

August 26, 2020

Submitted via Email

Washington Plastic Packaging Study Team
Solid Waste Management Program
Washington State Department of Ecology
Post Office Box 47600
Olympia, Washington 98504-7600

Re: Draft Policy Recommendations for Managing Plastic Packaging Waste in Washington State

To Washington Plastic Packaging Study Team:

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to provide comments on the draft policy **Recommendations for Managing Plastic Packaging Waste in Washington State** released on August 14, 2020. AMERIPEN supports the State’s efforts to evaluate and improve the management of packaging materials after consumer use.

AMERIPEN is a coalition of packaging producers, users and end-of-life materials managers dedicated to improving packaging and the environment throughout the United States. Our mission is to lead the packaging industry through advocacy based on science and to enhance understanding of the role packaging plays in a more sustainable society, economy, and environment. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We have several members with facilities in Washington, and many more who import packaging materials and products into the state.

After reviewing the policies laid out in **Recommendations for Managing Plastic Packaging Waste in Washington State**, as well as the data within **Plastic Packaging in Washington: Assessing Use, Disposal and Management; Successful Plastic Packaging Management Programs and Innovations;** and **Recycled Content Use in Washington: Assessing Demand, Barriers and Opportunities**, we perceive a disconnect between policies that can tackle the needs of the full packaging system and policies that are more narrowly focused on collection, residential recycling and financing.

Recycling is a system of distinct phases. Design, collection, sortation, reprocessing and resale all have unique challenges and needs. Additionally, residential recycling is distinct from commercial recycling. This letter is intended to outline some of the areas we feel have been overlooked in the policy recommendations that Washington State could consider as they embark on their ambitious plan to meet the Global Commitment goals of 100% recyclable, reusable or compostable plastic packaging by 2025 – a goal many AMERIPEN members share with the state and are committed to reach.

None of the proposed policies adequately address the dearth of plastic re-processors in the region.

There is an assumption behind all these recommendations that increased and improved collection will result in increased recycling, but a lack of insight into end markets and local re-processors does not guarantee that plastic waste will be recovered. The state's own data notes:

“Although no reliable data are available to trace the flow of recyclable commodities to end markets, it is assumed that very little rigid plastic packaging collected in Washington is reprocessed in-state. Of the 11 plastics re-processors identified in Washington and the surrounding region (including Oregon and British Columbia), only a few handle post-consumer rigid plastics and, among those, only one—located in British Columbia—accepts predominantly curbside materials and mixed rigid plastic bales.” (*Plastic Packaging in Washington: Assessing Use, Disposal and Management* pg. 85)

It is unclear how the recommended policies will address the need for re-processors in the region, especially ones that can handle curbside materials. One might argue that recycled content mandates create demand for recycled plastic feedstock, **but demand alone will not create the infrastructure and processors that are necessary** to meet demand and to process current volumes of packaging in the curbside stream.

None of the proposed policies address challenges with hard-to-recycle packaging formats. The state's own data notes that there is a lack of markets for mixed plastics as well as flexibles. Resolving this is not as simple as banning or harmonizing materials without creating unintended consequences. AMERIPEN's own research on emerging packaging trends suggests we should anticipate an increase in flexible and multi-material packaging formats in the residential stream as a result of COVID, as well as rapidly growing ecommerce and greenhouse gas reductions from use of such materials.¹ There are benefits from a sustainable materials management (SMM) perspective in embracing these materials and we therefore recommend policies and programs to help advance innovation and end market development in Washington State. This will further assist the state with its own 2025 goals and support increased job creation and economic opportunity within the state.

None of these policies adequately address management of financing and control of systems. In fact, within the **Plastic Packaging in Washington: Assessing Use, Disposal and Management** report it is noted that taxes collected for the purpose of litter prevention have been repeatedly redirected by the Washington State Legislature to general funds during times of economic crisis. As we now face a new economic crisis due to COVID-19, reliable funding for recycling and materials management goals and oversight is more important than ever for all involved parties.

We encourage you to consider where some of the gaps are between the objective of increasing packaging recovery and the recommended policies that have been proposed. We also encourage you to meet with end users of these materials to better understand their needs and interests and the

¹ Resource Recycling (Dec 2019) "[On the Doorstep](#)".

proposals they are developing to help create a system of shared responsibility where all packaging is recovered and reused towards a vision of minimizing overall environmental impact.

Like Washington State, AMERIPEN members are seeking to reduce unrecoverable packaging and increase recycled content within their own packaging portfolios. As a result, AMERIPEN has been working diligently for the past year on identifying a number of policies and initiatives to help increase packaging recovery, and address financing shortfalls, to help modernize our recycling system towards a vision of 100% recyclable, reusable or compostable plastics. We would welcome the opportunity to discuss some of these further with the Department of Ecology Plastics Packaging Study Team and the Legislature as they develop next steps. Related:

1. AMERIPEN has been working with state recycling market development centers across the country for the past six months to identify policies and best practices that will support market development centers to advance end markets and demand. We would be happy to share insights from that group to support the state's emerging efforts here. Market development would significantly advance the state's own insight into end markets and re-processors while at the same time creating local jobs and generating state revenue.
2. Additionally, AMERIPEN has been working on developing a draft financing proposal to support state recycling programs for packaging. This proposal identifies industry specific financing mechanisms that could be explored and outlines a strategy for funding that also contemplates how we can best modernize the recycling system to address the emerging growth of hard to recycle packaging and other materials. We would welcome the opportunity to meet with the Plastic Packaging Study Team to discuss some of this work and how it could be merged with the proposed policies outlined in the draft recommendations.

As requested, we have submitted detailed comments on the draft policy **Recommendations for Managing Plastic Packaging Waste in Washington State** in the Plastic Study Feedback Form. While AMERIPEN has some concerns with the recommendations, we appreciate the state's efforts to develop and implement the strategies necessary to meet the stated goals and we appreciate your consideration of our recommendations that we believe will help effectively and efficiently improve and increase packaging recovery in the state. We look forward to working with you in that regard.

Sincerely,



Dan Felton
Executive Director—AMERIPEN

Draft Recommendations Feedback Form

Name: Dan Felton
Sector: Trade Association or Lobbyist
Organization/Affiliation: AMERIPEN - American Institute for Packaging and the Environment
Industry/Issue Area: (for trade associations, lobbyists, advocacy organizations, nonprofits, and CBOs) Packaging Industry Value Chain

| # | Recommendation | Support/Don't support | Suggested change or alternative to recommendation that meets legislative goals | Sustainable funding source or mechanism for your change/alternative |
|--|---|--|---|--|
| Primary Recommendations (intended to be implemented as a package or in combination and cover all packaging, not just plastic) | | | | |
| 1 | EPR Policy Framework for All Packaging | Could support with the following changes | <p>Washington State should align with a nationally structured and industry run producer responsibility organization (PRO) that is directly tied to best practices for packaging recovery for all material types. This will meet the state's legislative goals with critically needed and timely funding that is reliable, efficient and effective, and equitable and fair. AMERIPEN envisions that the PRO would have the authority to disperse funds under the following priorities (high to low) to increase packaging recovery:</p> <ol style="list-style-type: none"> 1. Infrastructure improvements and upgrades. 2. Research and development for end markets and technologies. 3. Consumer education on reducing contamination. 4. Post-consumer recycled (PCR) material processing. 5. Improved access to recycling. 6. Daily operation funding gaps | <p>There are multiple options AMERIPEN has been discussing under which stakeholders across the packaging value chain might help fund the industry managed PRO as a shared responsibility. Some of those mechanisms identified have been targeted because they can be implemented quickly by leveraging existing systems rather than creating new reporting processes as typically found within more traditional EPR models. As the state pushes towards 2025 goals, speed of implementation may be important. In any event, any underlying administrative, oversight and registration costs and fees for the PRO must be capped.</p> |

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|---|---|--|--|---|
| 2 | DRS for Beverage Containers (part of or separate from EPR) | Select one | AMERIPEN is neutral on the efficacy of deposit return systems (DRS) for beverage containers, but does believe that such, if legislated, should be done entirely separate from any type of legislated extended producer responsibility policy (EPR) framework for other packaging. While some consider DRS programs to be a focused form of EPR, there is a consumer element to those programs that is distinctly different from industry funded – and ideally run – producer responsibility programs designed to manage packaging materials. While DRS programs for beverage containers and EPR programs for packaging are not mutually exclusive or inclusive of each other, the focus must be on supporting the right infrastructure to reclaim each packaging type. | |
| 3 | Recycled Content Requirements for Plastic Packaging | Could support with the following changes | Recycled content mandates for packaging can have significant and at times unintended consequences on material markets. A recent study by More Recycling notes that there is currently more demand for recycled resins than there is available material. Understanding the availability of demand to supply is essential before any mandates are enacted. Oftentimes, supply of high-quality materials is also not available to meet mandatory targets that may distort existing market forces by merely shifting material to specific uses rather than increasing market supply and availability. Depending on how and where mandates are implemented, the desired overall environmental benefit may therefore not be achieved. We also need to consider the impact of moving material from one industry to another (e.g., PET from textiles back into bottles). | An industry managed producer responsibility organization (PRO) could provide funding for designing and implementing programs aimed at increasing recycled content for packaging tied to state requirements, but again, those requirements should be legislated entirely separate from any type of extended producer responsibility policy (EPR) framework legislated for packaging and any underlying administrative, oversight and registration costs and fees for recycled content compliance must be capped. |

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| | | | <p>The packaging industry understands the value in recycling and believes the reprocessing of packaging materials reduces litter and marine debris and contributes to the vitality of the American manufacturing sector. AMERIPEN's members have therefore established aggressive goals to increase the use of postconsumer recycled content (PCR) in their products. They are investing across their supply chains in technologies designed to increase the quality of materials collected and processed as well as the avenues for re-use and end markets that may or may not include putting recaptured materials back into packaging.</p> <p>AMERIPEN could consider supporting recycled content requirements for all packaging as a policy mechanism to potentially increase the demand for recyclable materials, and we agree that such requirements must include clear definitions and methodologies for compliance. But we caution that specific goals and rates should not be codified in statute and instead be established through a rigorous regulatory process that includes extensive discussion with all stakeholders before implementing. Furthermore, as with our comments on DRS programs for beverage containers, any recycled content requirements for packaging should be legislated entirely separate from any type of extended producer responsibility policy (EPR) framework legislated for packaging. While a successful product stewardship program for packaging could be complemented by recycled content requirements and other policy drivers (i.e., contamination mitigation and end market and infrastructure development), it should not be statutorily reliant on those drivers.</p> | |

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| Interim Recommendations (could be implemented on their own as a first step toward adoption of the full suite of primary recommendations) | | | | |
| 4 | Producer Registry and Packaging Reporting | Don't support, suggest the following alternative | <p>It is unclear to AMERIPEN how a producer registry would help increase packaging recovery within the state.</p> <p>AMERIPEN is concerned that this recommendation is overreaching, perhaps impossible to successfully implement, extremely preemptive of any extended producer responsibility (EPR) and/or recycled content mandate policy frameworks that might be legislated and regulated, and tantamount to a ban on the sale of products in Washington State if certain requirements are not met. Under what, if any, existing statute and regulation would the Washington State Department of Ecology have authority to require this and what purpose would the collected data serve towards increasing and improving packaging recovery before any of the primary policy recommendations might be implemented? The purposes of this recommendation would be better served after an industry managed producer responsibility organization (PRO) that offers the necessary legal protections has been successfully developed and implemented. As previously stated, any recycled content requirements for packaging should be legislated entirely separate from other legislated policies and requirements.</p> | An established industry managed producer responsibility organization (PRO) can quickly collect the necessary data from registered producers in order to effectively and efficiently increase and improve packaging recovery, but as stated earlier, any underlying administrative, oversight and registration costs and fees for the PRO and related data collection must be capped. The PRO could provide funding for collecting data and designing and implementing programs aimed at increasing recycled content for packaging tied to state requirements, those requirements should be legislated entirely separate from any type of extended producer responsibility policy (EPR) framework legislated for packaging. |
| 5 | Recycled Content Requirements for Plastic Beverage Containers | Select one | AMERIPEN is not adequately informed on this topic to respond to this recommendation and we would encourage dialogue with the American Beverage Association. | AMERIPEN is not adequately informed on this topic to respond to this recommendation and we would encourage dialogue with the American Beverage Association. |
| Complementary Recommendations (complementary to primary recommendations but narrower in scope) | | | | |
| 6 | Recycled Content Requirements for Trash Bags | Select one | AMERIPEN is not adequately informed on this topic to respond to this recommendation and we would encourage dialogue with trash bag manufacturers. | AMERIPEN is not adequately informed on this topic to respond to this recommendation and we would encourage dialogue with trash bag manufacturers. |

| # | Recommendation | Support/Don't support | Suggested change or alternative to recommendation that meets legislative goals | Sustainable funding source or mechanism for your change/alternative |
|--|--|--|---|---|
| 7 | Ban on Problematic and Unnecessary Plastic Packaging | Don't support, suggest the following alternative | Beyond the difficulties of defining through consensus what packaging is problematic and unnecessary, bans do not typically drive systemic changes and more often lead to negative unintended consequences, including substitutions that have higher carbon footprints, for example. Policies should focus on programs and initiatives that clearly improve and increase packaging recovery. | |
| 8 | Standard for Customer Opt-In for Foodservice Packaging & Accessories | Could support with the following changes | A statewide standard for customer opt-in for non-essential disposable foodservice packaging and accessories may help reduce unwanted packaging. However, we would not support this standard if there were any underlying intentions to eventually expand the standard to bans and fees on such packaging as was proposed in 2020 House Bill 2656. | |
| Recommendations for Agency Action (cover agency activities that should not require legislative action to implement) | | | | |
| 9 | Strengthen Data Collection on Final Destinations of Materials Sent for Reprocessing | Could support with the following changes | Clarifying, expanding and more effectively collecting data from regulated recycling facilities on the final destinations of materials sent for reprocessing should help provide greater insight into demand and capacity, but it alone will not help increase packaging recovery. It would be important to ensure that this data is complemented with ongoing support for the Washington State Recycling Development Center that could use this data to help attract and retain re-processors to the state or region. | |
| 10 | Support Development and Adoption of Reusable Packaging Systems | Support as is | | |