



**Senate and Assembly Standing Committees on Environmental Conservation:
Joint Hearing on Packaging Reduction/Extended Producer Responsibility**

Testimony by Brian Smith, Associate Executive Director,

Citizens Campaign for the Environment (CCE)

Tuesday, October 24, 2023

Albany, NY

Good morning and thank you for the opportunity to provide testimony today. My name is Brian Smith, the Associate Executive Director at Citizens Campaign for the Environment (CCE).

Passing strong legislation to enact Extended Producer Responsibility (EPR) for packaging and printed paper (PPP) is a top priority for CCE in New York State. For several years, CCE has led a broad, diverse, and growing coalition, representing environmental organizations, businesses, local governments, product stewardship organizations, and other waste management stakeholders, which works to support passage of a strong PPP EPR policy in NY.

New York State is facing a solid waste and recycling crisis that requires urgent action. Costs for local governments are skyrocketing, landfills are reaching capacity, waterways are choking in plastic, and greenhouse gases from the waste sector are contributing to the climate crisis. Local governments across the state are paying hundreds of millions of dollars annually to keep recycling programs alive. Due to increasing costs, communities are being forced to reduce recycling services, or worse, having to consider shuttering programs altogether.

The status quo is unsustainable, and a major change is needed. Based on decades of experience from around the world, EPR is a proven and cost-effective solution to fix recycling, reduce waste and pollution, and save local governments money. When local governments save money, taxpayers save money. Four U.S. states—Maine, Colorado, Oregon, and California—recently passed packaging EPR laws. New York can't afford to fall further behind. We know how to craft a strong packaging EPR bill; now **we need the political will to finally enact this much-needed policy in New York State.** This political will appears to be dampened by the misinformation and fear campaign launched by some manufacturers. Threats that consumers' favorite products will be banished, food prices will increase, and low-income families will not be able to purchase foods in the SNAP program are just some of the nonsensical public relations being pushed out by

those opposed. In fact, none of those claims were true in Europe or Canada as those programs have been implemented and are succeeding. We need facts, not fear, to guide us forward.

The longer we wait, the more our local governments, taxpayers, and environment will suffer from the state’s ongoing solid waste crisis. A recent analysis by the New York State Product Stewardship Council and the Recycling Partnership estimates that the cost of providing recycling for just six municipalities (NYC, Buffalo, Syracuse, Troy, North Tonawanda, Cambria), representing about 45% of all households in the state, is close to \$200 million per year. By extrapolation, the total cost savings to local governments from implementing this policy could exceed \$420 million annually. We simply can’t afford to wait any longer, particularly in light of significant budget shortfalls predicted for the coming years in New York State.

<u>Municipality</u>	<u>Estimated Annual Cost Savings from Packaging Reduction Policy</u>
New York City	\$177 million
Syracuse	\$2.92 million
Buffalo	\$6.58 million
North Tonawanda	\$1.19 million
Troy	\$770,000
Cambria	\$150,460

In NYS, PPP EPR has been identified as a key strategy to address our solid waste crisis and help fight climate change. The *Draft New York State Solid Waste Plan* identified PPP EPR as one of the three top legislative priorities, calling for the state to develop and promote broad packaging and paper product legislation to include all types of packaging and all paper products by all generators, to have the greatest effect on waste reduction, reuse, and recycling possible. The final *New York State Climate Action Council Scoping Plan* recommends legislation to enact EPR for packaging and printed paper to help address the significant greenhouse gas emissions from the waste sector.

I want to thank the sponsors of the bill, Senator Harckham and Assemblymember Glick, for working to introduce and amend a strong and ambitious bill to reduce packaging waste, improve recycling, reduce toxics, fight climate change, and create green jobs. Furthermore, this is an extremely complex and detailed policy, and we appreciate that the EnCon chairs have held this hearing in the Fall to put all the issues out on the table now, which will only help to finalize legislation that addresses our solid waste crisis, protects our health and environment, is achievable, and can get passed and signed into law in the upcoming legislative session.

General Recommendations for Passing PPP EPR legislation:

- **Pass PPP EPR in the State Budget:** While CCE supports stand-alone legislation, we strongly encourage the Governor, Senate, and Assembly to consider passing packaging EPR within the context of the SFY 2024-25 state budget. Adopting EPR in the context of the state budget allows new staff to be allocated to the NYS Department of

Environmental Conservation (DEC) to help implement and provide robust oversight of this important program. The budget can also house special revenue funds needed to implement the law. Passage of PPP EPR in the budget is appropriate and ensures that the program is implemented properly.

- **Coordinate passage of PPP EPR with passage of the Bigger Better Bottle Bill (BBBB):** We were pleased to see that the Senate and Assembly held a joint hearing on the Bigger Better Bottle Bill yesterday. CCE continues to be a strong supporter of expanding and modernizing the Bottle Bill (expand deposit to non-carbonated beverages and wine and spirits, increase the deposit to at least 10 cents, expand take-back opportunities in disadvantaged communities). While CCE strongly supports an expanded Bottle Bill, we recognize the concerns raised by local governments around losing materials in curbside recycling bins that have higher market value if an expanded Bottle Bill is passed, thus harming already strained local recycling budgets and potentially leading to cuts in local curbside recycling programs. **We don't want to solve one problem by creating another. Passing PPP EPR prior to or in coordination with passage of a BBBB would alleviate this concern by shifting the cost of local recycling programs from local governments and taxpayers to the brand owners.**

Key Principles Needed in Effective PPP EPR legislation:

- *Establish aggressive, yet achievable goals for waste reduction, recycling rates, reuse rates, and post-consumer recycled content*, which will provide accountability and help ensure that the policy is achieving its intended goals.
- *Waste reduction is first, however, EPR legislation must support a strong recycling program.* Everyone agrees that the cheapest, cleanest, healthiest, and most efficient waste management strategy is to not create waste in the first place. For that reason, New York State's solid waste policy puts waste reduction at the top of the solid waste management hierarchy. CCE supports ambitious and achievable waste reduction goals for plastic and other materials used in single-use packaging. That said, we will not be able to prevent or reuse all packaging, and therefore, we must support a strong and robust recycling program for all communities across New York State. Unfortunately, New York currently has a dismal recycling rate of about 18%. Well-designed PPP EPR policies around the world have achieved recycling rates of 80%. In order to have a strong recycling program, key principles include, but are not limited to:
 - Provide sustainable funding that covers the full cost of recycling, from public education and engagement, to collection, to sorting and processing.
 - Include a clear and rational funding mechanism— it needs to be clear how municipalities get reimbursed for recycling costs, and how services will be funded in areas where municipalities do not provide service.
 - Ensure that all New Yorkers have access to high quality recycling programs, including underserved and rural communities.

- Ensure that the recycling system is transparent—in order to effectively measure our success, we need to track recyclable materials in every step of the process and in every community across the state.
 - Set high recycling rate targets to provide accountability and push the recycling program to improve over time.
- ***Include paper in the EPR program.*** According to the DEC, paper is the largest source of municipal solid waste (MSW) in New York State, at approximately 32% of MSW, by weight. This includes, but is not limited to, flyers, phone books, brochures, catalogues, and junk mail. Producers of paper products have externalized the cost of managing paper waste—pushing that cost onto local governments and taxpayers. It is estimated that 60%-70% of the material in community recycling programs is paper, making paper products and paper packaging the majority of the cost to municipalities and ratepayers.

Looking at junk mail alone—more than 100 billion pieces of junk mail are delivered in the United States annually – about 300 per person. Each year, printing consumes more than 100 million trees and enough water to fill 160,000 Olympic-sized swimming pools; it produces as much CO₂e as more than two million cars. Disposing of and recycling these materials costs governments and taxpayers more than \$250 million annually.

Paper comingled with other recyclable materials becomes contaminated by broken glass; the metal, plastic, and glass are contaminated by paper. Contamination poses expensive problems for the processors and end-users, including wear and tear on equipment and increased costs of disposal.

Single-use plastics products, such as plastic tableware and plastic bags, are rightfully covered by an EPR program because they frequent the residential waste stream, disrupt recycling processes, and increase costs to local recycling programs—paper products, such as junk mail and catalogues, should be covered by an EPR program for the same reasons.

We will not fix our recycling programs or provide adequate financial relief to local governments if we do not include paper in New York’s EPR legislation.

- ***Define appropriate roles for Producer Responsibility Organization(s) (PROs) and the Department of Environmental Conservation (DEC).*** In a well-designed PPP EPR policy, PROs play an integral role in the development and implementation of Producer Responsibility Program Plans in an efficient and cost-effective manner. While we support a strong oversight role for the DEC, which will help ensure compliance with the EPR statute and its implementing regulations, EPR legislation should not overburden the DEC by shifting too many responsibilities that are traditionally held by PROs in PPP EPR policies to DEC.
- ***Eliminate the use of toxics in product packaging and paper,*** which is essential to achieve a circular economy as well as protect public health and the environment.

- ***Include a strong definition of recycling***, which does not perpetuate incineration or other environmentally harmful processes, such as gasification, pyrolysis or other technologies billed as "chemical recycling" which have not been shown to be safe or effective and often disproportionately impact environmental justice communities. As new technologies are advanced in the future, the state should have the opportunity to revisit the definition to incorporate new recycling technologies that are proven, safe, and effective.
- ***Provide strong incentives for packaging reuse/refill***, which encourages waste prevention and is in line with the waste management hierarchy.
- ***Include commercial waste (in addition to residential)***, which ensures that the significant amount of packaging and paper waste created by commercial businesses are covered by the program. We cannot solve the full problem by only addressing half of the problem. CCE recognizes the challenges and complexities of bringing commercial businesses into the EPR program and is supportive of phasing in commercial businesses into the EPR program over time.
- ***Define the roles and responsibilities of local governments***, which provides local government with the option to maintain their current operations and elect for reimbursement (opt-in), elect not to participate (opt-out), or discontinue services and leave the producers to ensure services are provided.

Thank you for the opportunity to provide testimony today.