



February 9, 2026

Leah Feldon  
Director  
Department of Environmental Quality  
700 N. Multnomah St., Suite 600  
Portland, OR 97232

**RE: Request for the Oregon Department of Environmental Quality to Completely Cease Enforcement of Oregon’s Plastic Pollution and Recycling Modernization Act**

Dear Director Feldon:

I am writing on behalf of industry trade associations, which range from a statewide association representing businesses from a wide variety of industries and from each of Oregon’s 36 counties to those representing local chambers of commerce, grocers, food processors, and some of Oregon’s most beloved industries including wine growers and brewers. Together we request the Oregon Department of Environmental Quality (DEQ) to cease enforcement of Oregon’s Plastic Pollution and Recycling Modernization Act (RMA) against all responsible producers in Oregon, including directing the Circular Action Alliance to refund all fees it has received to those producers.

On February 6, Judge Michael Simon granted a preliminary injunction blocking DEQ’s enforcement of the RMA against members of the National Association of Wholesaler-Distributors (NAW) until the Court rules on the merits of the lawsuit brought forth by NAW. As you know, this injunction was granted, at least in part, because the Court agreed with NAW that the law’s opaque regulatory scheme raises serious questions about whether the RMA violates several provisions of the U.S. Constitution, including the Due Process and Dormant Commerce Clauses<sup>1</sup>.

OBI formally requests that the DEQ cease enforcement of the RMA against all producers selling packaging materials in Oregon. The Court’s rationale in granting the preliminary injunction – that producers will face imminent and irreparable harm due to DEQ’s enforcement of the RMA including unrecoverable compliance costs, competitive distortions, and the risk of steep civil penalties – remains a serious threat to those not covered by the injunction. More critically at this juncture, disparate treatment of covered parties is simply inappropriate.

<sup>1</sup> <https://www.naw.org/naw-wins-preliminary-injunction-against-oregons-epr-law/>

Of primary concern is the likelihood of cost shifting as the program seeks to remain whole on the backs of regulated entities not part of the legal injunction. Ironically, this could actually exacerbate constitutional issues of due process and interstate commerce.

Importantly, OBI, its members and coalition of industry stakeholders also worry that payments made under the program will be unrecoverable in the event the RMA is found unconstitutional. Additional payments and enforcement would also only exacerbate this issue for all producers, not just those who are members of NAW.

This proactive decision by DEQ would minimize additional legal challenges – and the significant corresponding costs to taxpayers, businesses and consumers – as various associations pursue their own preliminary injunctions enjoining enforcement against DEQ. DEQ deciding to cease enforcement of the RMA against all producers until litigation is resolved is a more straightforward and less expensive method for obtaining that outcome.

Thank you for considering this request and please do not hesitate to reach out with any questions or to discuss the matter further. We know there is a lot on your plate, but given the timeliness of this evolving issue, please let us know your intentions by close of business on Friday, Feb. 13.

Sincerely,

*s/Derek Sangston*

Derek Sangston  
Policy Director and Counsel

cc: Matt Donegan  
Mark Webb  
Sylvia Tanner  
Karen Moynahan  
Vince Porter  
Geoff Huntington  
Chandra Ferrari  
Matt Davis  
Logan Gilles  
Rep. Julie Fahey  
Sen. Rob Wagner  
Rep. John Lively  
Rep. Bobby Levy  
Rep. Mark Gamba  
Sen. Janeen Sollman  
Sen. David Brock Smith