



Northeast Region

1550 Crystal Drive, Suite 804
Arlington, VA 22202
T: 800-424-2869

TESTIMONY BEFORE THE ENVIRONMENTAL CONSERVATION COMMITTEE

New York State Legislature

February 1, 2022

This testimony is submitted on behalf of the New York Chapter of the National Waste & Recycling Association (“NWRA”). NWRA and its members strongly believe that state governments play an important role in strengthening and improving the recycling systems within their respective jurisdictions. NWRA recognizes and applauds New York in particular for its longstanding role as a leader on sustainability solutions. NWRA and its members are similarly committed to supporting the development of safe, economically sustainable, and environmentally responsible recycling programs benefitting communities throughout the State. However, a statewide extended producer responsibility (“EPR”) program for all packaging materials and paper products has the potential to upend New York’s existing recycling programs, may have lasting impacts on innovation and investment, and could even do more harm than good when not enacted in a thoughtful manner that accounts for system wide effects and end market considerations.

1. An advisory committee representing a variety of stakeholder interests is essential to the development of any EPR legislation.

For any EPR program for packaging material and paper products to succeed in the State, it is vital that the concerns and objectives of all relevant stakeholders, including counties and municipalities, residents, and private recycling collection and processing service providers are considered and meaningfully addressed. Accordingly, any EPR legislation should create an advisory committee representing a variety of stakeholder interests. The committee should be involved in crafting the State’s EPR program from the outset by providing feedback regarding statewide recycling performance goals. The advisory committee should be empowered to provide feedback to producer responsibility organizations (PROs) before their new, updated, and revised PRO plans are submitted to the DEC for review. Producers and PROs should also be required to respond in writing to the advisory committee’s comments and recommendations during the plan creation and implementation processes to ensure that stakeholder input has a real role in shaping the state’s EPR efforts and to inform DEC’s understanding of how the comments and recommendations effected the submitted plans.

2. A comprehensive statewide needs assessment must be conducted prior to the enactment of any EPR program.

A fully funded needs assessment is a prerequisite to any effective EPR legislation in order to identify strengths and gaps in New York's recycling system. Determining that EPR for packaging materials and paper products is the solution to New York's recycling challenges before determining the cause and scope of those challenges, and without considering alternate strategies, is akin to "putting the cart before the horse." A needs assessment would be necessary to inform funding strategies and reimbursement rates supporting an economically viable EPR system.

3. EPR legislation must recognize and protect New York's existing recycling infrastructure.

New York's recycling systems have benefitted from significant investments in processing facilities and other assets, and those investments should be expanded upon and improved, not abandoned for the cheapest possible alternatives. Abandoning the state's existing infrastructure in the name of cost savings for PROs will strongly disincentivize future private investments and undercut the state's goal of improving recycling rates, increasing recycling capacity, and improving access to services for its residents. Thus, while providing funding to strengthen recycling and reuse infrastructure is an important goal of EPR, producers and PROs should work with existing waste haulers, recyclables handling and recovery facilities, recyclers, and municipalities to operate or expand current collection programs. PRO funding must prioritize improvements to existing infrastructure rather than the creation of new, duplicative facilities and programs.

4. Local governments and residents should retain control over local recycling solutions.

New York is unique in that a significant percentage of its residents currently receive recycling collection services through subscriptions with private haulers. Any proposed EPR programs should ensure that New York residents do not lose subscription recycling collection services if they desire. Additionally, PROs should reimburse municipalities for the costs of providing recycling services to their residents as established through the needs assessment process. Local governments are in the best position to determine which services are most efficient and convenient for their residents and which strategies have the best chance of succeeding. EPR legislation should not encourage municipalities to turn over control of their recycling programs, particularly curbside recycling programs, to PROs which are neither elected by nor accountable to local taxpayers.

5. EPR is not a quick fix to solving the problems impacting statewide recycling rates.

While EPR may assist New York's entire recycling system, it will not solve many of the problems negatively affecting statewide recycling rates, such as contamination, confusion over what materials can be recycled, and inadequate markets for recycled materials. Moreover, EPR that fails to acknowledge the importance of creating demand for recyclable materials will simply add cost to an already stressed system, without achieving net environmental benefits. Many alternative interventions to increase recycling rates and support local end markets exist and include:

- a. Post-consumer content standards to create more robust markets for materials recovered through recycling programs, thereby supporting their use for manufacturing into new products and packages.
- b. Establishing enforceable product labeling guidelines to reduce consumer confusion, contamination in recycling streams, and the costs of recycling processing borne by municipalities and residents.

- c. Modernizing and improving New York's 40-year-old Returnable Container Act (a/k/a "Bottle Bill") to increase redemption rates and work more efficiently with the state's recycling systems.
- d. Legislation to develop cost effective alternatives for the collection and recycling of "Hard-to Handle" materials such as paint, batteries, e-waste, mattresses, and carpet. Due to the high cost of handling these materials and the lack of market value for these materials, EPR programs tailored to the recycling of these specific materials can be an effective way to manage end-of-life devices and materials.