

## Extended Producer Responsibility: Will New York State Be Next?

By David P. Flynn  
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New York State Governor Kathy Hochul has clearly prioritized Extended Producer Responsibility (EPR) for packaging materials. She has included an EPR proposal in her first executive budget, which builds on prior (but unsuccessful) legislative proposals to implement EPR in New York, as well as proposed new legislation in both the State Senate and Assembly.

The governor has identified a number of reasons for New York to move forward with EPR at this time. Among those, New York generates about seven million tons of paper and packaging waste each year. While that number continues to grow, the recycling rate has been flat, or even decreasing, since 2012. In addition, the ever-increasing cost of recycling has been borne primarily by taxpayers through increases in property taxes and/or garbage collection and recycling fees. According to Governor Hochul, the time is right for “producers, not taxpayers, to cover the cost of recycling.” It has also become apparent that certain packaging materials are more difficult (and more costly) to recycle. The thought is, if there is an economic incentive to use more easy-to-recycle packaging materials, the market will move in that direction.

Implementing EPR for packaging materials in New York State would create a number of logistical and economic challenges for packaging producers, intermediary customers (such as consumer products manufacturers that utilize packaging for their products) and the consumer. While the governor’s proposal seems to recognize and acknowledge these logistical and financial issues, it is short on details and implementation mechanisms. Rather, it calls for covered producers to either individually comply with the EPR requirements or join a producer responsibility organization, acknowledging that producers would have to come up with the specifics as to how to cover the costs of the program and reimburse municipalities or other participating service providers.

The proposed legislation would initially create an advisory committee to develop the specific details of the plan, which would include representatives from

municipalities, waste/recycling industries, packaging manufacturers, retailers and other stakeholders. The advisory committee would be created by June 1, 2023, to consult and develop program details, including minimum recovery rates, post-consumer recycled content rates and other implementation details, and would make recommendations by April 1, 2024. Implementation would

start no later than April 1, 2026.

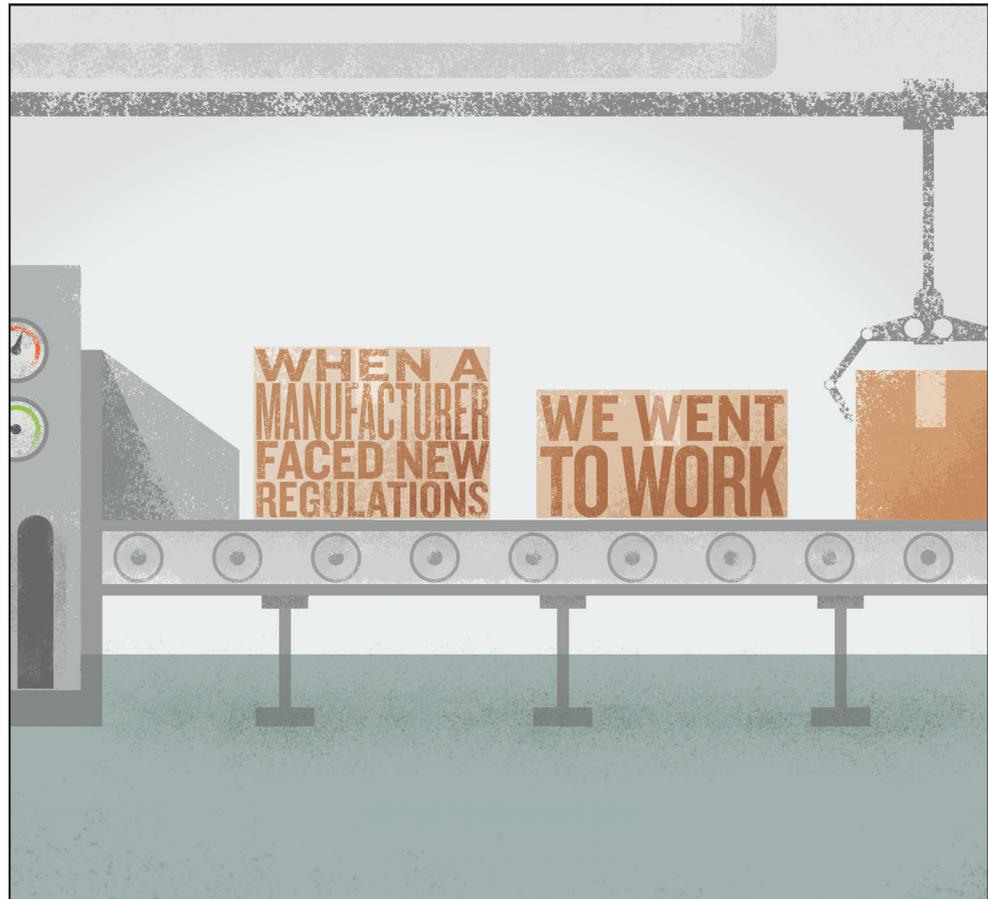
It is clear that EPR for packaging materials will lead to higher costs for consumers. These costs can be direct (i.e., recycling fees paid by the end user) and/or indirect (i.e., manufacturers passing on EPR costs to consumers via higher priced goods). At the end of the day, the question will be whether these higher costs have enough “value” via

increased recycling and reduced land filling of waste materials to justify the cost.

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