



September 15, 2025

Docket Clerk
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

To the Office of Legal Policy,

The American Institute for Packaging and the Environment (AMERIPEN) appreciates the opportunity to submit the following comments on the Department of Justice's (DOJ) Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce. The comments below focus on the impact of state laws and regulations related to packaging and labeling claims, extended producer responsibility (EPR), recycled content mandates, chemicals of concern, and source reduction mandates. For each of these issues, we provide an overview of the burden posed by state laws, the impact on businesses and consumers, barriers to interstate commerce, and what a federal solution could look like.

AMERIPEN represents the entire packaging value chain, advocating for responsible packaging policies that drive meaningful progress in packaging sustainability while supporting industry growth and consumer needs. AMERIPEN members include material suppliers, packaging manufacturers, consumer packaged goods companies, retailers, and end-of-life materials managers.¹ AMERIPEN membership also includes a robust array of industry, material, and product-specific trade associations.²

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 U.S. citizens who consume, use, and handle those products. The U.S. packaging industry contributes an estimated \$537.91 billion in total economic output to the national economy and is responsible for roughly 1.7 million jobs. These workers earn over \$117.73 billion in wages and benefits, and members of the industry and their employees pay approximately \$43.46 billion in direct federal, state, and local taxes.

¹ [AMERIPEN Company Members](#)

² [AMERIPEN Associate Members](#)

Packaging and Labeling Claims

In the last several years, various states have passed laws that regulate labeling claims on packaging. The most alarming – and expensive – example is in California, where SB 343 was passed in 2021. Also known as the “Truth in Labeling Law,” it limits the use of recycling claims, including the use of the “chasing arrows” symbol unless California-specific recyclability criteria are met. The California law will confuse consumers about what is or is not recyclable, causing more packaging to go to landfills, and forcing manufacturers to implement state-specific labeling or risk non-compliance in states with certain labeling requirements, such as resin identification codes.

Other examples are found in Washington and Colorado, which have passed laws that dictate labeling for compostable packaging products. In these cases, compostable packaging must include certain colors like brown and/or green (depending on the state) to signify to consumers that the packaging is compostable. California has a similar law but has not been as prescriptive as these other states (yet).

These laws are leading to interstate commerce challenges for businesses, which often sell products in multiple states and are challenged to control the distribution of their products in only certain states. This challenge is exacerbated because the Federal Trade Commission (FTC), which regulates advertising claims under federal law, currently lacks the authority to preempt state laws regulating these claims. While the FTC has issued the Guides for the Use of Environmental Marketing Claims (known as the “Green Guides”), these are merely “guides” that are not independently enforceable, without the force and effect of law.

AMERIPEN is advocating for the introduction and passage of federal legislation known as the Packaging and Claims Knowledge (PACK) Act, which will establish a new framework for compostable, recyclable, and reusable claims for consumer product packaging under the FTC Act. The PACK Act will create a uniform federal structure specifying when compostable, recyclable, and reusable claims can be made for packaging and will preempt state laws that attempt to regulate these types of claims in an inconsistent manner. The legislation calls on the FTC to work with and consider input from the Environmental Protection Agency (EPA) to administer the new scheme.

While federal legislation is the proposed solution for some labeling challenges, the U.S. Department of Agriculture (USDA) is able to solve an ongoing challenge related to California’s AB 1201. This law requires products labeled as “compostable” to be allowed in compost as approved by USDA’s National Organic Program. However, USDA has not yet updated its

standards to allow for compostable packaging to be recognized as an allowable input. The California law does not account for well-established international standards for compostability and instead relies on an unrelated and out-of-date USDA regulation.

The California law unduly burdens interstate commerce in packaged food products, which adversely impacts a diverse range of U.S. stakeholders – farmers and ranchers, packaging manufacturers, brands, retailers, restaurants, composters, and consumers. This adds significant costs to food companies that will need California-specific packaging, which will be poorly labeled and confuse consumers. AMERIPEN supports USDA taking action to update its composting standards to alleviate the burden of the California law.

Extended Producer Responsibility

AMERIPEN has been actively engaged on extended producer responsibility (EPR), which is a policy that moves the funding and management of recycling systems from local governments to the companies that produce products, primarily brand owners. Seven states (California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington) have enacted EPR laws with different requirements for producers, and more states (including Illinois, Massachusetts, New Jersey, New York, Rhode Island, and Tennessee) are contemplating passage of similar laws. This 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 EPR programs, but also for the states implementing these laws as they seek opportunities and pathways to work with one another to establish the most effective and efficient programs.

In terms of how the federal government might combat this likely inefficient, costly-for-business state-level approach to EPR, it is too soon to tell, as states are just now beginning the implementation of EPR laws. There may be an oversight role for the EPA to play, given its expertise with management of solid waste and recycling. Such oversight could include ensuring proper implementation of, and compliance with, the national program plan, including any reporting requirements. Additionally, EPA's expertise and authority to establish definitions for key terms and concepts, such as "recycling," "recovery," "processing," and other foundational terms that could underlay a more uniform approach from state-to-state.

Recycled Content Mandates

There are currently multiple states—California, Colorado, Connecticut, Maine, New Jersey, Oregon, Rhode Island, Washington, and Wisconsin—and the District of Columbia that have passed laws mandating recycled content in specific and differing packaging, adding new external pressures across the supply chain to comply with a myriad of separate requirements.

As pressure mounts to increase the use of recycled content, it is critical to understand how voluntary corporate goals and state legislation align with the realities of U.S. material supply and recycling infrastructure. When informed by objective current data, goals for recycled content in packaging will be more effective and achievable.

Like other policy topics, recycled content mandates present interstate commerce challenges as variations exist with packaging impacted and amounts of recycled content required. Manufacturing and distribution challenges occur, plus reporting requirements add an additional level of compliance complexity.

Federal action by the EPA could support more harmonized progress toward recycled content use in the following areas: increased collection of recyclable materials; enable expanded and innovative mechanical and chemical recycling technologies; and continued collaboration among packaging producers, recycling facilities, recycled material processors, local governments, and state government regulators.

Chemicals of Concern in Packaging

While packaging is regulated at the federal level by the Food and Drug Administration (FDA) along with the Consumer Product Safety Commission (CPSC), over a dozen states have passed their own laws related to chemicals used in packaging, in addition to or as variations on the model toxics in packaging act. This results in bans that are difficult to navigate with a national distribution network and in direct conflict with federal level safety oversight of those packaging materials. AMERIPEN supports the continued and greater preemptive regulation of packaging materials at the federal level by the FDA and CPSC, and not at the state level.

Source Reduction Mandates

Source reduction is typically any practice that reduces or eliminates virgin material at its source prior to waste management. This can include eliminating unnecessary packaging layers, redesigning products to use lighter-weight materials, substituting materials with lower environmental impact (when feasible), or expanding refill or reuse systems. Increasingly, states are passing or considering passage of laws that would mandate source reduction of packaging. California's EPR law, SB 54, mandates that producers must achieve a 25% reduction in the sale or distribution of single-use plastic packaging and food service ware compared to a 2023 baseline, measured both by weight and by item count.



AMERIPEN member companies have made strong commitments toward source reduction, and these unworkable state requirements will serve as a fundamental cap on economic growth for companies. Source reduction strategies must balance reducing unnecessary material use with the role of packaging in providing product delivery and protection. Any oversight of state-level source reduction mandates should be the purview of the EPA.

Conclusion

Thank you for the opportunity to submit a response to the Request for Information. AMERIPEN can provide any additional information on these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn M. Dyer".

Lynn M. Dyer
Executive Director