

**Testimony of
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**Joint Legislative Hearing on:
Packaging Reduction**

Senate & Assembly Committees on Environmental Conservation

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Good afternoon, Chair Harckham, Chair Glick, and members of the legislature.

I am Dave Vitale, the Acting Deputy Commissioner for the Office of Remediation and Materials Management at the New York State Department of Environmental Conservation (DEC). Thank you for the opportunity to discuss Extended Producer Responsibility (EPR) for packaging and paper products. We also thank and acknowledge the breadth of stakeholders who have provided input on EPR proposals over the years. Under the leadership of Governor Hochul and DEC Commissioner Seggos, DEC has listened to this feedback and proposed Article VII language as part of the two most recent executive budget bills. Today's testimony will focus on the need for packaging and paper products EPR, current circular economy and waste reduction and recycling efforts effectuated by DEC, key elements needed to implement an EPR program, EPR proposals and legislation, and the benefits New York will see as a result of enacting EPR for packaging and paper products.

Why is EPR Needed

Extended Producer Responsibility (EPR) for packaging and paper products is the concept that producers take economic responsibility for the proper end-of-life management of materials they put into the market. The current collection and recycling system places the burden on the taxpayer, the municipality, and the state. A well-crafted EPR policy would not only shift the collection and system costs from the budgets of local governments, residents, businesses, and institutions but dramatically reduce waste, increase the volume of material recycled, fight climate change, promote sustainability, create investment in recycling infrastructure, support a circular economy by ensuring the existence of reliable markets, and guarantee equitable access to recycling for all New Yorkers. Under an EPR system, these costs would instead be borne by packaging and paper product producers, with cost efficiencies experienced through streamlined programs.

More than seven million tons of packaging and paper products waste is generated annually in New York State. This material comprises approximately 40% of New York's municipal solid waste (MSW) stream. With the statewide MSW recycling rate remaining around 20% for many years, much of this material ends up in landfills and combustors, contributing to greenhouse gas emissions. According to the Climate Action Council's final Scoping Plan to implement New York's Climate Leadership and Community Protection Act (Climate Act), the waste sector accounts for an estimated 12% of the state's greenhouse gas emissions, which is only 1% less than the electricity sector. More than three quarters of those emissions come from the decomposition of organic material, including paper in landfills. Both the Climate Act and the Draft New York State Solid Waste Management Plan (SSWMP) recommend the development of EPR for packaging and paper products to significantly lessen this impact.

EPR for packaging and paper products has effectively been in place throughout the European Union, Canadian provinces, Asia, Brazil, and Australia. Some of these programs have been around for decades and have continued to evolve, allowing for the industry to make increased investments and improvements to the waste and recycling markets in various countries. Nationally, four states (i.e., Maine, Oregon, Colorado, and California) have passed forms of packaging and paper product EPR legislation. In the U.S., there is momentum for the concept to be built upon, and each year New York delays in passing this critical legislation is an additional year we are neglecting to provide financial relief to municipalities and taxpayers and further protect our environment and climate.

What is DEC Working On?

To proactively prepare for implementation of a packaging and paper products EPR program, DEC has funded, through the Environmental Protection Fund (EPF), the Center for Sustainable Materials Management (CSMM) at SUNY College of Environmental Studies and Forestry (ESF) to conduct an initial needs assessment and gap analysis of the existing collection and recycling system for packaging and paper products in New York State, focusing on the full MSW stream, including residential, commercial, and institutional waste. In this effort, CSMM is collaborating with researchers at SUNY Buffalo, SUNY Stony Brook, and the New York State College of Ceramics at Alfred University and has hired a supporting consultant. It is important to understand the collection and recycling system across the state to fully recognize gaps in the system and identify ways to improve it. This needs assessment can be used to inform the development of Producer Responsibility Organization (PRO) program plans under a future EPR program. The needs assessment will only function as a snapshot in time and should be periodically reevaluated at future intervals. The composition of the waste stream itself will change over time, which will also need to be evaluated periodically. Additionally, what is needed and recommended today may be quite different from what is needed in 15 to 25 years when we apply the technological advances effectively to collect, transport, and process packaging and paper products.

Broadly, DEC has provided robust support for various projects in this field over the last three decades. From 1993–2020, DEC invested over \$250 million in funding for waste reduction and recycling programs, which has supported 2,227 projects. These programs were supported through a host of funding streams including EPF recycling grants, household hazardous waste grants, and e-waste grants, as well as multiple bond acts. It is important to note that this funding only provides state assistance for up to 50 percent of eligible costs (thereby leveraging more funds towards these efforts) and does not cover private companies.

In addition to DEC's municipal waste reduction and recycling grant programs, DEC has partnered with four State universities and invested more than \$20 million to assist in materials management efforts focused on glass, plastics, paper, and packaging. These nation-leading collaborations will help expand recycling markets, help municipal recycling programs find new ways to recycle materials, advance technologies to improve recycling, and help consumers recycle right.

These partnerships with SUNY include:

- SUNY ESF – Through the Center for Sustainable Materials Management, SUNY ESF is advancing waste reduction and markets for recyclable materials through research on:
 - new methods to utilize non-marketable paper as compost feedstock;
 - processes for the production of biodegradable materials from waste fibers and fines;

- outreach and education focused on recycling right;
- procurement to advance closed loop responsible products; and
- needs associated with greater recycling of packaging and paper.
- SUNY Buffalo – Through the Initiative for Plastic Recycling Research and Innovation, SUNY Buffalo is advancing plastic recycling in New York State through:
 - building an understanding of the collection and disposal of plastics;
 - researching ways to improve the efficiency of plastic collection and processing;
 - researching plastics in natural environments; and
 - advancing our understanding of contemporary attitudes and behaviors around recycling.
- SUNY Stony Brook – Through the Waste Data and Analysis Center, SUNY Stony Brook is supporting improved materials management through:
 - waste characterization studies;
 - assessments of collection schemes for recyclable materials; and
 - assessment of technology at material recovery facilities.
- SUNY Alfred- Through the Center for Glass Innovation, the New York State College of Ceramics at Alfred University is advancing waste reduction and markets for glass recycling through:
 - advancing our understanding of material flows and economic drivers for glass recycling in New York State;
 - assessing the feasibility of wine bottle reuse;
 - researching the viability of utilizing glass in various concrete structures; and
 - supporting improved quality of glass cullet via sorting and separation.

Finally, the SSWMP builds upon sustained efforts to reduce waste and advance the state's transition to a circular economy, helping to change New Yorkers' understanding of waste and their relationship to it. The Plan is designed to guide actions over the next decade, from 2023 to 2032, leading to reduction goals through 2050. We appreciate the stakeholder feedback offered on the draft SSWMP and expect to release the final Plan soon so we can begin to move forward with the many actions that the plan offers to improve materials management in New York.

EPR Principles

Thanks to the efforts and legislation passed by the New York State Senate and Assembly, DEC currently oversees a number of EPR programs for specific products, including electronics, mercury thermostats, rechargeable batteries, and paint. DEC also supported the development of EPR for pharmaceuticals, which is overseen by the New York State Department of Health and is taking the required initial steps to develop a carpet EPR program. DEC's Division of Materials Management (DMM) is primarily responsible for developing and ensuring compliance with these laws and any applicable supporting regulations. In their oversight capacity, DMM staff interact with PROs, producers, retailers, collectors, processors, consumers, and other impacted stakeholders to verify laws and regulations are being adhered to, while providing analysis and updates in the form of briefings and program reports.

Through this experience and lessons learned, DMM has identified the key elements of an effective EPR legislative proposal and would encourage application of these elements to EPR for packaging and paper products or any other proposed EPR legislation. These elements include clearly defining the program scope (i.e., eligible consumers and covered materials), responsible entity requirements, minimum

consumer convenience standards, performance metrics, agency oversight, an agency funding mechanism, as well as providing adequate implementation timing, fair enforcement provisions, strong outreach and education requirements, and environmentally sound management practices. DMM staff are available and would welcome the opportunity to provide additional details on these elements.

Executive Proposals

The purpose of today's joint hearing is to discuss solutions to reduce packaging. EPR legislation has been advanced in both houses for multiple sessions and the concept has been put forth as an executive budget proposal as part of the last two budget cycles. However, no broad EPR proposal has been passed. The Governor's most recent executive proposal, the Waste Reduction and Recycling Infrastructure Act, would have provided direct financial relief for municipal, residential, commercial, and institutional costs associated with the collection, processing, and marketing of recycled materials while addressing stagnant recycling rates by fundamentally shifting recycling costs to packaging and paper product producers. Key elements of the Waste Reduction and Recycling Infrastructure Act included:

- Establishing minimum consumer convenience standards (the program must be as convenient to all consumers including residential, commercial, and institutional generators, as their waste collection);
- Requiring producers to conduct public outreach and education program for consumers and other stakeholders to improve waste reduction and recycling rates;
- Establishing a mechanism to adequately fund DEC program oversight, administration, and enforcement;
- Setting targets in-statute, such as requiring the use of post-consumer recycled content;
- Excluding energy recovery, energy generation, or waste to fuel from being considered recycling; and
- Ensuring convenient recycling is provided for residential, commercial and institutional sectors.

Benefits of EPR

Enacting an aggressive, achievable, and transparent EPR proposal would increase recycling rates, increase investments in developing more eco-friendly materials, and benefit New York's economy. Research conducted by The Recycling Partnership estimates that U.S. states might expect to see recycling rates between 65-75% after adopting EPR for packaging policies. In New York, a 70% recycling rate would mean millions of tons of recycled material returned to manufacturers, creating thousands of jobs and reducing greenhouse gas production.

Consumers are already paying for recycling and are effectively paying twice – once for the product, which already includes the cost of packaging, and again for disposal and recycling. Well designed EPR programs also make the costs to producers of packaging and paper products dependent on how a producer's packaging is designed. The fees a producer pays to its PRO should be eco-modulated, meaning producers would pay less for the management of materials that reduce waste or are easily reused or recycled, and more for materials designed in a way that increases the cost for end-of-life management.

Thank you for this opportunity to provide testimony on this critical topic.