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**Statement of
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**AMERIPEN
American Institute for Packaging and the Environment**

before the

U.S. Senate Committee on Environment and Public Works

**Hearing:
Examining Extended Producer Responsibility Policies
for Consumer Packaging**

Wednesday, March 6, 2024

Chairman Carper, Ranking Member Capito and Members of the U.S. Senate Environment and Public Works Committee.

AMERIPEN – the American Institute for Packaging and the Environment – very much appreciates the opportunity to appear before the Committee to discuss with you our positions and views on extended producer responsibility for packaging in the U.S. This is a critical core policy issue for **AMERIPEN** and the packaging industry in the U.S., and we must all work together to craft effective approaches.

AMERIPEN is a trade association dedicated to improving packaging and the environment. We are the only material-inclusive packaging industry trade association in the U.S. representing the entire packaging supply chain. This includes material suppliers, packaging manufacturers, consumer packaged goods companies, retailers, and end-of-life materials managers.¹ Our membership also includes a robust array of industry, material, and product-specific trade associations who are essential to the **AMERIPEN** fabric.² We focus on science and data to 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. Our mission is to be the leading voice for the packaging industry, using science to inspire, create, and advocate for sustainable solutions for the packaging value chain, and our vision is for packaging to be recognized for all its benefits, including preventing waste and driving a circular economy.

The packaging industry is a dynamic part of the U.S. economy, accounting for nearly \$538 billion in total economic output annually, equivalent to roughly 2.50 percent of GDP. Packaging product manufacturers touch companies in all 544 sectors of the U.S. economy through their production and distribution linkages and the industry directly or indirectly supports nearly 1.7 million American jobs. These workers earn nearly \$118 billion in wages and benefits, and members of the industry and their employees pay nearly \$43.5 billion in direct federal, state, and local taxes, not including state and local sales taxes imposed on packaging products.³

Packaging plays a vital role in the United States, ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed, protecting the health and safety of Americans who consume, use, and handle those products. Packaging has value, and none of it belongs in landfills, roadsides, or waterways. We need to recover it to be recycled and reused, and no one knows better how to do that than the **AMERIPEN** members who design, supply, produce, distribute, collect, and process it. They are driving innovation, designing packaging for better environmental performance to boost recycling and evolve the recycling infrastructure.

¹ <https://members.ameripen.org/company-members/FindStartsWith?term=%23%21>.

² <https://members.ameripen.org/associate-members/FindStartsWith?term=%23%21>.

³ AMERIPEN (2021), U.S. Packaging Industry Economic Impacts Study.

PACKAGING EXTENDED PRODUCER RESPONSIBILITY POLICY IN THE U.S.

Extended producer responsibility (EPR) is a policy mechanism intended to shift the financial, and sometimes operational, responsibility of the end-of-life (EOL) management of products from consumers and government to the producers (generally brand owners) of those products. Sometimes referred to as product stewardship, EPR has existed in the U.S. for decades for many harder to recycle products, including beverage containers, batteries, carpet, electronics, paint, and tires, among others. While EPR for packaging has only begun to emerge in the U.S. in recent years, it has existed elsewhere in the world for decades, including in Europe for more than 30 years and in Canada for more than 20 years. Given the unique attributes and needs of packaging in the U.S., **AMERIPEN** prefers to call it packaging producer responsibility.

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.

Our packaging producer responsibility principles, objectives, and policy were finalized in late 2020 after a lengthy development and approval process with our members. These have been the bedrock of our advocacy work on this issue in the states since then and have withstood the test of time. The principles, objectives, and policy include the following provisions:

Covered Materials and Shared Responsibility. Packaging producer responsibility programs should cover all recyclable and compostable packaging materials (i.e., glass, metal, paper, plastic, and combinations thereof). Exemptions for packaging materials and formats, and certain products utilizing packaging, should be limited and not create “free riders” whose packaging materials in the system are subsidized by other packaging producers funding the system. The ideal packaging producer responsibility program should operate under a shared responsibility model whereby all stakeholders in the packaging recovery and recycling system – packaging producers, composters and recyclers, local government, and even consumers – take some responsibility – financial and/or operational – to ensure fairness and success.

Role of Producers and Others. Packaging producer responsibility programs should be run by producers directly through a non-profit producer responsibility organization (PRO) or stewardship organization (SO) with strong government oversight. While PROs will need to be established and operate at the state level, that should not preclude establishment of regional or national PROs, if merited and needed. Those who are not producers funding the system (i.e., local government, community-based organizations, composters, recyclers, industry trade associations, environmental

non-profit organizations, etc.) should be given an opportunity to make non-binding recommendations on development, implementation, and maintenance of the producer responsibility program through establishment of a program advisory board or council.

Statewide Recycling Needs Assessment. The ideal packaging producer responsibility program should not merely fund the packaging recovery and recycling levels and systems that exist today, but should drive expansion, improvement, and innovation of those systems, where needed, to increase recovery and recycling of current and future packaging. A statewide needs assessment should be conducted early in the development of any packaging producer responsibility program to identify, at minimum, current packaging recovery and recycling service and system availability, capacity, contamination, infrastructure, performance, processing, pricing, and gaps. The needs assessment is a critical tool to help understand what exists today and what may be needed in the future to build and maintain a successful packaging producer responsibility program.

Producer Performance Goals. **AMERIPEN** feels strongly that packaging producer responsibility enabling statutes should not codify specific “rates and dates” for performance goals (i.e., recovery and recycling rates, use of recycled content) that producers may be required to meet. Rather, the specifics of any performance goals should only be proposed by the PRO in their program plan and approved by the governing body after completion of the statewide packaging recovery and recycling needs assessment. Performance goals must be reasonable, based on what is possible over time, and ultimately not lead to packaging material bans or restrictions if not met.

AMERIPEN also feels strongly that packaging producer responsibility enabling statutes, and ensuing programs, must not eliminate or harm existing efficient and effective recovery and recycling infrastructure and investments as producers begin to provide funding into the systems. Furthermore, we believe any enabling statutes and regulations should in no way limit any current and future recovery and recycling technologies, mechanical or otherwise. Finally, enabling statutes and regulations should not be a vehicle for policies not directly related to establishing and maintaining effective and efficient packaging producer responsibility program. These types of policies (i.e., packaging claims and labeling, recycled content mandates, toxics in packaging) should be addressed in separate statutes and regulations.

Since 2020, **AMERIPEN** has been actively engaging in numerous states to advocate for the principles, objectives, and policies outlined above. We have aggressively opposed proposed packaging producer responsibility legislation in some states, while at the same time have gone so far as to aggressively support proposed legislation in other states. In all cases, we have always been willing to sit at the table with policymakers and stakeholders to discuss concerns and ideas about this complicated policy and seek solutions to satisfy everyone to the greatest extent possible. In this regard, we have become a respected and trusted partner and subject matter expert who is willing and able to fairly negotiate and compromise. It is one thing to say you support packaging producer responsibility, as **AMERIPEN** has been able to do, but it is an entirely different thing to truly work on

the core critical principles for packaging producer responsibility, as **AMERIPEN** has consistently done, to develop laws, regulations and programs that will drive fair and real change.

STATE PACKAGING EXTENDED PRODUCER RESPONSIBILITY ACTIVITY

Since 2021, four states – California, Colorado, Maine, and Oregon – have enacted laws establishing full packaging producer responsibility programs, whereas two more states – Illinois and Maryland – have enacted what **AMERIPEN** characterizes as groundwork laws to establish such programs.

Maine was the first state to enact a packaging producer responsibility law in July 2021 (Maine Law 2021 Chapter 455 – LD 1541). The law covers primary, secondary and tertiary packaging for consumer transactions, with notable exemptions for the packaging for beverage containers included in the state’s existing deposit return system (DRS, aka bottle bill), frozen blueberries and small producers. Maine’s packaging producer responsibility program will be based on 100% financial responsibility from producers, but the selection of the PRO – known as the SO in Maine – is unique in that it will be done through a state-run request for proposal (RFP) process where a single entity will be selected and awarded a ten-year contract with the state. This and other provisions within the law, including the establishment of producer fees, gives the state more, and producers less, influence and responsibility over the packaging producer responsibility program. Producers will be required to belong to the state contracted SO and could start paying fees into it as soon as late 2026. The law requires the SO to conduct a statewide recycling needs assessment and does not establish any type of advisory board or council.

The Maine Department of Environmental Protection (DEP) has hired program staff and completed stakeholder outreach on rule development, releasing three conceptual draft rules in late 2023. This was followed by Maine DEP officially posting draft rules in early February 2024, marking the beginning of the formal rulemaking process. These draft rules are currently in a public comment period that ends on March 18, 2024. Routine/technical rules are scheduled to be adopted by the Maine Board of Environmental Protection (BEP) in Summer 2024, with provisional adoption of major substantive rules with final adoption scheduled for 2025. It is anticipated that the state will award the SO contract by mid-2026, with producer payments to the SO beginning 180 days later.

Oregon was the second state to enact a packaging producer responsibility law in August 2021 (Oregon Law 2021 Chapter 681 – SB 582). The law covers primary, secondary, and tertiary packaging for consumer and commercial transactions, given how residential and commercial recycling is commingled throughout the state. Unlike Maine, Oregon’s law also covers printed paper materials and food serviceware. Beverage containers included in the state’s existing bottle bill are exempt from the law, as well as several other products, including over-the-counter and prescription medications. Oregon’s law is unique in that producers will be funding an expansion of the state’s existing packaging recovery and recycling system, estimated to be just less than 30% beyond what exists today. Multiple PROs may be established from the start, and while the law requires significant involvement and oversight by the state, it also allows for significant producer engagement on

program development, implementation, and maintenance. Producers are required to belong to a PRO in the state and start paying fees by July 2025, and the law specifies that the PRO must achieve recycling goals for plastic materials, ranging from 25% by 2028 to 70% by 2050. Periodic needs assessments are required in statute, to be funded by the PRO but conducted by the state, and Oregon's law established a 17-member Recycling System Advisory Council (RSAC) on which **AMERIPEN** holds a seat.

The Oregon Department of Environmental Quality (DEQ), working with the RSAC and two different Rulemaking Advisory Committees (RACs) for two phases of rulemaking, has released and finalized its first rules package and initiated a second rulemaking process, reviewed exemption requests, and released a statewide collection list. Both the RACs and RSAC will continue meeting in 2024, with the second draft rules package set to be considered by the Oregon Environmental Quality Commission (EQC) in late 2024, following a public comment period. PROs hoping to have a packaging producer responsibility program plan approved in Oregon were required to submit a letter of intent to Oregon DEQ in Fall 2023, and four entities did so. Three of the four subsequently withdrew their intent, leaving Circular Action Alliance (CAA) as the sole entity that appears prepared to submit a proposed program plan to the state by the deadline of March 31, 2024. Under the law, the state must then approve the program within 120 days. Oregon DEQ completed the initial statewide recycling needs assessment in Summer 2023.

Colorado enacted its packaging producer responsibility law in June 2022 (Colorado Session Law 2022 Chapter 337 – HB 1355). It covers primary, secondary, and tertiary packaging for consumer transactions, as well as paper products. Like Oregon, the law exempts over-the-counter and prescription medications, as well as several other federally regulated products. But unlike Oregon, the law establishes a 100% packaging producer responsibility system whereby producers will fund 100% of packaging recovery and recycling in the state, giving them significant involvement in development and implementation of the program, and likely far greater operational control over packaging recovery and recycling systems as well. Only one PRO may be established at the start, with the possibility of additional PROs being established after 2029 if it is deemed necessary to increase the rates of recycling, expand recycling services, or further provide recycling for a specific material. The implementation timeline of Colorado's law is aggressive, with producers required to belong to the PRO in the state and start paying fees by July 2025 – the same time as Oregon, even though the Oregon law was enacted nearly a year earlier. A statewide recycling needs assessment is required to be carried out by a third party, chosen and paid for by the PRO and with approval by the state. Additional needs assessments are required every five years after 2029. Colorado's law established a 15-member Producer Responsibility Advisory Board.

The Producer Responsibility Advisory Board has met more than 20 times since its establishment in late 2022. In May 2023, Colorado became the first state to select a PRO, approving the application of Circular Action Alliance (CAA), which then quickly worked with a third party to complete the requisite statewide recycling needs assessment for which results were released in early 2024. In December 2023, the Colorado Department of Public Health & Environment (CDPHE) released the

first draft of four rule concepts for implementing the state’s packaging producer responsibility law. Following a public comment period, the CDPHE released second drafts of the rule concepts in February 2024. Following another comment period for the revised draft rules, another revision is expected to be released in Spring 2024. Final adoption of Colorado’s regulations is anticipated ahead of the targeted July 2024 effective date.

California became the fourth and most recent state to enact a full packaging producer responsibility law – in June 2022 (California Statutes 2022 Chapter 75 – SB 54). It covers all single use packaging and food serviceware, including secondary and tertiary packaging for consumer transactions. Notable exemptions include beverage containers covered by the state’s existing bottle bill, flammable/hazardous products, and medical devices/drugs/products for both humans and animals. Like Colorado, the law establishes a 100% packaging producer responsibility program with significant producer involvement in development and implementation of the program – but with greater state control and oversight than in Colorado. Also, like Colorado, only one PRO may be established at the start, with the possibility of additional PROs being established after 2030. Producers are required to belong to the PRO in the state and start paying fees by January 2027.

Unique to California are several performance goals. All covered materials must be recyclable or compostable by 2032. All plastic covered materials must be recycled at a rate of 30% by 2028, 40% by 2030, and 65% by 2032, and by 2032, producers must source reduce covered materials 25% by weight and 25% by number of plastic components. Also unique to the California packaging producer responsibility law is a requirement for the PRO to pay an additional \$500 million annually into the California Plastic Pollution Mitigation Fund for at least 10 years. The funding will pay for the monitoring and mitigation of plastic pollution through various state agencies and is in addition to fees that producers will pay to the PRO for their covered materials within the packaging recovery and recycling system. The PRO is required to fund a statewide recycling needs assessment to be conducted by the state every five years, either as an assessment of all materials or as multiple material-specific assessments. California’s law established a 16-member Advisory Board.

CalRecycle hosted a series of informal stakeholder meetings throughout 2023 before releasing in December 2023 a report to the Legislature on SB 54, draft regulations, and a covered materials categories list with supplemental material. The draft regulations are currently in a period of public review, after which they will be submitted to California’s Office of Administrative Law (OAL), signaling commencement of the formal rulemaking process with a 45-day public comment period. In January 2024, CalRecycle selected Circular Action Alliance (CAA) as the initial PRO for the packaging producer responsibility program. CAA will fund a two-phased needs assessment to be conducted by CalRecycle and scheduled to be released in late 2025.

Maryland was the first state to enact what **AMERIPEN** characterizes as a packaging producer responsibility groundwork law in May 2023 (Maryland 2023 Chapter 465 – SB 222). In laying the groundwork for potential passage of a full packaging producer responsibility program law in the future, this law commissions a statewide recycling needs assessment while also selecting a PRO and

establishing a 21-member Producer Responsibility Advisory Council to assist with review of the needs assessment and provide advice and make recommendations regarding establishing and implementing a packaging producer responsibility program in the state. Circular Action Alliance (CAA) was selected as the PRO in October 2023 and the Producer Responsibility Advisory Council was announced in February 2024. **AMERIPEN** holds a seat on the Council. At the same time, the Maryland Department of the Environment opened an RFP for the statewide recycling needs assessment that must be completed before July 2024. The Producer Responsibility Advisory Council must issue a report and recommendations to the state by December 2024.

Illinois was the second state to enact a packaging producer responsibility groundwork law in July 2023 (Illinois Public Act 103-0383 – SB 1555). In laying the groundwork for potential passage of a full packaging producer responsibility program law in the future, this law commissions a statewide recycling needs assessment and establishes a 30-member Statewide Recycling Needs Assessment Advisory Council to provide advice and recommendations to the state in the drafting, amendment, and finalization of the needs assessment and to make recommendations regarding establishing and implementing a packaging producer responsibility program in the state. The Statewide Recycling Needs Assessment Advisory Council was announced in February 2024. The final needs assessment must be completed by May 2026, and the Statewide Recycling Needs Assessment Advisory Council must submit its report to the state by December 2026.

LESSONS LEARNED IN THE U.S. AND WHERE TO GO FROM HERE

There is not great consistency among the emerging packaging producer responsibility laws in the U.S. There are several drivers for this inconsistency, including state's rights; competing government, industry, producer, and non-governmental organization interests; and who the primary proponent is taking the lead on drafting and advancing packaging producer responsibility in any given state. This emerging patchwork of state laws is causing concern and questions not only for the packaging industry, including brand owners who will be the primary party responsible for funding the new packaging producer responsibility programs, but also for the states implementing these laws that are seeking opportunities and pathways to work with each other to establish the most effective and efficient programs.

As those states that have passed packaging producer responsibility laws are implementing them and other states are seeking to enact new laws, several issues have emerged or gained more attention that have added to the debates and inconsistencies. These include: if and how needs assessments should be conducted; how many PROs should exist in a given state; if and how to include general or specific performance goals in statute and/or PRO program plans; how to best preserve and protect industry investments in packaging recovery and recycling infrastructure; who might own or have access to recovered and recycled packaging materials; and how to most clearly define "producer" in statute or regulations.

There are not necessarily easy answers or solutions to address all these and other related concerns and questions, but their existence has begun to fuel a discussion about whether something could and should be done at the federal level to, at a minimum, provide some relief from the pressures we are experiencing at the state level. In 2023, AMERIPEN monitored nearly 40 bills in at least 15 states related in one way or another to packaging producer responsibility. We are seeing a similar trend in 2024, and while it is difficult to predict when or where additional state laws will be enacted, we are all but certain that some new state laws will be enacted within the next couple of years.

AMERIPEN has worked diligently to promote and collaborate on well-designed packaging producer responsibility, and packaging recovery and recycling policy in general, at the state level aligned with our key policy principles stated earlier. We do not currently have an official policy or position on federal packaging producer responsibility, but we do believe the time has come to give this issue some more focused consideration and discussion at the federal level, and **AMERIPEN** is very willing and able to work with federal policymakers, and other stakeholders who are willing to collaborate and do the hard work with us, to explore further any potential need and mechanics for a federal program. Following are some specific thoughts.

FEDERAL PACKAGING EXTENDED PRODUCER RESPONSIBILITY CONSIDERATIONS

Under the Resource Conservation and Recovery Act (RCRA),⁴ management of municipal solid waste and recycling in the U.S. is organized at the state level with implementation of services at the local level. Further, RCRA Subtitle D encourages states to develop comprehensive state solid waste management plans for nonhazardous industrial solid waste and municipal solid waste, sets criteria for municipal solid waste landfills and other solid waste disposal facilities, and prohibits the open dumping of solid waste. However, the implementation of this provision varies greatly from state-to-state, which further complicates considerations of packaging producer responsibility at the national level. Some states organize their municipal solid waste and recycling activities regionally, while other “local control” states have these functions organized by each city, town, or county.

For packaging producer responsibility to effectively work at the national level, greater consistency between how states manage solid waste and recycling must be developed, while balancing the need to keep existing systems and infrastructure operational and profitable. Additionally, under any type of potential federal packaging producer responsibility program, states will likely still have different needs to improve packaging recovery and recycling. More densely populated states would have fewer hurdles to establishing service but might have significant contamination issues, while less densely populated states would need greater access to recycling and greater transportation infrastructure to bring packaging materials to a market that can accept them for recovery or recycling. Another challenge with any potential federal packaging producer responsibility program that might attempt to manage packaging materials across all 50 states, conceivably all at once at some date in the future, would be the incredibly complex organizational planning that would be

⁴ 42 U.S.C. §6901 et seq. (1976)

necessary and that could be potentially damaging to existing recycling infrastructure and markets throughout the U.S. The likely astronomical cost would also be a significant factor that would need to be considered.

AMERIPEN suggests that there must be a balance in creating any national packaging producer responsibility program to address the policy priorities above while phasing in a more consistent national program. Such an approach would likely need to utilize a national PRO to create the organizational structure for producers to create a national program plan, pool resources and provide funding to support a national packaging producer responsibility program. The U.S. Environmental Protection Agency (EPA) would likely need to have oversight of the PRO and the organizational mechanisms to engage with states and their management of solid waste and recycling.

Were such a national framework structure to be created, phasing in states that wanted to that participate in that through an opt-in process to receive federal packaging producer responsibility funding might be appropriate to allow the continued planning and management of municipal solid waste and recycling at the state and local levels. Such an opt-in process should also establish national standards and consistency factors that must be achieved for states to receive funding to support local packaging recycling, composting, and other management activities. This type of framework that retains state and local planning of municipal solid waste and recycling while also providing greater funding, consistency and efficiency via national standards could provide a workable approach to integrating aspects of packaging producer responsibility nationally without creating a national takeover of local recovery and recycling programs.

Inherent in such an approach would be the need to have greater harmonization and standardization of terms, data and measurement of activities that are occurring within municipal solid waste and recycling systems. Currently, many states have conflicting definitions of what is considered “recycling,” “recyclable,” “compostable” and other critical terms and measures of their systems. The lack of consistency from state to state makes it very difficult to measure national progress on recycling and solid waste management goals. Such harmonization and standardization will be crucial if any type of national packaging producer responsibility is to be successful. An effective program, which ultimately is an efficient recovery recycling system, involves multiple stakeholders doing their part (consumers, producers, resin manufacturers, converters, waste management companies, etc.). Any action on packaging producer responsibility, be it at the federal or state level, needs to be based on a better understanding of current recovery and recycling access and material flows (what’s being collected, where is it going, etc.).

Additionally, if national funding is flowing out to states and local governments and recycling providers, there must be accountability for those funds and a clear reporting of how they are spent to improve the recovery and recycling of packaging materials. Finally, under any national program, performance data from states and local governments and providers must flow up to EPA and the national PRO to accurately measure what is occurring in the system nationally.

We hope these thoughts from **AMERIPEN** offer some perspective on any concepts that might be considered for a national packaging producer responsibility framework that creates greater recovery, recycling, and solid waste management performance.

ADDITIONAL POLICY CONSIDERATIONS AND TOOLS

Packaging producer responsibility, if developed and executed properly, could be an effective policy mechanism to increase packaging recovery and recycling in the U.S. But it is not and should not be the only “tool in the toolbox” to accomplish this and other stakeholder goals related to packaging recovery and recycling to create a more circular and sustainable economy. The following are some additional approaches **AMERIPEN** encourages the Committee and others to consider.

Federal Funding and Data

AMERIPEN greatly appreciates recent efforts by Congress to advance legislation focused on supporting increased recycling in the states and provide those states with additional related federal data and funding. These include the Infrastructure Investment and Jobs Act (H.R. 3684); the Recycling Enhancements to Collection and Yield through Consumer Learning and Education (RECYCLE) Act of 2021 (S. 923 / H.R. 2159); the Realizing the Economic Opportunities and Value of Expanding Recycling (RECOVER) Act (H.R. 2357); and the Save Our Seas 2.0 Act (S. 1982).

In this spirit, since 2022 **AMERIPEN** has also been actively supporting passage of the Recycling Infrastructure and Accessibility Act (S. 1189/H.R. 6159) that would provide grants for projects to make recycling programs more accessible to rural and disadvantaged communities, and the Recycling and Composting Accountability Act (S. 1194/H.R. 4040) that would require the EPA to collect, maintain and publish data on recycling and composting rates across the country. These types of federal initiatives are critical bipartisan steps Congress can take now to improve recycling in the U.S. These bills will play a critical role in increasing recycling and composting access and rates and reducing waste as the EPA seeks to increase the national recycling rate to 50 percent by 2030 under its National Recycling Goal. We believe this keen focus will also improve the accessibility of better baseline data for packaging and product designers and procurement decision makers as they look to better understand how materials are being collected, sorted, and processed and are then made available for incorporation into new packaging and products following their prior life. We applaud this Committee for approving both bills in June of last year, and we remain optimistic that a pathway remains for Congress to enact them before the end of this year.

Assessment Tools

When setting goals for packaging recovery and recycling policies, including packaging producer responsibility, **AMERIPEN** believes it is important to evaluate solutions holistically. You cannot distribute many products without packaging, and if packaging fails in its role to deliver and protect, that creates damaged products, food waste or other losses that can ultimately result in greater

environmental damage than the package itself. This is also true for recovery and recycling strategies for packaging. When investing in recovery and recycling, we must ensure that the methods used and the end markets for materials create highest and best use scenarios for materials management. In Europe and some U.S. states, the use of tools like lifecycle analyses (LCAs) and the EPA's Waste Reduction Model (WARM)⁵ are being utilized to help decide how materials are best collected or remanufactured to ensure these efforts do not inadvertently create unintended environmental burdens through increased climate emission, packaging pollution or chemical migration, for example. While **AMERIPEN** does not endorse any specific models or tools to help assess environmental and other impacts, we believe such models and tools could benefit from further federal guidance and accessibility, and we urge policymakers, as innovation in packaging and recovery advances, to give them consideration in legislation and regulation and allow for flexibility to adopt the strategies that create the highest and best uses of packaging materials.

State Recycling Market Development

AMERIPEN's vision is for packaging to be recognized for all its benefits including preventing waste and driving a circular economy. We have been dedicated to supporting packaging circularity through our work on state recycling market development. In 2020, we launched a State Recycling Market Development Taskforce which, to the best of our knowledge, was the first time states with recycling market development programs started meeting collectively since the EPA paused its work on recycling market development in the early 2000s. Over the past four years, this taskforce has produced a best practices guide⁶; an assessment of demand, supply, and capacity for plastics in the U.S.⁷; and an economic impact study on state recycling market development centers.⁸

Today's recycling market development successes are widely attributable to the EPA and their 1994 initiative, *Recycling Means Business: EPA's Recycling Market Development Strategy*.⁹ Federal support to help drive the growth of recycling businesses through the 1990s was instrumental to the development of the robust recycling and remanufacturing industries we see today, with many of the current state-based programs part of that initial EPA initiative or more recently developed from the program's original model. We believe a *revised* recycling market development initiative through the EPA, designed for the 21st century, could provide a beneficial and complementary federal role to support packaging producer responsibility in the U.S., and we are encouraged that the EPA has included some focus on recycling market development within its National Recycling Strategy released in 2021.

AMERIPEN encourages federal policymakers to embrace recycling market development as a necessary objective that is complementary to packaging producer responsibility, and we believe the

⁵ <https://www.epa.gov/warm>.

⁶ AMERIPEN, RRS (2021), Best Practices for State Recycling Market Development Centers.

⁷ AMERIPEN (2021), U.S. Company Recycled Plastic Content Goals Analysis – Supply and Demand.

⁸ AMERIPEN (2023), Economic Impact of State Recycling Market Development Programs: 1990-2023.

⁹ <https://archive.epa.gov/wastes/conservation/localgov/web/pdf/01888.pdf>.

EPA can play a significant role in convening and leveraging other federal agencies, along with the private sector, to help support recycling market development and expand solutions for packaging recovery and recycling. The REMADE Institute,¹⁰ supported by the U.S. Department of Energy (DOE), is a great example of an effective public-private partnership that is advancing recycling with federal leadership. Support to maintain, and possibly expand, this initiative could help create a culture of innovation for reprocessing of packaging materials within the U.S. Additional efforts to help coordinate and expand recycling market development programs at the state and regional levels could also provide significant opportunities to drive system efficiencies.

As **AMERIPEN** encourages further federal focus on recycling market development, we also note that in addition to a focus on recycling technology such as REMADE is pursuing, research and development is also needed to advance end market development opportunities. Innovators need support to help scale innovative solutions, including HydroBlox,¹¹ which can take multi-material films, that are currently widely viewed as unrecyclable and use them to manufacture storm water management systems, and Continuum Materials,¹² which remanufactures multi-material cartons into high performance construction materials. A recent U.S. Chamber of Commerce Foundation study noted most plastic remanufacturers wanted to see additional support in the stage between proof of concept and scaling to commercialization.¹³ Emerging state packaging producer responsibility laws are acutely focused on responsible end markets and can help somewhat with this, but additional resources to help with business development, facility approvals and siting, etc., are all needed. These are the types of services often provided by state recycling market development centers.

Additional Research

As an organization focused on informing public policy through science and data, **AMERIPEN** works closely with the academic community to understand the complex interplay between packaging, recovery and recycling methods, and policy. In 2023, we launched an Education and Research Advisory Group (ERAG) to help us develop a national research agenda to support packaging policy. Sixteen academics across North America with backgrounds in packaging, waste, consumer behavior, and extended producer responsibility are working with us to identify key areas of research to support evidence-based packaging policy and to help align data collection efforts to inform best practices. We are hopeful the results of their efforts will be made public later this year. We believe much of this work could help the U.S. harmonize data at the federal level as it relates to packaging producer responsibility and how best to potentially drive efficiencies and best practices across the country.

¹⁰ <https://remadeinstitute.org/>.

¹¹ <https://www.hydroblox.com/>.

¹² <https://www.continuummaterials.com/>.

¹³ US Chamber of Commerce Foundation (2022) [The State of Innovation and Investment into Sustainable Plastics in the U.S.](#)

Value of Packaging

Packaging has a relatively small impact on the overall environmental impacts (mining, agriculture, water use, etc.) of providing consumers with the products they need and want. When implementing packaging producer responsibility programs, we must be cautious to ensure that the fees, objectives, and performance goals assigned to these programs do not diminish the value of packaging and its role in improving our lives. Source reduction strategies inherent in some packaging producer responsibility programs, for instance, must balance reducing unnecessary material use with the role of packaging in providing product delivery and protection. Should a package fail and food spoils or a product is damaged, the environmental impact may be increased to a greater extent than that of a heavier or larger packaging format in the first place. This equally applies when we assign value to packaging materials or formats, by prioritizing some over others due to recyclability or compostability rather than recognizing their role across the entire packaging value chain. Changing the packaging for a product from a rigid packaging format used in retail to a flexible format for the same product in ecommerce, for example, may make more sense to reduce product damage, since ecommerce causes additional movement, vibration, and physical handling due to its more distributed delivery system.

Additionally, we also need to ensure that packaging producer responsibility strategies to assign fees on packaging materials or formats, or even to encourage reuse, do not impose additional financial restrictions on lower-income communities or communities that may be more reliant on packaging for hygiene and food access. Packaging for distribution of products in food deserts, for example, helps ensure efficient and safe transportation of those products to consumers in those areas and helps ensure the availability and use of fresh products for longer periods of time. Thoughtful packaging design and implementation can also make life more accessible for those with mobility or accessibility challenges, and it can provide necessary safety mechanisms to reduce harm through inadvertent access. When applying fees or design modifications through packaging producer responsibility, we must be cognizant that packaging is an essential tool in helping our modern society stay active and healthy.

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In conclusion, **AMERIPEN** appreciates the opportunity to appear before the Committee to discuss with you our positions and views on extended producer responsibility for packaging in the U.S. We are committed and look forward to working with you, other policymakers, and all stakeholders within the packaging value chain, to explore balanced policies and mechanisms to increase packaging recovery and recycling throughout the U.S. while recognizing the important value of that packaging in ensuring the quality of consumer goods as they are manufactured, shipped, stored, and consumed, protecting the health and safety of Americans who consume, use, and handle those products.