product Considerations

Although PCR resins and virgin resins must adhere to the same FDA requirements, the use of PCR impacts packaging containers to differing extents. As PCR resins are increased, factors like rigidity can be affected. It is our understanding that PCR for foodservice packaging items is blended with virgin resin at a rate that render differences undetectable, ensuring product performance and safety. Certain packaging container shapes are more easily manufactured using PCR resins at higher percentages, while others cannot as easily utilize the same percentage, making it difficult to uniformly assign minimum content requirements.

We also note that the temporary waiver language in the bill does not reflect the need to allow for exceptions where compliance with the regulations set forth by the United States Food and Drug Administration prevents its inclusion, where there is lack of supply and where it is not technically feasible.

As detailed herein, FPI is opposed to HB 342 as it is our view that the broad categories of covered products and accompanying targets do not reflect market realities, product specifications and regulatory requirements for foodservice packaging.

Thank you for your consideration of our feedback. We would be pleased to discuss these comments with you further.

Sincerely,



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