



Alison Fox, Counsel
The Honorable Lou Correa
U.S. House of Representatives
2082 Rayburn House Office Building
Washington DC 20515

Hanna Sweet, Policy Adviser
The Honorable Jeff Merkley
U.S. Senate
531 Hart Senate Office Building
Washington DC 20510

Dear Ms. Fox and Ms. Sweet,

The American Institute for Packaging and the Environment (AMERIPEN) appreciates the opportunity to comment on the draft *Truth in Labeling Act* that would set national labeling standards for recyclability, compostability, and reusability for beverage containers, food service products and packaging.

AMERIPEN provided comments on a previous draft of the legislation and has been deeply engaged on this issue since the enactment of the California “truth in labeling” legislation in 2021 (Senate Bill 343).

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 works with legislators, regulators, and stakeholders to develop science-based, data-driven solutions that enhance packaging’s role in product protection and circularity.

Third-Party Certification

AMERIPEN endorses federal legislation to establish consistent standards for claims about recyclability, compostability, and reusability on consumer product packaging. However, we are concerned about the level of administrative and rulemaking authority that the draft *Truth in Labeling Act* could grant to the Environmental Protection Agency (EPA). Instead, AMERIPEN has proposed a possible approach for the Federal Trade Commission (FTC) to oversee and manage federal labeling requirements in a way that avoids a lengthy rulemaking process, which could delay the implementation of these important federal reforms.

In short, AMERIPEN proposes a third-party certification process, overseen by the FTC, for claims about recyclability, compostability, or reusability on consumer product packaging. This program would require the FTC to provide guidance on accreditation criteria, and accreditation bodies would approve third-party certification organizations that evaluate and validate claims about recyclable, compostable, or reusable packaging.

We believe this third-party certification approach provides flexibility in using labeling schemes that best fit specific packaging formats, utilizes existing technical expertise and standards, makes it easy to update labels when needed, and ensures that the labeling schemes are properly developed and reviewed under FTC guidance. Regulations that directly specify labeling requirements cannot be



updated as frequently or adapt to technological advancements, nor can they cover all types of packaging that exist now or may exist in the future.

AMERIPEN supports the FTC's consultation with EPA on issues related to waste and product lifecycle management, including the use and management of recyclable, compostable, and reusable consumer product packaging. We also support establishing an Advisory Council that meets at least annually and is composed of subject matter and technical experts representing industry stakeholders, such as packaging material suppliers, packaging converters, manufacturers of consumer products, and organizations involved in the collection and management of discarded consumer packaging.

Preemption

AMERIPEN and its members are dedicated to responsible and truthful marketing practices. Unfortunately, a patchwork of state labeling laws has developed around claims of recyclability and compostability. This patchwork does not prevent marketplace deception; instead, it can encourage it, as consumers see different labels depending on their location. Since the United States is a single national market, both consumers and industry face challenges, if not impossible situations, when labeling standards for critical consumer products differ from state to state.

Furthermore, the concerns we raise about patchwork-creating concerns are not solely about deception. AMERIPEN and its members are also committed to increasing packaging recovery rates nationwide. However, achieving this requires an informed and engaged consumer. Yet, how can consumers educate themselves on this issue—and dispose of packaging properly after its first use—if there is no harmonized framework for claims?

AMERIPEN recognizes that the draft *Truth in Labeling Act* contains no express preemption of laws in any state and would allow a state to enforce portions of the Act if the EPA determines that the state meets the requirements established by the EPA. We are concerned that this will not adequately address the patchwork-creating concerns referenced above, but may, in fact, create even more confusion by adding another layer of regulation.

For AMERIPEN to support any federal labeling legislation that establishes national standards for packaging recyclability, compostability, and reusability, we strongly believe it must explicitly preempt any state from creating, enforcing, or maintaining any legal requirement unless it matches the federal rules. This approach will ensure a unified national framework for recyclable, compostable, and reusable packaging claims is achieved.

Definitions and Standards

We are pleased to see that the draft legislation recognizes the need for federal definitions to be established for critical terms such as “recyclable,” “compostable,” and “reusable.” Standardized national definitions will help industry and local communities better manage the packaging lifecycle, instill more



consumer confidence in recycling, composting and reuse systems, and empower individuals to make environmentally conscious choices. By adopting these federal definitions, Congress could streamline compliance for businesses and provide clarity for consumers nationwide.

In the draft legislation, these definitions would be developed by EPA through rulemaking based on specific criteria for design, access, processing, and end markets. AMERIPEN recommends that definitions for recyclable, compostable, and reusable instead be formally codified in statute, based on existing definitions developed by leading authorities, including the FTC and standard-setting bodies.

Specifically, we recommend the following:

- "Recyclable" should be defined as packaging that can be collected, sorted, reprocessed, and ultimately reused in manufacturing or to make another item.
- "Reusable" should be defined as packaging that is designed to accomplish within the life cycle of the packaging more than one trip, rotation, or use for the same or a similar purpose for which the packaging was primarily designed.
- "Compostable" should be defined as packaging that is designed to be associated with materials collected for composting that meets ASTM International or equivalent industrial compostability standards, and similarly appropriate standards for home compostability, and is capable of breaking down into, or otherwise becoming part of, stable and mature compost at an appropriate industrial composting facility, or in a home compost pile or device.

Claim Requirements

It appears that the draft *Truth in Labeling Act* may require all covered packaging to indicate on the label whether the packaging is recyclable, compostable, or reusable. AMERIPEN does not support a mandatory labeling requirement. Instead, we recommend that if a company chooses to make a claim on a label that their product packaging is recyclable, compostable, or reusable, the company must comply with FTC's third-party certification program as proposed by AMERIPEN and outlined above.

Conclusion

In closing, AMERIPEN appreciates the opportunity to comment on the latest draft of the *Truth in Labeling Act* and looks forward to working with you on these issues in the future. Please do not hesitate to contact me with any questions or for further information.

Sincerely,

Danielle Waterfield

A handwritten signature in cursive script, reading 'Danielle Waterfield'.

Policy Director & General Counsel