IDFA
International
Dairy Foods Association

November 11, 2025

The Honorable Jared Polis
Governor of Colorado
State Capitol Building
200 E. Colfax Ave.
Denver, CO 80203

Delivered via email: Governorpolis@state.co.us

RE: Approval of Circular Action Alliance's Amended Program Plan for the Producer Responsibility for Statewide Recycling Act

Dear Governor Polis,

On behalf of the International Dairy Foods Association (IDFA), I write to express support for the Circular Action Alliance (CAA) Colorado Amended Program Plan (Amended Program Plan) as approved by the Colorado EPR Advisory Board, to include the post-consumer recycled (PCR) content Target Verification Mass Balance Free Allocation found at section 12.3. To achieve Colorado's circularity goals, we believe the mass balance PCR content verification methods in the CAA's Amended Program Plan are essential for the use of certain advanced recycling technologies and thus to the dairy processing industry's ability to obtain sufficient quantity and quality of PCR content resins approved for use in both Grade "A" and non-Grade "A" dairy product packaging. For reasons explained below, we urge you to accept the CAA's proposed process for PCR content Target Verification in section 12.3 of the Amended Program Plan.[1]

The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports more than 3 million jobs that generate $198 billion in wages and $779 billion in overall economic impact. In Colorado, our industry generates over $5.5 billion in direct economic impact and supports over 19,000 jobs. IDFA's diverse membership ranges from multinational organizations to single-plant companies, from dairy manufacturers and cooperatives to food retailers and suppliers, all on the cutting edge of innovation and sustainable business practices. Together, they represent most of the milk, cheese, ice cream, yogurt and cultured products, and dairy ingredients produced and marketed in the United States and sold throughout the world. From a nutritional perspective, delicious and safe dairy foods offer unparalleled health and consumer benefits to people of all ages. At the same time, dairy processing companies have committed to investing in sustainable packaging and a circular economy nationwide.

[1] IDFA has also signed on to a coalition letter that more generally support's the CAA's position. In this letter, IDFA provides additional justifications specific to the dairy processing industry.

Food safety is a major hurdle for the use of PCR content resins in dairy food packaging because recycled materials have a higher risk of containing contaminants, material not regulated for food-contact, and adjuvants that do not comply with regulations for food-contact use. Through FDA's Food Contact Surface Notification (FCN) process, the agency ensures that recycled resins are safe for food contact. FDA reviews each proposed use of recycled plastic in foods on a case-by-case basis, and issues a "Letter of No Objection" to packaging fabricators if the recycling *process* is expected to produce plastic suitable for specific food-contact applications, including for dairy products.[2] For most foods, the FDA's FCN review process is voluntary, allowing food companies and packaging/resin suppliers to utilize recycled plastic without undergoing FDA review as long as the companies and packaging comply with FDA's requirements.[3] However, for the U.S. dairy industry, additional food safety and quality standards must be met to manufacture and market Grade "A" dairy products. Dairy foods processors in the U.S. know that using recycled materials from PCR content resins can threaten the safety and quality of dairy products; additionally, potential contaminants in recycled materials may not integrate well with sensitive machines used to make packaging units at processing facilities (e.g., blow mold machines used for making HDPE milk jugs) and could therefore cause manufacturing challenges.

For Grade "A" dairy products and packaging, obtaining a Letter of No Objection from FDA is *mandatory*. This is because Grade "A" dairy products and packaging used for these products are regulated by the Pasteurized Milk Ordinance (PMO).[4] Unlike all other foods, the PMO provides that packaging and resin suppliers for Grade "A" dairy products are *required* to obtain FDA approval of the recycled material for Grade "A" dairy through the FCN process *before* recycled resins can be used for a Grade "A" milk product packaging. Thus, packaging for all fluid milk, cream, yogurt, buttermilk, cottage cheese, sour cream and milk powders, all of which are Grade "A", face mandatory regulatory requirement that adds cost and complexity to their packaging materials. Notably, there are far fewer PCR content resins with a Letter of No Objection for dairy product use (both Grade "A" and non-Grade "A") than there are for other food applications.

These federal and state regulatory requirements contribute to the high cost and low inventory of recycled resins available for use in Grade "A" dairy packaging. Advanced recycling technology, however, eliminates the risk of contamination in food-grade resins, making PCR content resins manufactured using that technology more likely to meet FDA's food safety standards and therefore be available for use under the rigorous Grade "A" dairy processing requirements. In fact, FDA recognizes "tertiary" (advanced recycling technologies) as a manufacturing process

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[2] See https://www.fda.gov/food/packaging-food-contact-substances-fcs/recycled-plastics-food-packaging for a more general explanation and link to FDA's *Guidance for Industry - Use of Recycled Plastics in Food Packaging: Chemistry Considerations*.

[3] Most companies avail themselves of this voluntary process.

[4] The PMO is published by the U.S. Public Health Service (USPHS) and Food and Drug Administration (FDA) and is the basic standard used in the voluntary Cooperative State-USPHS/FDA Program for the Certification of Interstate Milk Shippers, a program participated in by all fifty States, the District of Columbia and U.S. Trust Territories. The PMO has been the model U.S. code for regulating Grade "A" milk and milk products for almost 100 years. Appendix J of the PMO, which establishes the Standards for the Fabrication of Single-Service Containers and/or Closures for Milk and/or Milk Products

that allows polymers to be isolated, purified and regenerated for use in food grade resins authorized for use in food.[5]

While EPR programs are designed to increase the supply of PCR resins over time, that supply at sufficient purity levels for Grade "A" dairy products so far is insufficient, especially for rigid non-PET resins such as HDPE (milk jugs) and PP (tubs for cultured products). Advanced recycling offers the ability to supplement what mechanical processing has not yet achieved in Colorado or elsewhere: an additional supply of food-grade PCR resins that can be used for Grade "A" dairy.

The mass balance verification method for advanced recycling is not just important for Grade "A" dairy products, it is needed for non-Grade "A" dairy foods such as cheese that use hard-to-recycle flexible films (e.g. LDPE) and other multilayer materials. Cheese manufacturers utilize flexible films for their barrier properties that ensure the necessary shelf life by controlling moisture and oxygen. While flexible films have important sustainability factors such as being lightweight and using less plastic, they are usually not mechanically recyclable. Flexible films can be subjected to advanced recycling and then more easily used as PCR in food packaging. For these reasons, dairy processors need investments to scale up advanced recycling, not barriers.

IDFA's members strongly support sustainable packaging and the responsible use of advanced recycling. Advanced recycling for manufacturing food-grade recycled plastics is a relatively new technology. Moreover, we strongly believe that advanced recycling is moving to complement, not compete, with mechanical recycling, with easier to recycle plastics entering mechanical recycling streams, and mixed, residue and hard-to-recycle plastics entering the advanced recycling stream. Together, these strategies can improve the market for high quality food-contact PCR content in Colorado and nearby states and reduce demand for virgin plastics.

IDFA also supports the approach of the CAA's Colorado EPR Program Plan to include the Mass Balance Free Allocation because it is based on well-known and utilized international third-party certification requirements of the International Standards Organization. (ISO). Moreover, the verification plan methodology for PCR content is clearly explained in the CAA's plan, which should alleviate concerns raised in objections to the CAA's plan. Importantly, IDFA's members fully support and believe that the CAA's Plan is consistent with the statute's definition of recycling to clearly exclude energy recovery, generation and use of fuel. (section 702(37)(a))

For dairy processing companies and their packaging suppliers, using PCR content plastic packaging is not just a matter of regulatory compliance, it is a commitment to circular solutions and sustainability. To achieve those goals, our industry needs access to all proven recycling technologies that meet our rigorous food safety standards and a regulatory environment that encourages innovation, while requiring verification. Only then can dairy processing companies have access to an adequate supply of food grade PCR materials to maintain product safety and quality while also achieving Colorado's sustainability goals.

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[5] "Because FDA has determined that tertiary recycling processes produce PCR-PET or PCR-PEN of suitable purity for food-contact use, the Agency no longer evaluates tertiary recycling processes for PCR-PET or PCR-PEN or issues individual opinion letters for those processes." https://www.fda.gov/food/packaging-food-contact-substances-fcs/recycled-plastics-food-packaging

Respectfully,



Danielle Quist
Vice President, Regulatory Affairs and Counsel
International Dairy Foods Association

Cc:
Jamie Short, Deputy Legislative Director, Office of Governor Polis
Jill Hunsaker Ryan, Executive Director, Colorado Department of Public Health & Environment
Juri Freeman, Colorado Executive Director, Circular Action Alliance