

February 18, 2025

*Submitted via email: [wastechar@calrecycle.ca.gov](mailto:wastechar@calrecycle.ca.gov)*

Department of Resources Recycling and Recovery (CalRecycle)  
P.O. Box 4025  
Sacramento, CA 95812-4025

**RE: SB 343 Material Characterization Study Preliminary Findings Report – Comments**

Dear Department of Resources Recycling and Recovery,

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity provided by the California Department of Resources Recycling and Recovery (“Department” or “CalRecycle”) to submit written comments on the SB 343 Material Characterization Study Revised Preliminary Findings Report and its appendices (collectively referred to as the “Report.”) AMERIPEN respectfully submits these written comments for CalRecycle’s consideration when developing the Final Preliminary Study Report.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging association in the United States representing the entire packaging supply chain. This includes materials suppliers, packaging producers, consumer packaged goods companies, retailers, and end-of-life materials managers. Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the AMERIPEN fabric. We focus on science and data to define and support our public policy positions, and our advocacy and policy engagement is based on rigorous research rooted in our commitment to achieve sustainable packaging policies. We have several member companies with a significant presence in California, and many more who import packaging materials and products into the state. The packaging industry in California supports nearly 156,000 jobs and accounts for \$49 billion in total economic output.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- **Results Based:** Designed to achieve the recycling and recovery results needed to create a circular economy.
- **Effective and Efficient:** Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- **Equitable and Fair:** Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

The below written comments and clarifying questions from AMERIPEN, ordered by major topics, speak to the contents of the Report released by the Department on December 31, 2024.

### **Film and Flexible Materials**

The characterization study conducted as part of the Report does not address alternative collection options, such as retail drop off. While this may be because statute directs the study to focus on operations by solid waste facilities, it unfortunately leaves a significant gap in understanding the state's current recycling systems. This is especially true in the case of films and flexible plastic packaging materials, which have a robust network of non-curbside collection sites.

Films and flexible materials can serve a critical role in packaging by enabling lightweighting and reducing carbon emissions. Flexible packaging comprises a major segment of the United States packaging industry, second only to corrugated paper.<sup>1</sup>

It should be noted that the absence of collection at the curbside or by a waste hauler does not equate to the absence of any collection, nor does the absence of sortation at a large volume transfer or processing facility (LVTP) equate to the absence of sortation (or recycling) anywhere. The Report's lack of coverage of drop-off and other alternative collection options does not create an accurate representation of material recovery rates for film and flexible packaging in California. The fact that retail drop-off is the predominant means of collection for these materials underscores this fact: a 2022 study determined that 87.6% of Californians live within three miles of a retail drop-off site for plastic films and 64.1% live within a five-minute drive of such a site.<sup>2</sup>

Producer initiatives and the state's Plastic Pollution Prevention and Packaging Producer Responsibility Act ("SB 54") will drive increased investment into collection and recycling infrastructure, complementing the need for alternative collection for films and flexible materials. There are multiple efforts in the nonprofit and private sectors to coordinate and invest in the development of circularity of the materials, such as the Film and Flex Recycling Coalition and the Flexible Film Recycling Alliance. Furthermore, recent data estimates a reclamation rate of 85-90% for collected film<sup>3</sup>, and end markets for these materials already exist and are expanding.<sup>4</sup>

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<sup>1</sup> Diehlmann, Dani. "FPA: The State of the U.S. Flexible Packaging Industry." Paper, Film & Foil Converter, March 11, 2024. <https://www.pffc-online.com/print/18053-fpa-the-state-of-the-u-s-flexible-packaging-industry>.

<sup>2</sup> RRS. "GreenBlue/SPC California Regional Film & Bag Study - Final Report." Sustainable Packaging Coalition, November 15, 2022. <https://sustainablepackaging.org/wp-content/uploads/2022/11/CA-Regional-LDPE-Study-Final-11.07.22-1.pdf>.

<sup>3</sup> Ibid.

<sup>4</sup> Staub, Colin. "Major PE Film End User Predicts 'strong Demand' in 2024." Plastics Recycling Update, February 28, 2024. <https://resource-recycling.com/plastics/2024/02/28/major-pe-film-end-user-predicts-strong-demand-in-2024/>.

The implications of accurate reporting of materials collection are significant: if SB 343 is implemented in a way that prevents communication to consumers that films and flexible materials can be recycled through drop off, it will hamper the growth in recycling throughout California and will risk increased litter and result in more – not less – packaging going to landfill. This also opens the door to inconsistency and disagreement for labeling across state lines, as well as potential legal ramifications. It is necessary to ensure that materials that are already collected for recycling and actually recycled can retain their recyclability claims. Producers have to make decisions now in order to be prepared for when SB 343 requirements take effect, so we strongly encourage an evaluation in this area.

SB 343 does provide pathways for materials to qualify as “recyclable” even if collected outside of a curbside recycling program, including by meeting certain thresholds for recycling rates or collection. While participants in alternative programs for films and flexible materials will have data to quantify their nature, CalRecycle is in a unique position to collect and disseminate further insight and analysis into such materials. Any additional information available to the Department should supplement the current scope of the Report.

AMERIPEN urges CalRecycle to include a section within the Report acknowledging and detailing access to alternative collection options for films and flexible materials to help identify where those material types fall within the SB 343 criteria. Should the Department not include this information, AMERIPEN recommends at the very least that the Report: (1) acknowledge that the tables show the *minimum* estimated collection and sortation rates and do not specifically account for alternative collection options; and (2) explain the rationale for not including this additional information.

### **Mixed Material Issues**

There is uncertainty among producers as to how mixed material packaging will be treated under SB 343. Public Resources Code (PRC) section 42355.51(b)(3)(B) does provide guidance on labeling packaging that has multiple material types and that has some components that are recyclable and some that are not recyclable. However, it is unclear how this provision would be applied to mixed material packaging where the materials are difficult to separate or are not designed for separation (e.g., a paperboard container with an interior lining of a different material).

Additionally, AMERIPEN requests that CalRecycle create an additional category within the Mixed Category titled "Multi-Material Laminate Single-Use Paperboard Rigid Containers" to capture paper-based, non-aseptic, multi-laminate containers. These should be set aside from the more miscellaneous X05 and X11 material type and form categories (MT&Fs), as they are likely to be more recyclable than other items that fall into those categories. CalRecycle should then rerun its assessment for this new category to confirm this material does sort and go with the paper bales.

There is a MT&F X06 and a MT&F X08, but X07 appears to be skipped. AMERIPEN seeks to know if there is a reason for this.

### **Paper and Fiber Materials Issues**

Like the mixed material categorization issues referenced above, there are potential discrepancies or issues in Table C1 regarding fiber materials. AMERIPEN recommends that packaging that is coated on one side only and has passed one of the following paper recyclability standards remains classified as MT&F F01 or F06 (rather than the more miscellaneous F12), which enables innovation without compromising recycling operations:

- Fibre Box Association (FBA) Voluntary Standard for Recyclable Wax Alternatives
- Confederation of European Paper Industries (CEPI) Recyclability Test Method
- Papiertechnische Stiftung (PTS) Recyclability Testing PTS-RH 021:2012

Regarding MT&F F12 (“Remainder/Composite Fiber”), some packaging, such as paper hybrid bags, may be more widely acceptable for recycling than others that will fall under this MT&F. Some paper hybrid bag packaging like pet food bags have passed third party independent testing protocols for recyclability and have received recyclability labeling. AMERIPEN therefore recommends parsing this category further to capture differences in recyclability for subsets of material included in it.

AMERIPEN is grateful that survey results in the revised Report found that 94% of the population has access to residential curbside recycling collection for MT&F F08 (“Clean Molded Paper Fiber”) (according to Table 1), twice as much as originally found in the prior draft of the Report. However, Table 2 now states that no surveyed facilities accept this material for sorting, despite the prior draft finding 89% percent of the statewide population had access to sorting for it. It is unclear why these changes occurred, given that the Material Definition and Examples for MT&F F08 remained identical between the prior draft Report and the current Report (see Table D1 and Table C1, respectively). This is concerning given the innovation efforts being made to replace some more difficult-to-recycle materials with more sustainable materials like molded fiber, offering customers an all-paper-based package but not allowing producers to communicate the recyclability of the molded pulp components despite the significant percentage of the population with access to sortation. This example demonstrates how critical it is to properly categorize materials and quantify their collection and sortation, and why producers are relying on CalRecycle to make the final Report as accurate as possible.

Based on the slide presented at CalRecycle’s February 3, 2025, public meeting regarding the Report, the percent of counties reported as sorting “Clean Molded Paper Fiber” and “Uncoated Fiber-Based Food Service Ware” (as well as “PET Multi-Use Rigid”) fell from over 75% to 0%

between versions of the Report. AMERIPEN seeks an explanation for the significant negative change for those MT&Fs, particularly as to how survey methods produced such disparate results.

### **Metal Materials Issues**

Table C1 defines MT&F M14 (“Remainder/Composite Metal”) to include “food-contaminated metals.” Other than the “Uncoated Soiled Fiber Products” MT&F, which is specifically dedicated to contaminated materials, no other MT&F prescriptively uses food contamination for category assignment. Moreover, as one example, MT&F PL11 (“HDPE Buckets: Food”) is defined to include materials that previously contained food without regard to contamination. It is unclear why metals are singled out in this manner. AMERIPEN requests remediation ideally by removing reference to food contamination in the M14 definition or, at the very least, justification from CalRecycle for the disparate treatment.

### **Intersection Between SB 343 and SB 54**

The results of the final Report for SB 343 will have a direct impact on what is to be considered recyclable under SB 54 and therefore will greatly influence the success of California’s circular economy efforts for packaging. The methodology CalRecycle uses to characterize materials will determine whether a material may be labeled “recyclable” or “not recyclable” per SB 343, which will then determine whether it might be restricted in California in some way beginning in 2032 under SB 54. Given the differences in the Report’s MT&Fs and the Covered Material Category (CMC) List under the SB 54 implementation, producers urgently need assistance navigating where their products fall within the intersection of the two programs.

For example, in the draft Report, MT&F F08 (“Clean Molded Paper Fiber”) did not meet the sortation threshold to be considered “recyclable” under SB 343. However, a potentially overlapping category, “Molded Fiber - All Forms w/o plastic component” (24\_PF14N), was determined in the January 1, 2025, “Covered Material Category (CMC) List” to be “Recyclable.” This is the type of discrepancy that can be identified and addressed if the two lists are mapped together.

AMERIPEN therefore continues to request a visual representation of how SB 343 material characterization categories translate into SB 54 CMCs (e.g., a “crosswalk”). As a general principle, AMERIPEN also asks the Department to continue working to harmonize the two lists as much as possible.

Additionally, it is unclear how small materials were measured. Specifically, there are various MT&Fs (e.g., “Remainder/Composite Metal,” “Fines and Residuals,” and “Other Mixed Paper”) generally defined in Table C1 as containing fragments or items of their respective base material “smaller than two inches.” However, the “Covered Material Category (CMC) List” published by

the Department in January 2025 specifies that “small” form CMCs have “Two or more sides measuring 2” or less.” It is unclear whether both the SB 343 MT&Fs and the SB 54 CMCs are intended to follow the same measurement standard for small format materials. AMERIPEN therefore seeks clarification from the Department as to what “smaller than two inches” means and requests the categorization be aligned with the approach for the SB 54 CMCs for consistency.

Finally, the Report cites PRC section 42355.51(d)(2) for the criteria used to determine whether packaging may be considered recyclable, but it does not measure for the complete set of requirements in that subsection. Specifically, the draft Report does not contain an evaluation of the recyclability requirement in subsection 42355.51(d)(2)(B)(i) that “defined streams [from LVTPs be] sent to and reclaimed at a reclaiming facility consistent with the requirements of the Basel Convention.” On page 5 of the Report, CalRecycle argues SB 343 does not give it “the authority to require reclaiming facilities in or out of the state to report on their acceptance of materials and the ultimate reclamation of those materials.” AMERIPEN does not believe this is a question of authority, as the Department can ask facilities to voluntarily answer questions through a survey, similar to the work done to gather collection and sortation data. This omission undermines the usefulness of the Report: businesses that need to comply with SB 343 have no independent way to determine whether the material types and forms meet this Basel Convention criterion. Without including information on consistency with the requirements of the Basel Convention, the Report does not fully facilitate compliance.

AMERIPEN is deeply concerned with the impracticality of obligating producers to determine the destination of material they produce after their use by consumers and handling by LVTPs. SB 54 establishes a comprehensive framework for ensuring recycled materials reach “responsible end markets,” which is a more thoughtful and practical approach than what is contained in SB 343. SB 54 will utilize producer resources to fund efforts that ensure the protection of Californians and the environment, achieving a similar end but with a more effective approach that does not jeopardize the ability to promote recycling.

Given these concerns, AMERIPEN requests CalRecycle to include a voluntary analysis of how materials are complying with all the requirements section 42355.51(d)(2)(B)(i), including in relation to the Basel Convention. Consistent with the purpose of the Report, such a determination will permit businesses to rely on the results of the final report in order to comply with SB 343.

### **Use of Authority and Discretion**

AMERIPEN strongly encourages CalRecycle to take all actions within its authority to ensure that materials appropriately qualify as “recyclable.” This is especially important considering the current and forthcoming investments in recycling infrastructure, to avoid needlessly stranding assets and cutting off consumers from useful and recyclable materials.

Specifically, AMERIPEN requests that CalRecycle use its authority under PRC section 42355.51(d)(2)(B)(ii) to modify the sortation requirement in PRC section 42355.51(d)(2)(B)(i) to encompass all transfer or processing facilities (not just large volume transfer or processing facilities). This will give a fuller picture of where materials are sorted and may account for gaps in the final Report for counties that were not included in the preliminary report. Accordingly, AMERIPEN requests that the Report be revised to additionally include sortation results when measuring all transfer or processing facilities.

AMERIPEN also requests CalRecycle to use its authority under PRC section 42355.51 (d)(1)(B)(iii) to update the material characterization study regularly as parties share more information. At least every three years, if not more frequently, may be appropriate. This will ensure that producers and the public are fully informed with the latest data for the recyclability of packaging and products.

AMERIPEN also asks the Department to consider informally identifying MT&Fs that may be future candidates for “trending” materials under SB 54, pursuant to PRC section 42061(a)(3)(B). This will help the SB 54 Producer Responsibility Organization (PRO) and producers prioritize efforts and investments ahead of the 2027 authorization to identify such materials, without creating any legal or financial obligation for the state.

### **Study Approach Issues**

It is important that CalRecycle considers that packaging materials may be accepted implicitly, rather than explicitly in written and visual material collection lists. Recycling collection programs may still accept a material for collection implicitly even if it is silent about in its instructions for handling it if the program does not prohibit its collection.

AMERIPEN still urges CalRecycle to consider whether a material may be implicitly accepted and, if the Department already did this, then treat the material as fully accepted. AMERIPEN seeks to know whether the Department factored in implicit acceptance when determining the collection rates, including whether it took this approach for the current version of the Report. If so, what was the process for determining when something is implicitly accepted? If not, what was the Department’s justification for not doing so? Based on the collection survey data, we note that there have been improvements to the classification of what is considered “accepted” along what we recommend but would appreciate more information.

Page 6 of the Report states that all CalRecycle sent every California jurisdiction an online survey regarding collection, but it appears that not all completed the survey. AMERIPEN seeks to know the number of and statewide population proportion of jurisdictions that did not respond and therefore were subject to the secondary survey.

Under the “Remediating Duplication” subsection on page 6, the methodology discloses that CalRecycle removed entries where all material acceptance questions were left blank. AMERIPEN seeks information from the Department as to what happened in cases where some but not all material acceptance questions were left blank; in such cases, it would be most sound to exclude them entirely from the collection calculation since the true result is unknown.

Page 8 of the draft Report states that, “The [LVTP] candidate facility list was developed from self-reported data in [the Recycling and Disposal Reporting System (RDRS)]. If data was missing or misreported in RDRS, some high-volume LVTP facilities may be excluded from this candidate list.” This approach creates an obvious risk of underreporting sortation, where LVTPs that may in fact collect materials are being omitted without further examination or analysis of the underlying data. The sortation survey did not account for facilities that serve recycling programs in counties comprising 11.5% of the state’s population, and that missing segment should be further studied, as the applicable data can make the difference for a MT&F to be “recyclable.” Moreover, each additional “recycling program” that can be accounted for will have a significant impact on the sortation figure for a given MT&F. AMERIPEN requests that, for LVTPs in these situations, CalRecycle conduct more in-depth investigations and surveys to obtain more accurate and complete data.

The draft Report’s description of the Department’s approach to conducting facility surveys raises questions and uncertainty about whether it was robust enough. For example, on page 8, the Report states, without demonstrating, that, “Facilities were selected to maximize representative sampling by geography and population density.” Rerunning the analysis with a different set of sampled facilities and at a different time of year may produce very different results, so it is crucial that the samples are truly representative. AMERIPEN seeks to know whether CalRecycle determined sampling the subset of facilities and doing so within in just two brief time periods was enough to generate a “representative sample.” Sampling across three months may not give a representative picture of the annual flow of materials due to seasonal variation within and between facilities, for example. If the Department did not make such a determination, AMERIPEN urges the Department to conduct a statistical analysis and reconstruct its survey, if merited, to be as robust and representative as possible.

Regarding Table 1, AMERIPEN notes that multiple MT&Fs are omitted despite their presence in the Table in the prior version of the report, with many reporting significant collection levels (e.g., “Remainder/Composite Metal,” “Uncoated Fiber-Based Food Service Ware,” and “PP Multi-Use.”) AMERIPEN asks that all MT&Fs be listed in both Table 1 and Table 2 to ensure the data is readily available. If there is a justifiable rationale for the omissions, AMERIPEN asks that it be shared in the Report.

AMERIPEN also asks the Department whether it examined if any out-of-state LVTPs serve in-state recycling programs, especially for the population not accounted for in the survey. The requirement in PRC section 42355.51(d)(2)(B)(ii) is not restricted by state lines, so AMERIPEN recommends the Department ensure the scope of its survey is as broad as possible to create the most accurate and robust results.

The recyclability criteria in PRC section 42355.51(d)(2) refer to “recycling programs” and “jurisdictions,” but neither term is defined for that code section. In response to a question at the February 13, 2024, informational session, CalRecycle staff indicated that it treated counties as an analogue for recycling programs in the preliminary Report. AMERIPEN seeks the Department’s guidance as to how producers should approach determining what these terms mean. For example, would a “recycling program” be limited to a county-level consideration, or could it include alternative collection programs such as retail drop off programs? AMERIPEN asks the Department to consider running a more extensive survey that reflects how many specific recycling programs (rather than counties) each LVTP serves.

Finally, in order to reduce the burden and risk of error for the public when reviewing the data in the report, AMERIPEN requests that CalRecycle provide a single table that should centralize the following information: (1) Material class; (2) MT&F code; (3) MT&F Name; (4) Material Definition; (5) Examples; (6) Data relevant to PRC section 42355.51(d)(2)(A) (i.e., Table 1 Percent of Population with Collection Access); and (7) Data relevant to PRC section 42355.51(d)(2)(B)(i), (i.e., Table 2 Percent of Counties Served).

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AMERIPEN strives to offer a good-faith and proactive approach. We continue to focus on strategies that develop and/or strengthen policies to progress the “reduce, reuse, recycle” strategies, while at the same time, enhancing the value of packaging. Our members are driving innovation, designing better environmental performance to evolve the recycling infrastructure and to create a more circular economy for all packaging. In our efforts to reduce environmental impact by increasing the circularity of packaging, our members continue to recognize the value of collaboration and the importance of working across the packaging value chain.

AMERIPEN looks forward to the continued open dialogue with the Department and interested stakeholders while collectively balancing between the myriad of needs for packaging, recycling, and sound solutions to grow a more sustainable future, an effective circular economy, and systems that achieve positive environmental outcomes for everyone, which in the end, ultimately assists in the success of this initiative. We remain committed to supporting progressive, proactive, and evidence-based strategies for sustainable packaging policies and programs.



The power of packaging in balance.

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As always, AMERIPEN thanks the Department for this opportunity to provide written comments regarding the Report and appreciates the Department staff's time and assistance during the SB 343 implementation process. Please feel free to contact me by email (GMelkonian@serlinhaley.com) with any questions on AMERIPEN's positions.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Melkonian".

Gregory Melkonian  
Regulatory and Government Affairs Associate