

The County Perspective

Legislative Solutions to Reduce Packaging

Comments submitted by the
New York State Association of Counties
and the
**New York State Association for Solid Waste
Management**



NYSAC
— NEW YORK STATE —
ASSOCIATION OF COUNTIES

to the

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Introduction

On behalf of the New York State Association of Counties (NYSAC), and the New York State Association for Solid Waste Management (NYSASWM), thank you for your opportunity to submit testimony on legislative solutions to reduce packaging.

NYSAC is a membership association of the 62 counties of New York State whose mission is to foster excellence in county government and unify the voice of county officials. Since 1925, we have represented and advocated for the interests of county leaders and the residents they serve.

Our affiliate, NYSASWM, is the oldest solid waste management association in New York State, representing solid waste managers who oversee municipal and private disposal and recycling infrastructure statewide. Their membership consists of organizations and individuals that provide landfilling, waste-to-energy, recycling, composting, collection, and transportation services for non-hazardous solid waste materials generated within New York State. With decades of operational experience and billions of dollars invested in solid waste management, NYSASWM uniquely understands the operational realities of providing reliable, environmentally protective, safe, and cost-competitive services to residents and businesses.

In light of the shifting dynamics within the global recycling market, local governments and solid waste authorities recognize the importance of confronting the financial and operational challenges that our state's recycling system is currently facing. As stewards of both the environment and taxpayer dollars, our goal is to ensure that recycling programs remain sustainable, accessible, and economically viable for generations to come. It is for these reasons that **NYSAC and NYSASWM support establishing an extended producer responsibility (EPR) program for packaging materials and printed paper.** A well-designed EPR program will provide relief to local governments, modernize New York State's recycling system, promote sustainability, and reduce the impact of packaging on the environment.

The Recycling Landscape in New York State

Packaging and paper products constitute a significant portion of the nearly 300 million tons of municipal solid waste generated in the United States annually. For decades, counties and other local governments have shouldered the financial burden and risk of recycling these products at the end of their useful life. The value of many recyclables no longer covers the cost of processing these materials at local material recovery facilities (MRFs), which has meant unsustainable and growing costs for municipalities and taxpayers. Moreover, many MRFs lack the latest technology and funding to efficiently sort and process brand owners' packaging.

Local governments have no control over the packaging choices made by manufacturers, yet they are saddled with the responsibility of managing an ever-evolving, sophisticated, and growing packaging waste stream. This state of affairs gives companies no incentive to reduce packaging waste, make packaging more recyclable, or use recycled content. It has also resulted in inconsistent and confusing labeling that leaves residents unsure about what is recyclable. This confusion leads to the disposal of over 860,000 tons of

potentially recyclable materials in New York State every year, and increased contamination in the recycling stream.

The Need for Packaging EPR

An EPR program for packaging and printed paper will shift the responsibility for the recovery of materials in curbside recycling programs from local governments and taxpayers to producers and brand owners. By doing so, it will realign recycling costs with those who benefit from the sale of consumer goods and decouple municipalities from volatile commodity markets.

In addition to providing much-needed relief to local governments and taxpayers, EPR will incentivize producers to reduce packaging waste and make their products easier to recycle, reducing the amount of waste generated and conserving natural resources used to make virgin packaging. It will also reduce contamination, which has contributed rising costs for recycling programs. Additionally, it will require producers to invest in modernizing recycling infrastructure, ensuring that New York State has the latest technology to capture different types of consumer packaging and can lead the charge toward a circular economy.

An EPR program for packaging and printed paper will also increase recycling rates thanks to improved package labeling and enhanced public education efforts. The program is estimated to create over 1,000 new green sector jobs statewide and reduce greenhouse gas emissions by over 2.3 million metric tons.

EPR for packaging and printed paper has been successfully implemented for decades in several Canadian provinces and a wide range of countries in Europe and Asia. In British Columbia, EPR has contributed to a recycling rate of nearly eighty percent. New York should follow the lead of states like California, Colorado, Maine, and Oregon that have adopted packaging EPR programs to both provide relief to local governments and protect the environment.

The Importance of Including Printed Paper

Until recently, the Legislature's proposals to create an EPR program for packaging materials also included printed paper, defined as paper used for writing or any other purpose. This encompasses flyers, brochures, booklets, catalogs, and other paper products (with the explicit exception of newspapers or magazines). **Including printed paper in the packaging EPR program remains a top priority for local governments and solid waste authorities.** We urge the Legislature to include printed paper in future legislative proposals for the reasons below.

Mixed paper, which refers to a category of recyclable paper materials that includes office paper and junk mail, is the largest portion of the waste stream, accounting for at least 40% of residential recycling. Though more attention has been paid to plastics and packaging, mixed paper is one of the most challenging materials in the recycling stream. Localities across the United States have long struggled with the challenge of effectively managing mixed paper, with some levying fees for its handling and others ending

collection altogether. This has been compounded by the shift to digital for many formerly paper-based activities so that the paper that does remain in the recycling stream is lower quality.

Due to market changes and other factors beyond the control of local recycling programs, the value of mixed paper has plummeted from hundreds of dollars per ton to zero and, in some cases, negative values. If there is no market value for a recyclable product, then it must either be disposed as waste or recycled at a cost. For years, local governments and solid waste authorities have used the revenue generated from more valuable commodities, such as high-density polyethylene (HDPE), to offset the expenses associated with collecting, transporting, processing, and marketing paper to prospective buyers. However, this approach is not sustainable. If printed paper remains excluded from the EPR program, local governments will inevitably have to raise rates, discontinue mixed paper collection, or resort to disposal of paper as garbage.

From a county perspective, one of the most significant advantages of EPR programs is that they liberate local governments from unpredictable fluctuations in commodity markets by making producers bear full responsibility for the lifecycle management of their products. It would be shortsighted for the Legislature not to take this opportunity to provide meaningful relief to local governments and taxpayers by including printed paper in the packaging EPR program.

The Importance of Funding Implementation

NYSAC and NYSASWM support enacting EPR for packaging and printed paper as part of the Fiscal Year (FY) 2025 State Budget to ensure there is adequate staffing at the Department of Environmental Conservation (DEC) to create a robust and effective program. Earlier this year, Commissioner Seggos estimated that packaging EPR would require at least 16 new full-time employees (FTEs).

Staffing levels will directly influence how quickly the program can be rolled out and the degree of support and assistance that municipalities receive. Municipalities will need reliable points of contact who can answer questions, address problems, and provide guidance as we navigate the transition to an EPR system. New FTEs are also needed to perform the toxic analysis and needs assessment, draft regulations, and provide oversight, among many other functions.

Having an appropriately staffed DEC is not just about expediency; it is about ensuring that we do not repeat the problems experienced with past EPR programs, such as electronic waste (“e-waste”). Municipalities continue to bear the brunt of e-waste recycling because of flaws within the program, and we cannot afford to have a similar situation for packaging. Adequate staffing will facilitate more effective program implementation and oversight, ultimately safeguarding the interests of local governments and taxpayers.

Should the Legislature move to enact this legislation before the adoption of the FY 2025 State Budget, we urge you to still appropriate funding for new DEC staff to facilitate a smooth and successful transition to an EPR system.

Other Key Provisions

In drafting legislation to create a new EPR program, the Legislature also has an opportunity to ban toxic chemicals in packaging. NYSAC and NYSASWM support prohibiting certain toxic and dangerous chemicals in packaging, including per- and polyfluoroalkyl substances (PFAS), ortho-phthalates, bisphenols, halogenated flame retardants, such heavy metals as lead, cadmium and mercury, and other chemicals that pose a threat to human health and safety and to the environment.

We also strongly support establishing waste reduction and recycled content goals as part of this legislation. NYSAC supports a requirement for 50% of packaging material to be reused or recycled by 2035 and 75% to be reused or recycled by 2050. We further support S.4246-A (Harckham)/A.5322-A (Glick)'s recycled content standards, which require 35% post-consumer recycled content for glass, 40% for paper carryout bags, and 20% for plastic trash bags within two years of the legislation's effective date.

Additional Recommendations for Legislative Action

As the Legislature deliberates packaging EPR and other legislative solutions to enhance our recycling system, we respectfully put forth the following recommendations for your consideration.

Prioritize Packaging Over the Bottle Bill

NYSAC and NYSASWM urge the Governor and Legislature to prioritize the enactment of a stewardship program for packaging and printed paper over expanding the Bottle Bill. Enacting packaging EPR first will provide municipalities with a financial buffer, insulating them from the loss of community value that could result from expanding the Bottle Bill. We respectfully request your consideration of this timing to protect local governments and taxpayers from the financial strain that could result from moving more valuable commodities to the redemption system.

Reform the E-Waste Program

The NYS Electronic Equipment Recycling and Reuse Act, signed into law in 2010, was designed to mandate manufacturers to offer New Yorkers free and convenient recycling options for electronic equipment, such as computers and televisions. However, manufacturers have not consistently fulfilled their obligation, leaving local municipalities burdened with the collection and processing of e-waste. We implore the Legislature to amend the e-waste statute to provide relief to local governments and taxpayers. This may include eliminating manufacturers' ability to meet convenience requirements through impractical mail-in options and including funding for staff needed to collect these materials at public recycling events.

Enact EPR for Tires

As is the case with packaging and e-waste, counties and municipalities incur substantial costs collecting, transporting, and disposing of the 18-20 million waste tires that are generated each year in New York State. In 2003, the Legislature enacted the Waste Tire Management and Recycling Act to require the development of markets for waste tires,

ban the burial of these tires, and impose a recycling fee on each new tire sold in the state to fund the cleanup of noncompliant tire waste stockpiles. Over the years, significant progress has been made, with the majority of historical tire contamination sites having undergone successful remediation. Now that there is no longer the need for a dedicated cleanup fund, it is time to transition to an EPR program to provide much-needed relief to local governments. We encourage the Legislature to enact an EPR program for tires to provide additional relief to local governments grappling with escalating recycling costs.

Oppose Waste Disposal Surcharges

State agencies and lawmakers have considered imposing a fee-per-ton on all waste generated in New York State to discourage disposal and provide financial support for reduction, reuse, and recycling efforts. While these proposals are well-intentioned, a back-end fee will invariably increase costs for consumers without guaranteeing the desired change in behavior. Local governments and solid waste authorities have already implemented fee structures that cover the costs of their programs and encourage waste reduction. Our members, who are under considerable pressure to maintain low taxes and fees, strongly oppose disposal surcharges.

We encourage the Legislature to instead explore other legislative solutions to reduce waste. One alternative is extended producer responsibility, which can provide much-needed financial relief to local governments. Another is setting standards for the minimum percentage of recycled content in products, which creates market demand for recycled materials.

If disposal surcharges are implemented, comprehensive solid waste management systems with Local Solid Waste Management Plans approved by the NYSDEC should be exempted from such fees. **It does not make sense for the State to take money from communities with integrated recycling programs only to then have these communities apply to get that money back.**

Conclusion

In conclusion, local governments and solid waste authorities support EPR for packaging and printed paper as a solution to reduce packaging and modernize our recycling system. Through the enactment of this program, New York can join the ranks of other states and countries that are leading the way in reducing waste, increasing recycling rates, and mitigating climate change.

We thank you for your consideration of our testimony and look forward to working with you to enact this new EPR program during the 2024 Legislative Session.