



June 29, 2022

The Honorable Paul Tonko, Chairman
Committee on Energy and Commerce Subcommittee on Environment and Climate Change
United States House of Representatives
2269 Rayburn House Office Building
Washington, DC 20515

The Honorable David B. McKinley, Ranking Member
Committee on Energy and Commerce Subcommittee on Environment and Climate Change
United States House of Representatives
2239 Rayburn House Office Building
Washington, DC 20515

RE: "No Time to Waste: Solutions for America's Broken Recycling System" Hearing – June 30, 2022

Dear Chairman Tonko and Ranking Member McKinley,

AMERIPEN – the American Institute for Packaging and the Environment – supports the Recycling and Composting Accountability Act (H.R. 8059) and the Recycling Infrastructure and Accessibility Act (H.R. 8183) and wishes to share comments with you on the Break Free from Plastic Pollution Act (H.R. 2238) and the Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act (H.R. 1512).

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. The U.S. packaging industry contributes \$537.91 billion in total economic output to the national economy and is responsible for nearly 1.7 million jobs. These workers earn over \$117.73 billion in wages and benefits, and members of the industry and their employees pay \$43.46 billion in direct federal, state and local taxes.

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.



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Following below are our thoughts on the four bills listed for your "No Time to Waste: Solutions for America's Broken Recycling System" hearing taking place on June 30, 2022.

Recycling and Composting Accountability Act (H.R. 8059)

AMERIPEN supports the Recycling and Composting Accountability Act (H.R. 8059) that would, among other things, require the U.S. Environmental Protection Agency (EPA) to collect, maintain and publish data on recycling and composting rates across the country. We applaud your efforts to improve transparency for recycling and composting and believe this baseline data is critical to help boost these rates and reduce waste in the U.S.

The Recycling and Composting Accountability Act (H.R. 8059) will provide an accurate reflection of recycling and composting performance nationally and at the state level – information that will be critical to improving existing recycling and composting programs and evaluating future recycling policies. The Act will also explore the potential of a national residential composting strategy – something AMERIPEN believes is critical to identifying barriers to composting and help compostable packaging become even more successful in the U.S.

As noted in the EPA's National Recycling Strategy: Part One of a Series on Building a Circular Economy for All, increased data accessibility, aggregation, collection, consistency, standardization, analyses, reporting, and transparency is critical and necessary for increasing recycling and recyclable materials in the U.S. and will likely go a long way to helping achieve the EPA's National Recycling Goal to increase the national recycling rate to 50 percent by 2030. We believe this 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, processed and are then available for incorporation into new packaging and products following their prior life. AMERIPEN has been an avid supporter of and actively involved in the EPA's America Recycles Network since its inception and is looking forward to the possibility of leading or supporting various aspects of the implementation of EPA's National Recycling Strategy.

AMERIPEN also appreciates that the Recycling and Composting Accountability Act (H.R. 8059) includes language to require EPA to provide an update on the Save Our Seas 2.0 Act report on recyclable material end market sales from material recovery facilities that process recyclable materials collected from households and publicly available recyclable materials drop-off centers, and prepare a report on the end-market sale of compost from all compostable materials collected from households and publicly available compost drop-off centers. AMERIPEN is passionate about end market development, as evidenced by our State Market Development Task Force made up of state recycling market development



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professionals from across the U.S., and we are pleased to see this legislation supporting related efforts. Related, you may be interested in our [report](#), Best Practices for State Market Development Centers, released in October 2021 that we developed in collaboration with Resource Recycling Systems (RRS) to assist state governments and related stakeholders in establishing or improving local recycling market development centers.

Recycling Infrastructure and Accessibility Act (H.R. 8183)

AMERIPEN supports the Recycling Infrastructure and Accessibility Act (H.R. 8183) that would provide grants for projects to make recycling programs more accessible to rural and disadvantaged communities. This type of federal funding will play a critical role in increasing recycling access and rates as the EPA seeks to increase the national recycling rate to 50 percent by 2030 under their National Recycling Goal. Access to recycling is a critical need for these underserved communities and will improve the recycling system overall.

The Recycling Infrastructure and Accessibility Act (H.R. 8183) would establish the pilot Recycling Infrastructure and Accessibility Program at the EPA. This pilot program would award grants, on a competitive basis and up to \$15 million each, to eligible entities to improve recycling accessibility in a community or communities within the same geographic area. The goal of the program is to fund eligible projects that will significantly improve accessibility to recycling systems in rural and underserved communities through a hub-and-spoke model for recycling infrastructure development.

Previously, AMERIPEN supported the RECYCLE Act and Save our Seas 2.0 Act Post Consumer Materials Management Grants programs that were included in the final version of the Infrastructure Investment and Jobs Act (H.R.3684) last year. Similarly, the grant funding mechanism in the Recycling Infrastructure and Accessibility Act (H.R. 8183) will go a longways towards jump-starting increased packaging recycling and recovery in the U.S. that has been negatively impacted by shifting recyclables markets over the past few years and further exacerbated by COVID-19 over the past two years. We are at a critical juncture to provide additional funding to local governments, states, Native American tribes and public-private partnerships to improve accessibility to recycling systems. We must improve material recycling and recovery systems, including in rural and underserved communities, so we can reuse more materials and achieve a more circular economy. Enacting the Recycling Infrastructure and Accessibility Act (H.R. 8183) is another critical bi-partisan step Congress can take now to improve recycling in the U.S.



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Break Free from Plastic Pollution Act (H.R. 2238) and Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act (H.R. 1512)

The Break Free from Plastic Pollution Act (H.R. 2238), first introduced during the 116th Congress (H.R. 5845), would set forth requirements and incentives to reduce the production of a variety of products and materials, including plastics, and increase efforts to collect, recycle, or compost products and materials. The Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act (H.R. 1512), while broader in scope to reduce emissions of greenhouse gases, includes most of the requirements, programs and incentives within the Break Free from Plastic Pollution Act.

AMERIPEN submitted comments on the Break Free from Plastic Pollution Act during the previous session of Congress, expressing concerns about certain aspects of the legislation including a very prescriptive proposed national extended producer responsibility (EPR) mandate, a broad yet vague ban on single-use plastic products, aggressive mandates for use of post-consumer recycled (PCR) content for some materials and products, product labeling mandates and a lack of national uniformity by allowing state and local governments to maintain and implement new requirements and restrictions on covered materials and products. These concerns remain, however, and AMERIPEN has been proactively engaged in several related dialogues since the introduction of this legislation.

While our concerns essentially remain true for the current texts of both the Break Free from Plastic Pollution Act (H.R. 2238) and the CLEAN Future Act (H.R. 1512), the state legislative landscape has shifted significantly in the U.S. over the past year on these issues and so our thinking on potential federal solutions has shifted as well. Following below are our high-level thoughts in that regard.

- **Extended Producer Responsibility** – packaging producer responsibility laws have now been enacted in Maine, Oregon and Colorado and AMERIPEN has been heavily engaged in the debates surrounding those laws and offered our own perspectives on practical programs in each state. None of the state laws are similar and none have yet been implemented. However, there are lessons that can be learned from each proposed program that should be considered prior to implementation of a packaging producer responsibility program at the national level. It is important to note that the CLEAN Future Act looks to study the issue first while the Break Free from Plastic Pollution Act includes a prescriptive packaging producer responsibility program. AMERIPEN recognizes the importance of evaluating such a system before it is implemented, and because of the state laws that have passed recommends that evaluation of the following core packaging producer responsibility issues take place first:



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- A program must provide for actual improvement of the recycling system and not just reimburse local governments and private entities for existing operations.
 - A program must work from a reasonable needs assessment to effectively plan for recycling system improvements and to create feasible goals for improvement.
 - A program must create greater uniformity among recycling systems.
 - A program must rely on producers or a producer responsibility organization (PRO) to develop initial plans and goals for producers to have true responsibility and impact on the recycling system.
 - A program must ensure that there is shared financial responsibility for the outcomes of the recovery and recycling system.
 - Finally, if a packaging producer responsibility law is going to be considered nationally, there must be greater uniformity between the state laws that have been enacted in the last two years.
- **Recycled Content for Packaging** – Similar to producer responsibility programs for packaging, recycled content requirements have passed in Maine, New Jersey and Washington in the last two years for subsets of packaging formats and materials. The establishment of recycled content mandates are tools to ideally drive demand for recycled materials. Both the CLEAN Future Act and the Break Free from Plastic Pollution Act include aggressive recycled content mandates for packaging and beverage containers. AMERIPEN's members have made aggressive goals to include recycled content in their packages, but prescriptive goals such as those included in these two proposals must first be grounded in market realities before they are implemented. Therefore, AMERIPEN cannot support the aggressive recycled content targets, and instead recommends that the EPA be engaged in data development to first determine what goals might be feasible before setting numbers in statute. As a first step, AMERIPEN believes that the Recycling and Composting Accountability Act could provide useful data toward this goal.
- **Claims and Labeling** – Claims and labeling standards for the recyclability and compostability of packaging is a challenging issue that is included in both the CLEAN Future Act and the Break Free from Plastic Pollution Act. AMERIPEN agrees that this issue must be addressed at the national level to avoid a patchwork of state barriers to interstate commerce. California enacted a law in 2021 that conflicts with labeling requirements in other states and national standards overseen by the U.S. Federal Trade Commission (FTC) under their Green Guides. AMERIPEN has some concerns with provisions in the current labeling language in the CLEAN Future Act and the Break Free from Plastic Pollution Act that is overly prescriptive and we urge Congress to move quickly to empower EPA to work with the FTC and create national uniformity around a common set of standards for recyclability and compostability claims and labeling. It is imperative that Congress act on this issue to ensure that commerce can flow freely between the states.



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- **National Uniformity** – As indicated above, national uniformity is critically needed for recycling issues to ensure that packaging can be effectively recovered and recycled to its greatest extent. While state activity has occurred, none of these laws have been implemented and there remains great opportunity to encourage a more unified national approach, on these issues – especially claims and labeling standards.

Conclusion

Once again, **AMERIPEN supports the Recycling and Composting Accountability Act (H.R. 8059) and the Recycling Infrastructure and Accessibility Act (H.R. 8183)** and we hope that these bills can move forward this year to support the improvement of recycling in the United States. We hope that the Committee on Energy and Commerce, and the whole House of Representatives, will make these proposals a key priority this year and we look forward to being part of that discussion.

While we support the intent of many components within the Break Free from Plastic Pollution Act (H.R. 2238) and the Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act (H.R. 1512), we believe greater evaluation of packaging producer responsibility at the national level is needed and greater data for recycled content requirements is necessary before establishing any related programs and requirements. We do, however, encourage a collaborative approach as soon as possible to establish uniform national claims and labeling requirements for packaging recyclability and compostability.

Please feel free to contact me or Andy Hackman, with Serlin Haley, LLP (ahackman@serlinhaley.com) with any questions on AMERIPEN's positions on these important bills and matters before the Committee.

Sincerely,

A handwritten signature in black ink that reads "Dan P. Felton".

Dan Felton
Executive Director