

**Memo
in Opposition to
Senate Bill 1464A
in the
New York Senate Standing Committee on Environmental Conservation**

May 4, 2026

Dear Chair Harckham, Ranking Member Stec, and Members of the New York Senate Standing Committee on Environmental Conservation.

The Flexible Packaging Association (FPA) appreciates the opportunity to submit this Memo in Opposition to Senate Bill 1464A (Harckham) – the Packaging Reduction and Recycling Infrastructure Act – that would establish a broad extended producer responsibility program for packaging in New York. While some incremental positive changes have been made to the bill through recent amendments, fundamental elements of the bill remain impractical and do not support an improved recycling system or new recycling technologies in New York. Furthermore, the amendments have added or expanded several mandates in the bill not previously seen. FPA believes this will ultimately make essential goods less affordable and less useful for New Yorkers.

Background on FPA and Flexible Packaging

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. Flexible packaging is the fastest-growing and second largest segment of the U.S. packaging industry, representing \$51.5 billion in annual sales and approximately 98,000 workers in the U.S. Our industry has over 4,000 employees at flexible packaging manufacturing facilities in New York State, representing a total economic impact of nearly \$6 billion.

Flexible packaging encompasses products we use every day, including hermetically sealed food and beverage products such as cereal, bread, frozen meals, infant formula, and juice, as well as sterile health and beauty items and pharmaceuticals, such as aspirin, shampoo, feminine hygiene products, and

disinfecting wipes. Even packaging for pet food uses flexible packaging to deliver fresh and healthy meals to a variety of animals. Flexible packaging is also used for medical device packaging to ensure that the products packaged, like diagnostic tests, IV solutions and sets, syringes, catheters, intubation tubes, isolation gowns, and other personal protective equipment maintain their sterility and efficacy at the time of use. Trash and medical waste receptacles use can liners to manage business, institutional, medical, and household waste. Carry-out and take-out food containers and e-commerce delivery, which became increasingly important during the pandemic, are also heavily supported by the flexible packaging industry. Thus, FPA and its members are particularly interested in and deeply committed to solving the plastic waste issue and increasing the recycling of all packaging.

Flexible packaging is in a unique situation as it is one of the most environmentally sustainable packaging types from water and energy consumption, product-to-package ratio, transportation efficiency, food waste, and greenhouse gas emissions reduction standpoints. But circularity options for flexible packaging are currently limited. There is no single solution that can be applied to all communities when it comes to the best way to collect, sort, and process flexible packaging. Viability is influenced by existing equipment and infrastructure; material collection methods and rates; volume and mix; and demand for the recovered material. Single-material flexible packaging, which is approximately half of the flexible packaging waste generated, can be mechanically recycled, primarily through store drop-off programs. However, end markets are scarce. The other half can be used to generate new feedstock through non-mechanical recycling technologies such as pyrolysis and gasification.

Developing end-of-life solutions for flexible packaging is a work in progress, and FPA is partnering with manufacturers, recyclers, retailers, waste management companies, brand owners, and other organizations to continue making strides toward total packaging recovery. Some examples include our work with The Recycling Partnership (TRP); the Hefty[®] ReNew[®] Program; and the Flexible Film Recycling Alliance (FFRA). All these programs are seeking to increase the collection and recycling of flexible packaging. Also, increasing the recycled content of new products, including packaging, will not only create markets for the products, but will also serve as a policy driver for the creation of a new collection, sortation, and processing infrastructure for the valuable materials that make up flexible packaging.

It is FPA’s position that a suite of options is needed to address the lack of infrastructure for non-readily recyclable packaging materials, and promotion and support of market development for recycled packaging is an important lever to build that infrastructure. FPA also supports well-crafted packaging extended producer responsibility (EPR) that can be used to promote this needed shift in recycling in the U.S. It is with this background that FPA provides comments in opposition to S1464A.

Unreasonable Performance Requirements

S1464A would require producers to source reduce their packaging by 30% within twelve (12) years of program implementation. Flexible packaging, by definition, is the epitome of the source reduction both in material usage and weight. We therefore remain opposed to the additional aggressive source reduction requirements in S1464A that are unworkable. Oddly, the most recent amendments to the bill appear to exempt any non-plastic primary packaging from these source reduction requirements. Described as an “incentive” to substitute non-plastics for plastic primary packaging, this exemption will very likely result in an **increase** in the volume and/or weight of packaging use. That is completely contrary to the stated goals of the legislation. Further, it appears that the most recent amendments to S1464A would also apply source reduction mandates to all “secondary and tertiary” packaging, therefore apparently expanding the bill to packaging used in business-to-business shipping. This is inconsistent with the most recent EPR packaging laws enacted in Maryland, Minnesota and Washington State that exempt such packaging from program requirements given existing industry infrastructure already handling those materials.

S1464A also mandates a 75% recycling rate by 2055 for plastic packaging, yet explicitly bans advanced recycling technologies, such as chemical recycling that breaks down plastics into their basic chemicals for reuse, that are necessary to achieve that goal. By prohibiting the most effective methods for processing flexible plastic packaging while simultaneously requiring a 30% reduction in that same packaging, the state is creating an extremely challenging, if not impossible, compliance landscape. These infeasible goals, combined with a restrictive and likely unworkable requirement that post-consumer recycled content be sourced only from North American supplies, will inevitably lead to product shortages and higher prices for New Yorkers. Businesses purchase materials, including recycled materials, from world-wide markets. For the wide variety of products produced outside of New York, this mandate would be impractical if not impossible to meet. No other state with a packaging EPR law has such a restriction – and for good reason.

Advanced Recycling

Common non-mechanical recycling technologies like pyrolysis, gasification, and depolymerization convert used plastics that would be considered waste into high-value materials using methods that are regularly deployed in other industries. Despite being a nascent industry compared to other materials that have had centuries to figure out how to design for a circular economy, our industry has voluntarily invested over \$7 billion, which has led to a massive 21 billion pounds of plastic waste being diverted from landfills across the nation each year. In time, we are confident that engineers and chemists will be able to definitively make the case for a circular plastics economy.

A common myth that industry must constantly dispel is that advanced recycling is just burning plastic waste through incineration. This type of recycling relies on cutting-edge technologies that purposefully operate with little to no oxygen (allowing for the recovery of material). Furthermore, advanced recycling produces emissions equal to or lower than similar facilities in other industries with the added benefit of no measurable lead or dioxin emissions. All advanced recycling facilities are subject to the same Clean Air Act standards as mechanical recycling and often outcompete those facilities on environmental indicators.

S1464A as currently drafted continues to prohibit “any chemical conversion process” to meet the definition of “recycling” or “recycled” – the only state packaging EPR law to do so. This is a backdoor prohibition of materials – flexible plastic packaging in particular – that are not currently recyclable at scale through mechanical recycling. While the economic viability and environmental safety of chemical recycling is an important policy discussion that should be focused on “fact-based” determinations, it is a discussion that should be held separately from EPR and not be based on preconceived prohibitions. All recycling technologies should be recognized under any packaging EPR program in New York if they are economically viable and meet the state’s stringent permitting requirements. If manufacturers of flexible packaging are expected to meet the arbitrary recycling target of 75% by 2055, all innovative and responsible recycling methods should be encouraged rather than banned.

Reasonable Producer Costs

For a packaging EPR program to be successful, funding mechanisms must be constructed to share costs between producers and municipalities for a fair and reasonable allocation of recycling services and costs. As currently written, S1464A does not meet this requirement, requiring producers to reimburse municipalities and private service producers at 100% for the collection and processing of packaging materials. This is inconsistent with the last three state packaging EPR laws enacted in Maryland, Minnesota and Washington State where producer reimbursements are ultimately capped at 90% under shared funding models. Furthermore, S1464A would require producers to reimburse municipalities and private service producers for disposal and transportation costs associated with non-recyclable materials and characterize all disposal as a “covered service.” No state in the U.S., or any jurisdiction in the world for that matter, requires reimbursement of disposal costs under their packaging EPR programs, and for good reason. Disposal of materials to landfill is already the cheapest option for materials management and reimbursing for such will encourage more, not less, materials going to landfill in New York. As such, FPA adamantly opposes this perverse requirement.

“Toxics” in Packaging

While some progress has been made in S1464A to address industry concerns about “toxics” in packaging provisions in the proposed EPR program for New York, FPA continues to have significant concerns about a list of chemicals and materials proposed for prohibition in packaging. By codifying a rigid, expansive list of prohibited substances, New York is moving toward a regulatory isolationism not seen in any other state’s EPR or chemicals-in-packaging laws. These substance bans remain a significant concern to FPA as they are not supported by scientific data linking them to concerns in packaging and would preclude the use of widely used categories of packaging, with resultant impacts on consumer price and choice.

Instead of the onerous approach currently proposed in S1464A that will contradict other state “toxics” in packaging provisions, FPA recommends New York adopt the federal Toxic Substances Control Act (TSCA) Chemical Substances Inventory as a working list of “toxic” substances. In the case where New York may desire to add substances with less scientific evidence of toxicity than the TSCA inventory, FPA strongly recommends a single science-backed process that identifies high-priority chemicals and makes

decisions on chemistries when warranted by the best available risk assessment science on thousands of products. This approach will provide clarity to supply chains and consumers alike.

Conclusion and Next Steps

For the reasons outlined above, FPA must oppose S1464A. But we request and welcome further engagement with the Committee on how to boost the recycling of flexible packaging in the State of New York. Thank you for your consideration. We are happy to discuss any of these issues with you and your staff before your vote. If we can provide further information or answer any questions in advance of your decision, please do not hesitate to contact FPA Director of Government Affairs Matt Singh at (410) 694-0824 or msingh@flexpack.org.