



Memorandum in Opposition
Part RR – Extended Producer Responsibility (EPR) Act
FY 2023 New York State Executive Budget
Transportation, Economic Development and Environmental Conservation
February 1, 2022

The American Forest & Paper Association¹ (AF&PA) appreciates the opportunity to share our perspective on Part RR of the Transportation, Economic Development and Environmental Conservation section of the New York State Executive Budget on behalf of our members and their employees who are an integral part of the circular economy. In New York, the industry employs more than 27,000 individuals, with an annual payroll of over \$1.69 billion. The estimated state and local taxes paid by the forest products industry totals \$211 million annually.²

AF&PA must respectfully oppose Part RR, which would require producers to create or participate in a product stewardship organization in order to sell or distribute products for use in New York. We urge the legislature to address this complex concept in a stand-alone bill that will allow time and due consideration of this issue which will touch nearly every part of the state economy, rather than in the time-limited state budget process. Additionally, we respectfully ask policymakers to focus on improving recycling for materials with low recovery rates, instead of creating mandates and fees for paper producers that could direct capital away from investing in recycling infrastructure.

The paper industry has a demonstrated, measurable record of success in making paper and paper-based packaging more circular and sustainable through market-based approaches. Extended producer responsibility policies are typically applied as a solution for hazardous, hard-to-handle materials with low recycling rates, such as batteries, paint, mattresses, or electronics. For a highly recycled material like paper, with widely accessible collection programs and robust and resilient end markets, EPR could disrupt efficient and successful paper recycling streams in an attempt to improve the least effective streams.

The Paper Industry Is Already a Responsible Producer

The paper industry has planned or announced around \$5 billion in manufacturing infrastructure investments by 2023 to continue the best use of recycled fiber in our products, resulting in an over

¹ The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

² Data sources: U.S. government, AF&PA, and RISI. Figures are the most recent available as of December 2020.

8 million ton increase in available capacity.³ This success has been driven by the paper industry's commitment to providing renewable, sustainable, and highly recycled products for consumers. Recycling is integrated into our business to an extent that makes us unique among material manufacturing industries – our members own 114 materials recovery facilities and 80 percent of paper mills use some amount of recycled fiber. Any EPR system must fully and fairly credit the early, voluntary action our industry has taken advancing the recycling rate of our products, and strictly prohibit use of fees generated by one material to subsidize development of recycling infrastructure for competing materials.

Paper recycling rates in the U.S. have consistently increased in recent decades, with more than 65 percent of paper recovered for recycling in 2020.⁴ The paper industry recycles about 50 million tons of recovered paper every year — totaling more than 1 billion tons over the past 20 years. According to the EPA, *more paper by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and aluminum combined.*⁵ Without sufficient protections in EPR programs, there is a strong likelihood that fees paid by highly recycled products will serve to subsidize hard to recycle or otherwise low-performing products. This would result in certain producers contributing fees with little benefit to their own products' recovery rates.

Our industry's recycling rates are so successful that some products are approaching the maximum achievable recycling rate possible. The recycling rate for containerboard (corrugated cardboard) in 2020, for example, was 88.8 percent. The three-year average recycling rate for the material that would be most impacted by EPR, old corrugated containers (OCC), is already 92.3 percent.⁶

The state already has a well-developed and accessible paper and paperboard recycling system, thus negating the need for an EPR program. According to AF&PA's latest Access to Recycling Study, 88.9 percent of New Yorkers have access to residential curbside recycling.⁷ Identifying successful parts of existing programs will allow the state to replicate proven solutions with lowered risk for all stakeholders.

EPR Policies Introduce Uncertainty in Fee Structure and Disrupt Flow of Material

EPR policies must be carefully designed to avoid creating fees or mandates that could disrupt efficient and successful paper recycling streams and direct private sector funds away from investment in recycling infrastructure. Part RR requires funding to be given to local governments to pay for their collection of readily recyclable materials, but this is a cost-shifting mechanism common in other EPR programs that does not create added value or end markets for recyclable materials. The paper industry already contributes to economically sustainable recycling programs by purchasing and utilizing material sourced from residential collection programs in manufacturing new products.

³ The Recycling Partnership; Northeast Recycling Council. Last updated: December 2021

⁴ <https://www.afandpa.org/news/2021/resilient-us-paper-industry-maintains-high-recycling-rate-2020>

⁵ https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf

⁶ <https://www.afandpa.org/news/2021/resilient-us-paper-industry-maintains-high-recycling-rate-2020>

⁷ <https://www.afandpa.org/priorities/recycling/what-were-doing>

Recycling programs in the U.S. are operated by local governments, which have more freedom to tailor recycling programs to the needs of local communities. The record of highly centralized, command-and-control EPR programs in Canada and Europe offers no real proof of advantages over the market-based approaches and locally-operated programs prevalent in the U.S. In fact, a 2021 research paper performed by York University in Ontario concluded there is no evidence to indicate that the steward-operated EPR program in Canada will result in cost containment or increased recycling performance.⁸

Content requirements should focus on materials with particularly low utilization rates of post-consumer content across the material class. Currently, recovered fiber can be put toward the most efficient and appropriate uses of the fiber as determined by marketplace dynamics, but setting mandates in statute removes the flexibility of directing collected materials to their best use as markets change and new products are developed.

Virgin pulp supply is needed to sustain or grow recovered fiber. Mandating recycled content in paper and paper-based packaging does not recognize the unique characteristics of paper coming from a sustainably managed, renewable natural resource. Particularly in a state like New York with both virgin and recovered fiber available and supporting family wage jobs within state borders, legislation should take all fiber sources into consideration.

Focus On Solutions for Products with Low Recycling Rates

Paper recycling has enjoyed decades of success because of the industry's investments, consumer education, the wide availability of recycling programs, and the efforts of millions of Americans who recycle at home, work, and school every day. The paper products industry is proud to be part of the recycling solution by providing renewable, sustainable, and highly recycled products for consumers. We respectfully ask policymakers to focus on improving recycling for materials with low recovery rates that contaminate the recycling stream.

AF&PA continues to support promoting increased participation in community recycling programs and other best practices, in addition to focusing on hard-to-recycle materials where there may not yet be a well-developed collection infrastructure or good recovery results.

The State of the State supporting materials referenced China National Sword (CNS) as part of the reason EPR for paper and packaging is necessary. CNS was implemented beginning in January of 2018. It did create disruptions in markets for recovered materials, including recovered paper, and US exports of recovered paper declined each year from 2018-2020. However, because markets for recovered paper are global, dynamic, and efficient, US recovered paper is finding new homes in other Asian countries that manufacture paper and paperboard, and domestically. As reviewed above, recovered paper consumption in the US is increasing. Robust investment in end market use for recovered paper is an essential pillar of the industry's success.

⁸ Review of Recycle BC Program Performance, Dr. Calvin Lakhan, York University

Conclusion

Future legislation should be based on sound policy to benefit the environment and best practices for doing business in the state. The effort of industries that have invested decades and billions of dollars into successful sustainable materials management should be recognized, and we should not be required to fund others who have not made similar efforts and investments.

We encourage the legislature to avoid measures that might penalize paper and paper-based packaging. We look forward to continuing our work with the State of New York. Please feel free to contact Abigail Sztein, Director, Government Affairs at Abigail_Sztein@afandpa.org for further information.