



EMPIRE STATE FOREST PRODUCTS ASSOCIATION

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**Empire State Forest Products Association
Testimony Before
Senate Standing Committee on Environmental Conservation
Assembly Standing Committee on Environmental Conservation
On
Packaging Reduction
Effective Legislative Solutions To Reduce Packaging**

For over five years now we have been engaged in the process of dealing with proposals for Extended Producer Responsibility (EPR) programs and we have consistently been putting forth a position that encourages practicality, collaboration, and effectiveness in addressing concerns regarding increased recycling of post-consumer materials. New York has over thirty years of managing solid waste and we certainly have problems, but while they are not insurmountable, they cannot be addressed merely by shifting financial and managerial responsibilities.

To this end we were pleased to see in the amended version of S.4246-A/A.5322-A that non-packaging paper was excluded. We would like to believe this was in recognition of the unique characteristics of paper regarding the need for high quality printing papers, that paper has an incredibly high recovery and recycling rate at 68%, the fact that paper is not infinitely recyclable, and that new fibers are constantly needed to enter the supply chain. A perfect example of a circular economy.

This also leads to our concern that any EPR mandate should be driven by a comprehensive Needs Assessment which would inform rates and dates, post-consumer markets and reuse and refill requirements, since these will vary considerably by product. One-size fits all solutions are doomed to fail and create more problems than solutions.

We also need to admit that the responsibility for EPR falls not on anyone responsible party and that state and local governments, consumers, retailers, and producers all have responsibilities in the ultimate solutions and the costs associated with them. At the end of the day this is a problem that needs to be fixed and in New York we have long standing structures in place in managing solid waste that all of us have a role in and EPR is no different.

In looking at the EPR proposals before us I'd like to highlight some of the impracticalities that we need to address:

- **Lack of Manufacturer and Producer Input** – In the proposals before us the Producer Responsibility Organizations may have little if no input from manufacturers or producers. In one instance, DEC could either directly undertake the responsibilities of the PRO or designate a single PRO without any input from manufacturers or producers. In many instance producers have the most knowledge of existing markets for recycling as it is already part of their business model, and we should not be so quick to dismiss their knowledge. They also have the most direct knowledge of packaging integrity.

- **Unrealistic Recycling and Source Reduction Goals** – Mandatory rates, dates and material reduction goals are not consistent with other states nor based on successful product programs. These goals do not take into consideration the significant historical progress or lack thereof that producers have made by product category. Compliance on mandated rates and dates is producer by producer and not by product category under the PRO. Mandated source reduction goals also do not allow for individual product growth.
- **Mandated Reusable/Refillable Packaging** – Expenses for reusable/refillable packaging are to be borne by all producers rather than producers of reusable/refillable packaging. Cross subsidization here or in any aspect of EPR is both inequitable and doomed to fail. The institution of a distribution, recovery and collection system of reusable/refillable packaging system seems fundamentally impractical and counterintuitive to traditional packaging and marketing of products across categories. For example, all milk bottles would have to be standardized in style, color and sizes which would seem impossible and extremely limiting.
- **Unrealistic Toxic Chemical Bans.** Prohibitions on certain toxic substances and materials leave no provision for “de minimis” chemical presence in packaging nor reflect the reality of widespread chemical presence in natural materials. Language on “intentionally added for a specific purpose” should also be included in these provisions.
- **Disposal Costs.** In various proposals there are inferences that manufacturers/producers of packaging will be responsible for the costs associated with disposal and end-of-life costs associated with covered products. This would add significantly to the costs of an EPR program and will make it virtually impossible to segregate other disposal costs in the waste stream.
- **Immense Data Burdens.** Finally, the massive and unique data/reporting burdens of these legislation add significant costs and go well beyond those of any other state or nation. We must have reasonable reporting requirements which integrate with on the books solid waste reporting requirements.

These impracticalities make provisions of the EPR proposals unworkable not just for the business community but everyone and we can do better. There are solutions ranging from product specific EPRs for difficult to recover and recycle products to broader EPR proposals that can be deployed as well as changes to New York’s existing Solid Waste Management statutes that could significantly address the challenges we face. We are prepared to work on this with you.

In closing, we appreciate the opportunity to testify today and look forward to answering any questions you may have.

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