

July 9, 2025

Maryland Department of the Environment

Safer Products and Workplaces Program

1800 Washington Boulevard

Baltimore, MD 21230

Submitted via email: mde.epr@maryland.gov

RE: Consumer Brands Association Comments Regarding Implementation of SB 901 – Extended Producer Responsibility for Packaging and Paper Products

Dear Department Staff,

On behalf of the Consumer Brands Association (CBA), we respectfully submit the following preliminary comments as the Maryland Department of the Environment (the “Department”) undertakes rulemaking to implement the Packaging and Paper Products Extended Producer Responsibility (EPR) statute enacted under SB 901.

Consumer Brands champions the industry whose products Americans depend on every day, representing more than 2,000 iconic brands. From household and personal care products to food and beverage products, the consumer-packaged goods (“CPG”) industry plays a vital role in powering the U.S. economy, contributing \$2 trillion to the U.S. GDP and supporting more than 20 million American jobs. The CPG industry also plays a crucial role in creating a more sustainable future through its products and has prioritized packaging and recycling innovation. All of the 25 largest CPG companies in the United States have made commitments to increasing recyclable content, source reduction, or reuse of material. Eighty percent of those companies are working toward introducing fully recyclable packaging for all of their products by 2030 at the latest.

To facilitate successful implementation of SB 901 and support consistent producer compliance, we respectfully submit the following considerations for the Department’s rulemaking process:

1) Recyclables and Compostables List (9–2508(a)(1))

We recommend the Department adopt a transparent and criteria-based methodology in establishing the materials list.

2) Exemption for Over-the-Counter Drugs (9–2501(l)(4))

To preclude interpretive uncertainty, we urge the Department to affirm that over-the-counter (OTC) pharmaceutical products fall within the scope of the exemption for medical items.

3) Performance Goals Development (9–2505(c)(1)(iii))

As delineated in statute, performance goals are to be developed by the Producer Responsibility Organization (PRO) and included within the submitted plan. These goals should not be prescribed through Department regulations.

4) Waste Reduction Definition (9–2505(c)(1)(v))

We suggest that the definition of “waste reduction” encompass not only source reduction,

but also landfill diversion and efforts promoting recovery and reuse, thereby ensuring consistency with similar programs in other jurisdictions.

- 5) **Definition of Covered Entity (9–2501(f))**
While the statute provides a general classification, we recommend that further specification during rulemaking be provided to avoid inadvertent expansion of the term beyond entities explicitly referenced.
- 6) **Responsible End Market Alignment (9–2511(b)(1) and (2))**
In the interest of harmonization and feasibility, definitions and standards for responsible end markets should be aligned with analogous requirements in other state EPR frameworks.
- 7) **Refillable and Reusable Standards (9–2501(v) and (w))**
Delegating authority to the PRO to define standards for "refillable" and "reusable" packaging would support regulatory consistency across states and streamline compliance pathways.
- 8) **Fee Modulation Harmonization (9–2505(e)(3)(ii)(3))**
We recommend the inclusion of a mechanism through which the PRO may coordinate with other states on eco-modulation systems (e.g., incentives or penalties based on environmental performance) to minimize program fragmentation.
- 9) **Penalty Framework (9–2505(j)(5)(ii))**
To promote transparency and predictability, we encourage the Department to publish its proposed approach to assessing and escalating administrative penalties as part of the regulatory development process.
- 10) **Service Packaging Scope (9–2501(n)(2)(ii))**
We recommend clarification that service packaging does not include items sold empty, as excluding such products will help avoid compliance challenges previously observed in other jurisdictions.
- 11) **Penalty Waiver Process (9–2512(c))**
We support incorporating a formal mechanism allowing the Department to waive penalties for missed performance goals in instances where rigid enforcement may conflict with the broader statutory objectives.
- 12) **Annual Review of Materials List (9–2508(d)(1))**
We encourage the establishment of a formal annual review process to ensure ongoing relevancy and responsiveness in the recyclables and compostables list.
- 13) **Exemption Renewal Timing (9–2508(e)(5)(ii))**
We propose clarification that exemption renewal applications may be submitted in advance of expiration, though the renewed exemption should not take effect until the preceding exemption term concludes. This will help avoid programmatic gaps.

We appreciate the opportunity to offer these comments and look forward to continued engagement throughout the rulemaking process. Should the Department have any questions or require further discussion, please contact me at GCosta@ConsumerBrandsAssociation.org.

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Consumer Brands Association