



LEGISLATIVE POSITION: UNFAVORABLE

Senate Bill 222

Environment – Reducing Packaging Materials – Producer Responsibility

Senate Education, Energy, and the Environment Committee

February 9, 2023

The Honorable Brian Feldman, Chair, Senate Education, Energy, and the Environment Committee
The Honorable Cheryl Kagan, Vice Chair, Senate Education, Energy, and the Environment Committee

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

The American Forest & Paper Association (AF&PA)¹ appreciates the opportunity to share our perspective on SB 222 on behalf of our members and their employees who are an integral part of the circular economy. AF&PA must respectfully oppose SB 222, which would require producers to create or participate in a product stewardship organization in order to sell or distribute products for use in Maryland. In Maryland, the forest products industry employs nearly 6,000 individuals in facilities that produce packaging, sales displays, tissue, corrugated boxes, and other products with an annual payroll of over \$374 million.²

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 (EPR) 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. Moreover, mandating fees on packaging producers could increase consumer costs, unfairly burdening people with low and fixed incomes.

The Paper Industry is a Responsible Producer

Paper recycling rates in the U.S. have consistently increased in recent decades, with 68 percent of paper recovered for recycling in 2021.³ 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

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.

³ <https://www.afandpa.org/priorities/recycling>

by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and aluminum combined.⁴ The paper industry has planned or announced around \$5 billion in manufacturing infrastructure investments by the end of 2024 to continue the best use of recycled fiber in our products, resulting in an over 8 million ton increase in available capacity.⁵

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 to advance the recycling rate of our products, and strictly prohibit the use of fees generated by one material to subsidize development of recycling infrastructure for competing materials with lower recycling rates.

In fact, our industry's recycling rates are so successful that some products are approaching the maximum achievable recycling rate. The three-year average recycling rate for the material that would be most impacted by EPR, old corrugated containers (OCC), is already 90.5 percent.⁶ In addition, 95.1 percent of Marylanders have access to residential curbside recycling.⁷ The state already has a well-developed and accessible paper and paperboard recycling system, thus negating the need for an EPR program.

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

EPR policies must be carefully designed to avoid creating fees or mandates which could disrupt efficient and successful paper recycling streams, and direct private sector funds away from investment in recycling infrastructure. SB 222 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.

This bill requires the stewardship organization to set product performance goals. There needs to be clear justification for the numbers and consideration of individual products and the voluntary action already underway. Recovered fiber markets are complex, efficient, and dynamic and are not served by regulations or prescriptive approaches to specify the use of recycled fibers or dictate what type of recovered fiber is used in products. Moreover, the preference for “post-consumer content” in packaging could be contrary to sustainability goals. Rather than drive increased paper recycling, recycled content minimums in paper products could: make markets for recovered fiber less efficient; prevent recovered fiber from going to highest value end use; raise the cost of production for new paper products; and narrow available choices for consumers.

Market forces and voluntary efforts have achieved strong gains in paper recycling and are expected to continue to do so in the future. Putting pressure on producers to arbitrarily change content in certain paper products interrupts the market-based utilization of recovered fiber, prevents recovered fiber from

⁴ https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf

⁵ The Recycling Partnership; Northeast Recycling Council. Last updated: December 2021

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>

flowing to its highest value end-use, is counterproductive both economically and environmentally, and is inconsistent with the precepts of sustainability.

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 the steward-operated EPR program in Canada will result in cost containment or increased recycling performance.⁸

In addition, we believe the lack of individual producers serving as voting members on the current Advisory Council is problematic. As the entities who are ultimately responsible for both creating and complying with the producer responsibility plan, paper-based packaging producers have a wealth of knowledge and expertise that should be drawn upon at the Advisory Council level.

Focus On Solutions for Products with Low Recycling Rates

Policymakers should take a more solution-oriented approach focused on problematic materials in the commingled residential collection stream. 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. Legislation such as HB 217, the Task Force on Recycling Policy and Recycling and Waste Systems bill introduced last session, can serve to support increased recycling rates for low-performing materials without adding new burdens on industries which are already part of the solution. 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.

We encourage the Committee to avoid measures that might penalize paper and paper-based packaging and their existing successful recycling programs. We look forward to continuing our work with the State of Maryland, and you or your staff may contact Elizabeth Olds, AF&PA Manager, Government Affairs at Elizabeth.Olds@afandpa.org for further information.

Sincerely,



Eric J. Steiner
Vice President, Government Affairs
American Forest & Paper Association

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