



May 4, 2026

**The Honorable Pete Harckham**

Chair

Senate Environmental Conservation Committee

198 State St, Legislative Office Bldg

Room 310

Albany, NY 12210

**RE: ACA Comments in Response to Senate Bill 1464A – An Act to Amend the Environmental Conservation Law, in Relation to Enacting the Packaging Reduction and Recycling Infrastructure Act**

Dear Chair Harckham and Members of the Senate Environmental Conservation Committee:

The American Coatings Association (ACA)<sup>1</sup> submits the following comments to the Senate Environmental Conservation Committee regarding Senate Bill 1464A, An Act to Amend the Environmental Conservation Law, in Relation to Enacting the Packaging Reduction and Recycling Infrastructure Act (S1464A). ACA represents approximately 96% of the paint and coatings products manufactured in the United States (U.S.), including architectural, industrial, and specialty coatings.

The \$671 million paint and coatings industry in New York manufactures a wide variety of coatings products for consumers, businesses, and manufacturing establishments alike. With the exception of powder coatings, most paint and coatings products are in liquid form and utilize containers in a range of sizes. The sizes range from small containers of less than a liter or pint to large containers that hold several hundred gallons. These containers are typically either metal, plastic, or a hybrid of metal and plastic.

With the increasing number of packaging extended producer responsibility (EPR) laws across the country, ACA members will be required to evaluate the packaging being used for paint and coatings products to ensure compliance with these laws. Consequently, ACA has a significant interest in assisting our industry in compliance with any legal requirements.

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<sup>1</sup> ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.



ACA is concerned that the differing requirements from state to state will result in confusion for manufacturers as well as New York residents. Significant differences from state to state in regulatory programs are problematic and burdensome for the paint and coatings industry since manufacturers with a nationwide customer base will find developing any compliance plan(s) to be extremely challenging. The coatings industry routinely conducts interstate transactions where their products are shipped across state lines, thereby requiring companies to comply with various applicable federal and state laws.

ACA provides the following recommendations to S1464A to provide clarification and consistency with other existing packaging EPR laws in the U.S.

- 1. Amend the definition of ‘packaging material,’ ‘packaging,’ or ‘covered material’ to clarify that packaging for products subject to a postconsumer paint program under N.Y. Env’t Conserv. Law § 27-20 are not included under S1464A.**

Currently, S1464A’s definition of the term ‘packaging material,’ ‘packaging,’ or ‘covered material’ contains an exemption for “[a]rchitectural paint containers collected and managed pursuant to title twenty of [Article 27].” While ACA appreciates that this language recognizes that leftover paint and paint containers should be managed by an approved paint stewardship program, we are concerned that this language could be misconstrued to exempt only a portion of the containers sold. In New York’s PaintCare program, leftover paint in their original containers is collected and managed responsibly. ACA and PaintCare’s goal is to divert leftover paint from landfills and recycle as much as possible. Our goal with respect to paint containers is the same—to divert from landfills and recycle as much as possible. This is true for all the states with PaintCare programs.

PaintCare’s program anticipates managing the end-of-life of these containers and consequently, the PaintCare assessment is designed to cover this cost. If these products are not clearly excluded from the definition of ‘packaging material,’ ‘packaging,’ or ‘covered material’ in S1464A, it will result in there being additional fees (fees in addition to the PaintCare assessment) imposed on these products. Thus, in order to avoid confusion, promote efficiency, and prevent double coverage of these containers by two different EPR systems and the imposition of an additional fee, ACA urges inclusion of the following language in S1464A: “packaging for products subject to title twenty of this article.”

- 2. Amend the citation for plastic packaging containers used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials to refer to 49 C.F.R. § 178.**

Currently, the definition for the term ‘packaging material,’ ‘packaging,’ or ‘covered material’ in S1464A provides an exemption for “[p]lastic packaging containers used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials under 40 C.F.R. 178” (emphasis added). ACA believes that this citation is an inadvertent error. ACA appreciates recognition of the complexity of managing packaging designed for dangerous goods, and recommends that the citation be corrected to reference 49 C.F.R section 178.

**3. Amend the definition of ‘packaging material’ ‘packaging,’ or ‘covered material’ to include additional exemptions commonly found in other states’ packaging EPR laws.**

Within other states’ packaging EPR laws, there exists several other exemptions to the term ‘packaging material.’ These exemptions include but are not limited to the following:

- a) Packaging materials that are used for the long-term storage (e.g., 5+ years) and/or protection of a durable product;
- b) Packaging materials that are exclusive to the manufacturing or industrial process;
- c) Packaging materials that are used solely for business-to-business operations;
- d) Packaging materials that are sold and/or supplied in connection with products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) under 7 U.S.C. section 136 et. seq.;
- e) Packaging materials that are sold and/or supplied in connection with products that meet certain poison prevention requirements;
- f) Packaging materials that are sold and/or supplied in connection with hazardous or dangerous goods regulated by 49 C.F.R. section 178;
- g) Packaging materials that are sold and/or supplied in connection with hazardous or flammable goods regulated by 29 C.F.R. section 1910 (Occupational Safety and Health Standards (OSHA));
- h) Packaging materials that are sold and/or supplied in connection with products regulated by the Federal Food, Drug, and Cosmetic Act (FDCA) under 21 U.S.C. section 301 et. seq.;
- i) Packaging materials that are used to contain, among others, drugs that are used for animal medicines;
- j) Packaging materials that are used to contain infant formula, medical food, and/or necessary fortified oral nutritional supplements;
- k) Refillable containers of liquefied petroleum gas; and
- l) Other packaging materials identified by the relevant authority.

The paint and coatings industry operates from coast to coast in all directions. Harmonization of the requirements of the states’ packaging EPR laws would greatly aid our member companies in developing compliance schemes. Currently, out of the foregoing exemptions, S1464A does not provide for packaging materials that are (1) used for the long-term storage (e.g., 5+ years) and/or protection of a durable product; (2) exclusive to the manufacturing or industrial process; (3) used solely for business-to-business operations; (4) sold and/or supplied in connection with products that meet certain poison prevention requirements; (5) used to contain necessary fortified oral nutritional supplements; (6) refillable containers of liquefied petroleum gas; and (7) identified as exempt by the relevant authority. Consequently, ACA urges the consideration and incorporation of the above-mentioned exemptions in order to provide some harmonization with the packaging EPR laws adopted in other states.

Thank you for your consideration of ACA’s comments. Please do not hesitate to contact me should you have any questions and/or require further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Annebelle Klein". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

**Annebelle Klein**

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