

IDFA POSITION ON RECYCLING AND SUSTAINABLE PACKAGING LEGISLATION

Dairy companies have a long history of sustainability and reducing the environmental impact of dairy product packaging is a key priority for the dairy processing industry. As more companies establish sustainable packaging targets, the need for improved recycling rates, technology, and infrastructure to facilitate sustainability goals has greatly increased. Moreover, state and federal policymakers continue to pass legislation and regulations requiring sustainable packaging in order to sell products in a given jurisdiction. IDFA members are seeking a comprehensive and equitable national recycling statute that will create the incentives necessary for a circular economy and allow all dairy companies to achieve their sustainable packaging goals. The purpose of the position described below is to guide IDFA advocacy and communicate the position of dairy processors to lawmakers, regulators, and other stakeholders.

IDFA supports a comprehensive, national Extended Producer Responsibility (EPR) Program.

IDFA members support a comprehensive and equitable federal extended producer responsibility (EPR) program creating a circular economy that incentivizes end markets for post-consumer recycled-content (PCR) and ensures the availability of adequate food-grade plastic resins and other materials used in dairy product packaging. IDFA members generally do not support a patchwork of state EPR and PCR laws that would be inefficient, costly, inconsistent, and ultimately unnecessarily burdensome, particularly for those companies with plants in multiple states.

EPR is a novel concept in the U.S., therefore the policies needed for a successful EPR program may require flexibility. IDFA supports the following requirements as needed for a successful EPR program:

- **Producer Responsibility Organization/Stewardship Organization:** A non-profit public/private Producer Responsibility Organization (PRO) or similar stewardship legal entity is a key part of an EPR system. The PRO allows brands, resin suppliers, haulers, material recovery facilities (MRF) and others in the value chain to collaborate in developing and implementing a successful EPR program in conjunction with states and stakeholders. The PRO would have oversight over the program to ensure compliance, determine metrics, gauge performance and direct investments and education. At a minimum, there must be a robust, transparent, and equitable method for brands to participate in the development of the EPR program goals and performance measures.
- **Fees:** The PRO must set fees to be paid by individual brands. The fees must be subject to “eco-modulation,” meaning that as a brand increases its use of PCR/recyclable materials and designs for circularity, the brand’s fees are reduced. Eco-modulated fees should be updated regularly, adaptable to changing market conditions and provide clear and predictable

incentives based on total volumes (not per container). Brand fees must be based on the actual cost of collection and sorting minus revenue generated from the sale of specific packaging materials. Revenue generated from material sales must stay in or further the EPR program and offset program fees paid by brands. Examples of revenue expenditures include consumer education, recycling technology and capacity and waste collection.

- PCR: Mandatory minimum PCR requirements for dairy products must be tied to the availability of FDA-compliant recycled materials to ensure food safety, packaging integrity and adequate shelf-life. Caps and labels should be exempt from PCR mandates. PCR requirements should ideally be part of an EPR program that is consistent with IDFA's position, as opposed to stand-alone mandates.
- Advanced recycling: Advanced recycling (e.g. chemical recycling) and renewable recycling should not be excluded from definitions of "recyclability" or "PCR." Existing resins and materials must not be removed as packaging options for recycling.
- Needs analysis: Fees, costs and investment direction must be based on a "needs analysis" to include consumer education, recycling infrastructure technology advancements, capacity growth, and improved, more efficient collection programs.
- Equitable financial responsibility: All segments of the circular economy must participate in the EPR system, including MRFs, consumers, waste haulers and municipalities. No one industry or industry segment should bear a disproportionate financial responsibility.
- Promotion of and investments in collection, technology and capacity: The EPR program must include investments in municipal waste management, recycling technology and capacity with the aim of increasing the recyclability and reuse of packaging materials. State and federal investment should do the same. Investments should also be directed to new packaging material technologies (i.e., biobased polymers). Revenue generated from material sales could be used to fund investments in technology and capacity.
- Antitrust: Legislation must amend antitrust laws to allow lawful joint activities among producer brands as part of a PRO program and the PRO governance and should include protection for confidential and competitive information.

Ultimately for a EPR program to be successful and deliver against a goal of a circular economy, it must be built upon fairness to all stakeholders, transparency, and consistency across the US economy.