American Forest & Paper Association

March 21, 2024

Senator Matt Klein
Minnesota Senate
Room G-15 Capitol
St. Paul, MN 55155

RE: Opposition to SF 3561– The Packaging Waste and Cost Reduction Act

Dear Committee Chair Klein, Vice Chair Seeberger, and Members of the Commerce and Consumer Protection Committee,

The American Forest & Paper Association (AF&PA) must respectfully oppose SF 3561- the Packaging Waste and Cost Reduction Act on behalf of our members and their employees who are an integral part of the circular economy.

Introduction to AF&PA

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 five percent of the total U.S. manufacturing GDP, manufactures about $350 billion in products annually and employs about 925,000 people. The industry meets a payroll of approximately $65 billion annually and is among the top 10 manufacturing sector employers in 43 states.

In Minnesota, the industry employs more than 23,000 individuals, with an annual payroll of over $1.7 billion. The estimated state and local taxes paid by the forest products industry totals $103 million annually.[1]

Concerns with Packaging Waste and Cost Reduction Act

AF&PA must respectfully oppose SF 3561, which would require producers to create or participate in a product stewardship organization to sell or distribute products for use in Minnesota. 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.

[1] Data sources: U.S. government, AF&PA, and Fastmarkets RISI. Figures are the most recent available as of December 2022.

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 to improve the least effective streams.

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 2022.[2] 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.[3] The paper industry has planned or announced around $7 billion in manufacturing infrastructure investments by the end of 2025 to continue the best use of recycled fiber in our products, resulting in an over 9-million-ton increase in available capacity.[4]

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 100 materials recovery facilities (including two in Minnesota) 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 91.3 percent.[5] In addition, 81.4% percent of Minnesotans have access to residential curbside recycling.[6] The state already has a well-developed and widely accessible paper and paperboard recycling system, thus negating the need for an EPR program. Identifying successful parts of existing programs will allow the state to replicate proven solutions with lowered risk for all stakeholders.

Continuing innovation and meeting customer needs is an important part of the way our members do business. Through research among our members and best practices in the industry, AF&PA developed a tool to help packaging manufacturers, designers and brands create and manufacture

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[2] https://www.afandpa.org/priorities/recycling
[3] https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf
[4] https://www.afandpa.org/priorities/recycling/paper-recycling-process
[5] https://www.afandpa.org/news/2023/us-paper-industry-tallies-high-recycling-rate-2022
[6] https://www.afandpa.org/priorities/recycling/what-were-doing

packaging that meets their recyclability goals. *The Design Guidance for Recyclability* is intended to serve as a data-driven resource to support ongoing innovation.[7]

Paper Products Do Not Belong with Packaging EPR Concepts

Not only does SF 3561 create an inappropriate one-size-fits-all solution for packaging types that have vastly different needs and sustainability goals, but it adds paper products to the list of covered materials, which simply does not make sense. The argument that "everyone in the bin needs to pay" is a distraction from whether paper products are contributing to the concerns that are to be addressed by EPR or if it can become more sustainable as a result of EPR being in place- and the answer is no to both.

- Printing paper consumption is naturally declining due to electronic substitution- 64 percent nationally since 2000- and are not contributing to growing volumes in recycling bins associated with other materials.
- Printing papers have already achieved the EPR "design for the environment" goal, as the vast majority of printing papers are 100 percent recyclable and do not contain hard-to-recycle components like other materials that would benefit from major infrastructure improvements.
- Printing paper processing is straightforward and does not require the kind of special equipment needed to sort lightweight, multi-material or complex products. PRO Investments in infrastructure would likely subsidize needs for non-paper materials, not paper.
- This is an aspirational and counter-productive goal for printing papers due to expanding single-stream collection and an increasing proportion of packaging papers in the mix. These trends make increased recycled content unsuitable for making high quality printing paper and diverts otherwise usable fiber away from more efficient uses like packaging products.
- Including printing paper in the legislation would involve the registration, fee collection and enforcement for potentially thousands of printing paper "producers" due to the complex supply chain relationships among manufacturers, brand owners or distributors, and retailers of printed paper products. This raises the question of how high administrative costs of managing such a program with so many producers representing such a small volume of material could be justified.
- Paper maintains importance as a medium for sensitive financial and medical documentation, conservation and archival grade paper, paper designed for use in building construction, and important First Amendment conduits. The overly broad definition of "paper product" in SF 3561 creates issues for access to essential products in addition to First Amendment equity issues.
- The definition of "paper product" in SF 3561 captures materials that are unlikely to be found in the waste stream. Unprinted paper is an intermediary product and until it converted into its final use, does not enter the waste stream. By charging producers of these products for entering Minnesota, they are unfairly charged for a material that is unlikely to be found in municipal waste streams.

[7] https://www.afandpa.org/news/2021/afpa-releases-new-guide-further-advance-paper-recycling-0

Unintended Consequences of EPR Policies

EPR policies must be carefully designed to avoid creating fees or mandates that could disrupt efficient and successful paper recycling streams or that direct private sector funds away from investment in recycling infrastructure. SF 3561 requires funding which would be used to pay the costs of municipalities and entities providing solid waste management services. But this is merely a cost-shifting mechanism common in other EPR programs that does not create added value or develop 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.

SF 3561 requires statewide goals that for postconsumer recycled content for 2033 and 2038. 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. The preference for recycled content in packaging could be contrary to sustainability goals. Rather than drive increased paper recycling, fee structures to incentivize recycled content 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.[8] It can also result in unintended consequences such as an increase in transportation costs and emissions due to shipping recovered fiber even while virgin fiber can be sourced more locally.

Recycled paper fiber can be reused 5-7 times to make new products. Virgin pulp supply is needed to sustain and grow the recovered fiber cycle. The paper and wood products industry promotes and uses sustainable forestry best practices because it depends on sustainable forest growth. These best practices include forest certification programs that provide standards, or guidelines and structure, for sustainable forest management and fiber sourcing. In North America there is a mosaic of healthy forests, wherein growing, harvesting, replanting, and regrowing forests occurs as a standard practice. Forest lands in North America have been stable for more than 100 years. Our industry responsibly uses every part of the tree to make essential products for everyday life. Using paper and wood products incentivizes regeneration and replanting trees after harvest and keeping land in forests, decreasing the likelihood of conversion to other uses like parking lots, subdivisions, or pastures.

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

SF 3561 also requires, “10 percent of the number of units of packaging sold in the state must be returned to an established reuse system by 2033,” increasing to 20 percent in 2038. These goals

[8] https://www.afandpa.org/sites/default/files/2022-09/AF%26PA-RecycledContentMandates_8152022_0.pdf

preference reusable packaging which is often, by nature, neither recyclable nor compostable. Similar to the current situation with e-commerce and curbside pickup groceries in New Jersey leading to a glut of reusable bags for customers, a sudden shift to reusable packaging mandated by policy before its end-of-life disposition is worked out could result in that packaging being treated as single-use when it may be ultimately less sustainable from a life-cycle perspective than packaging options available today. This issue is exacerbated by the bill preferencing reuse through lower producer fees, an incentive that will likely increase this concerning outcome.

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 well-developed 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.

Conclusion

We encourage the Committee to avoid measures that might penalize the forest products industry from continuing to engage in the state economy and we look forward to continuing our work with the State of Minnesota. Please contact Frazier Willman, Manager, Government Affairs at Frazier_Willman@afandpa.org with any questions.