



March 30, 2026

The Honorable Isaac Bryan, Chair
Assembly Natural Resources Committee
1021 N Street, Room 164
Sacramento, CA 95814

RE: AB 2253 (Boerner). Solid Waste: products: environmental marketing claims. -- OPPOSE

Dear Chair Bryan and Members of the Natural Resources Committee:

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to submit comments on AB 2253, the *Protecting Consumers Against Greenwashing Act*, a bill that would regulate the advertisement of recycled content in products and packaging. Unfortunately, AB 2253 contains vague restrictions, lacks necessary definitions, and creates more questions than answers, leading AMERIPEN to oppose the bill.

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. As the leading voice for packaging policy in the United States, AMERIPEN collaborates with legislators, regulators, and stakeholders to develop science-based, data-driven solutions that enhance packaging's role in protecting products and promoting circularity. We have numerous member companies with a presence in California, as well as many more that import packaging materials and products into the state.

AMERIPEN agrees with the notion that recycled content claims must be truthful, specific, and substantiated, and clearly indicate the percentage of recycled material used in the packaging. . As the Federal Trade Commission (FTC) requires marketers to have competent and reliable evidence to support any recycled-content claim, AMERIPEN supports the existing FTC Green Guides, which require manufacturers and suppliers that make recycled content claims to maintain written documentation proving that the recycled material was diverted from the waste stream.

The following outlines some of the top concerns AMERIPEN has with AB 2253:

Interference with Federal Guidelines. AB 2253 duplicates an area already governed by federal truth-in-advertising guidance and may interfere with the federal framework. The FTC's Green Guides emphasize that environmental claims must be evaluated based on how reasonable consumers interpret them to avoid misleading consumers.¹ AB 2253 would add a second state-specific layer on top of that federal framework and risks creating separate, conflicting California-specific standards for a concept already governed at the federal level.

¹ Federal Trade Commission, *Green Guides*, 16 CFR Part 260, <https://www.ftc.gov/news-events/topics/truth-advertising/green-guides> (describing FTC guidance on environmental marketing claims).



Furthermore, the FTC expressly states that the Green Guides do not constitute the only means of complying with Section 5 and that marketers may use alternative approaches that satisfy the FTC Act.² AB 2253, by contrast, would hard-code one California-specific prohibitions tied to an undefined set of accounting approaches. That could foreclose lawful national approaches that the FTC might permit or refine in the future.

Consumer Confusion. The FTC’s Green Guides are built around how reasonable consumers interpret environmental marketing claims and how those claims should be qualified to avoid deception.³ A separate California rule that overlays new terminology and new restrictions on top of the federal framework may make claims less consistent across states and harder for consumers to understand.

Lack of Clarity. The bill repeatedly regulates a “recycled content claim” but does not define that term. Under the FTC’s Green Guides, environmental claims can include labeling, advertising, promotional materials, and other forms of marketing in any medium, including implied and business-to-business (B2B) claims.⁴ Without clarification, AB 2253 could be read broadly, and stakeholders will not know whether it is limited to consumer-facing marketing on packaging and advertising or whether it could also sweep in other communications.

This lack of clarity is especially problematic because AB 2253 could be interpreted as broader than marketing alone, as it regulates undefined “claims” without limiting that term to consumer-facing advertising or labeling. The FTC’s Green Guides interpret “claims” very broadly (including implied and B2B statements)⁵, which AB 2253 appears to incorporate without narrowing. At the same time, California’s SB 54 requires detailed recycled-content reporting, creating ambiguity about whether compliance disclosures could be treated as “claims.”⁶ Without clarification, the bill could reach internal, regulatory, or third-party communications—not just marketing claims.

Furthermore, the FTC’s Green Guides apply to claims about a product, package, or service, in both consumer and business-to-business contexts.⁷ AB 2253 is drafted around recycled-content claims for a “product.” That difference in wording could create uncertainty regarding packaging-specific claims, mixed product/package claims, and other communications addressed under the federal framework.

Undefined Technical Terms. The bill uses key technical terms without defining them. AB 2253 prohibits the use of “credit-based mass balance accounting,” including “free allocation,” “book-and-claim” accounting, or “similar approaches,” but defines none of these terms.⁸ Because these concepts can be used differently across industries and certification systems, the absence of definitions will make

² 16 CFR Part 260.1(d), Guides for the Use of Environmental Marketing Claims, 77 FR 62124 (2012).

³ Id.

⁴ Id. 16 CFR Part 260.1(c)

⁵ Id.

⁶ Cal. Pub. Res. Code §42057 (West 2026).

⁷ *Supra* note 2, 16 CFR Part 260.1(c).

⁸ For instance, the International Organization for Standardization recently published ISO 22095-2 (Mass Balance) and ISO 22095-3 (Book and Claim), establishing global frameworks for tracking material flows. ISO standards are routinely referenced throughout California statute.



compliance difficult and invite disputes over what methods are actually prohibited. Furthermore, the phrase “or similar approaches” is unbounded and vague. Because the bill does not define the prohibited methods and then adds “or similar approaches,” companies cannot tell where the line is. That phrase could be construed far beyond the sponsor’s intended target and sweep in allocation, certification, traceability, or chain-of-custody methods that are not specifically named in the bill.

A Stale Law. Freezing the Green Guides “as they read on January 1, 2026” is not an effective regulatory structure and could quickly make California law stale. AMERIPEN is aware and has been engaged, as the FTC has been conducting an ongoing review of the Green Guides, which it has stated is evaluating how the Guides should evolve, taking into account changing consumer understanding and market practices. Locking California law to a fixed federal snapshot would prevent automatic alignment with future FTC updates and could create a California-only baseline that drifts away from national guidance over time. The Green Guides are intended to provide nationally applicable guidance on how environmental claims should be interpreted and substantiated. By codifying a frozen, state-specific version of those Guides, AB 2253 risks fragmenting the national marketplace and forcing companies to manage California-specific claim-substantiation rules rather than a single evolving national standard.

Restricting Recycled Content Calculation Models. AB 2253 would restrict a compliance tool that California’s own programs and the state’s international trading partners already rely on to track recycled content. Mass balance accounting plays an important and widely recognized role in enabling the transition to greater use of recycled materials, particularly in complex supply chains where physical segregation is not technically or economically feasible. Under frameworks consistent with the FTC Green Guides, companies may substantiate recycled-content claims using reasonable, verifiable models so long as those claims are not deceptive and are properly qualified. These are not self-certified claims. They are audited against published international standards.

Mass balance accounting is used by many industries recognizing that different inputs may be mixed together during the manufacturing process. Mass balance systems—when supported by third-party certification, chain-of-custody controls, and transparent documentation—provide a credible mechanism to track these material flows. Prohibiting or casting doubt on these approaches, as AB 2253 does, will undermine progress toward recycled content goals and create misalignment with existing federal guidelines that allow substantiated environmental marketing claims. AB 2253 does not strengthen recycling. Instead, it creates a compliance wall that will create confusion and add to existing compliance burdens in California.

Conclusion

AMERIPEN shares the objective of ensuring truthful, non-misleading environmental marketing, but we believe that objective is best achieved through clear, nationally consistent standards that provide certainty to industry and clarity to consumers. We respectfully urge that AB 2253 be reconsidered or amended to better align with appropriate enforcement of existing federal guidelines and avoid creating duplicative, inconsistent, or unclear requirements. In fact, states, such as New York have recently enshrined the FTC’s Green Guides as enforceable in their State. As drafted, AB 2253 risks introducing ambiguity about what constitutes a “claim,” diverging from the evolving framework established by the FTC Green Guides, and limiting the use of legitimate, verifiable accounting models that support progress toward recycled-content goals. At minimum, AB 2253 should be amended to define “claim,” define each prohibited accounting term, clarify that state reporting under SB 54 is not itself a regulated marketing



claim, remove the frozen January 1, 2026, reference to the Green Guides, and avoid creating California-specific standards that duplicate or diverge from the existing federal truth-in-advertising framework.

We welcome the opportunity to work collaboratively with the Assembly Natural Resources Committee and Assemblymember Boerner to ensure AB 2253 advances its consumer protection goals while preserving regulatory clarity, national consistency, and the continued growth of credible recycled-content solutions.

Sincerely,

A handwritten signature in black ink that reads "Danielle F. Waterfield". The signature is written in a cursive, flowing style.

Danielle F. Waterfield

Policy Director & General Counsel

CC: Assemblymember Tasha Boerner