

February 20, 2023

Dear Chairman Barve and members of the Environment and Transportation Committee,

On behalf of the [Association of Plastics Recyclers](#), I am submitting comments for HB342 - Environment – Plastic Products – Postconsumer Recycled Content Program as favorable with amendments. APR is a US-based, international trade association representing hundreds of US companies working everyday to recycle your plastic bottles, milk jugs, yogurt tubs, and more into new products and packaging. Our members have the capacity to recycle 50% more bottles than we do now. **Our greatest challenge is that we are not collecting enough plastic water and soda bottles, milk jugs, and other common plastics for recycling from households and businesses.**

APR strongly supports the need for more post-consumer recycled content in plastic packaging and products. The current bill sets ambitious targets for post-consumer recycled content, which will send a very strong market signal for companies to innovate in this direction while simultaneously offering reasonable exemptions and extensions as needed based on changing market conditions.

We would like to offer the suggested amendment language to refine the policy to align with current market conditions and best practices in similar US state policies. We are available at your convenience for questions and more information. Thank you for your time and leadership.

1. **Slightly amend the definition of postconsumer recycled content to align with ISO standards and other states.** This definition provides further clarity that the materials are generated by these entities and includes returns from the distribution chain. It is the official definition used by [ISO 14021:2016 Environmental labels and declarations](#) and Washington's [SB5022 content law](#).
 - a. **p. 4, lines 21-27, replace with: “Postconsumer Recycled Material” means material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which has been used for its intended use or can no longer be used for its intended purpose. This includes the return of material from the distribution chain.**
2. **Identify conditions for a waiver based on similar state policies.** Similar policies in New Jersey, Washington, and California each list out the conditions considered by the state agency in granting a waiver to producers. Providing this list in statute will help producers feel more comfortable with the regulations and the responsiveness to circumstances outside their control. In particular, with several states enacting recycled content policies, sufficient supply of recycled plastic is not projected to be available to meet these goals unless coupled with a substantial investment in collection policies. This list of considerations is standard in other states based on this language:

- a. p. 10, line 24, add: In considering a waiver pursuant to this section, the department shall consider:
- (1) changes in market conditions, including supply and demand for postconsumer recycled content, collection rates, and bale availability both domestically and globally;
 - (2) recycling rates;
 - (3) the availability of recycled material suitable for manufacturers to meet the postconsumer recycled content requirements, including the availability of high-quality recycled plastic and food-grade recycled plastic;
 - (4) the capacity of recycling or processing infrastructure;
 - (5) the progress made by manufacturers in meeting the postconsumer recycled content requirements; and
 - (6) any other factors as determined by the department pursuant to rule, regulation, or guidance.
- Any adjustment to the postconsumer recycled content requirements made pursuant to this section shall be only for a time-period, and only under such conditions, as the department may by rule or regulation establish.

3. **Set data-driven specific content rates for rigid plastic containers by resin type.** APR supports strong post-consumer recycled content requirements for plastics and all packaging materials. However, the broad approach taken in this bill toward rigid plastic containers requires further detail to address the different types of plastic resins. The technical limitations pertinent to the different plastic resins and container formats vary, as do the challenges in collecting enough supply. [A national study commissioned by the Ocean Conservancy](#) recommended recycled content goals set for two categories of rigid food packaging, PET thermoforms and PP packaging, and based on the following rates:

Table 2: Packaging Applications Scenario 1 – Assumes Significant Growth in Recycling Collection and Modest Technological Innovation

| EXAMPLE PRODUCTS | 2019/2020 EST. % PCR (US & CANADA) | 2025 % PCR | 2030 % PCR | 2035 % PCR | 2040 - 2050 % PCR |
|------------------|------------------------------------|------------|------------|------------|-------------------|
| PET Bottles | 11% | 15% | 20% | 25% | 30 - 40% |
| PET Thermoforms | 16% | 16% | 20% | 25% | 30 - 35% |
| HDPE Bottles | 17% | 17% | 20% | 25% | 30 - 40% |
| PP Packaging | 0% | 5% | 10% | 15% | 25 - 30% |

APR recommends starting with these proposed 2030 goals for PET thermoforms and PP packaging and then scaling up to 2035 goals. We do not feel it is appropriate at this time to forecast content goals past 2035 given the uncertainty with technical feasibility and the limited supply of recycled plastics to meet these goals. The report also contains definitions for thermoform packaging and polypropylene that can be included in the legislation as needed.

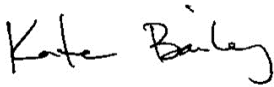
4. **Exempt de minimis producers selling less than one ton of product to align with other states.** The current bill sets the exemption threshold at 1,000 units while other states set

the rate by ton of product. Having a standardized approach between states will greatly increase compliance among producers and reduce the regulatory burden on the state agency.

- a. **p. 5, line 14, strike “fewer than 1,000 units” and replace with: “less than one ton”**
5. **Reference ISO certification for recycled content requirements.** We strongly support the reference on p. 8 to require third-party certification of post-consumer recycled content. This certification is needed to ensure program credibility, provide greater accountability, and guarantee a level competitive playing field for producers. In addition, the certification should be updated annually. California and Oregon reference certification standards in existing laws. We suggest adding a reference to ISO certification and annual compliance.
- a. **p 8, line 8, add: Certification must be completed by an independent, accredited (ISO/IEC 17065) certifying body and must be renewed annually.**

We deeply thank you for your time and efforts to improve recycling and reduce plastic waste in Maryland. We are available at your convenience for any questions or additional information.

Sincerely,



Kate Bailey
Chief Policy Officer, Association of Plastics Recyclers