

Zero Waste Ithaca

Proposed 10 Amendments to NYS PRRIA

1. Replace PRO with Public Department Model (**Department of Public Resource Stewardship for Zero Waste**)

Problem: Producers are authorized to form and control a Producer Responsibility Organization (PRO), which designs the financial system and implementation plan with no public governance structure. This enables systemic industry capture.

Suggested Revision Point: § 27-3403, 3405, 3407, 3409 (PDF pp. 6 – 12)

Amendment Language:

This legislation shall establish a **Department of Public Resource Stewardship (DPRS)** to oversee packaging reduction, reuse infrastructure, and recycling standards. DPRS shall replace the Producer Responsibility Organization model. DPRS shall be a publicly accountable agency with public decision-making authority vested in an independent governing board, supported by professional staff responsible for technical drafting, program administration, compliance, and public reporting.

Governance and advisory structure:

DPRS shall be governed by a 9-member **Board of Public Resource Stewardship (BPRS)** with full decision-making authority over budgets, rulemaking, program priorities, targets, and major contracts. A majority of board seats (no less than 51%) shall be held by representatives from environmental justice communities, local governments, independent environmental organizations, and labor unions unaffiliated with private waste contractors. No board member may be employed by, serve as a lobbyist for, or hold a material financial interest in any producer, packaging manufacturer, resin producer, trade association, or private waste contractor regulated under this title.

DPRS shall also convene a 15-member **Public Resource Stewardship Advisory Council**. Membership may include producers, trade associations, retailers, recyclers, haulers, reuse operators, local governments, and public interest representatives. The Advisory Council may provide technical input and written recommendations, but shall have no vote, no veto, and no authority over DPRS budgets, rulemaking, targets, enforcement, or contracting. All Advisory Council submissions, meetings, and communications shall be logged and publicly posted. No advisory recommendation shall

be binding on DPRS, and DPRS shall publish written responses to major advisory recommendations explaining acceptance or rejection based on the public record.

Transparency and public control:

All board meetings shall be public. All votes, agendas, budgets, contracts, meeting records, communications logs required by rule, and program data shall be publicly posted online in a searchable format. The board shall approve DPRS's annual budget, all implementing regulations, rulemaking priorities, major contracts, and statewide performance targets, and shall publish an annual performance report addressing transparency, community participation, health and environmental outcomes, and progress toward reduction and reuse targets.

Implementation priorities and funding guardrails:

In the first five years after enactment, DPRS shall prioritize foodware reuse systems compatible with local initiatives. During this initial implementation period, no less than 50% of infrastructure funding under this title shall be allocated to foodware reuse systems operated by local governments, cooperatives, or nonprofit entities. Beginning in year six, DPRS shall expand infrastructure investment to support additional public reuse and recovery sectors, including construction materials, textiles, electronics, and medical equipment, through a public planning process and board-adopted rules updated at least every five years. DPRS shall maintain a commitment to funding community-managed, source-separated systems in each sector proportionally, based on performance and public input.

Coordination with DEC:

DPRS shall consult regularly with the Department of Environmental Conservation to align reuse, recycling, and toxics reduction efforts with statewide environmental policies. DPRS and DEC shall establish a memorandum of understanding within one year of enactment to coordinate data sharing, regulatory timelines, and public reporting.

Rationale:

A permanent public agency is necessary to prevent industry dominance, ensure transparency, build durable zero-waste infrastructure, and reduce litigation risk created by producer-run governance. Replacing PROs with a public department ensures that public governance, not private corporate control, drives system design, funding, and accountability.

2. Advisory Council veto power and balance

Problem: An advisory council can be used as a backchannel for industry control if its composition and communications are not tightly regulated.

Suggested Revision Point: Replace § 27-3411(2) with DPRS advisory council language

Amendment Language:

DPRS shall convene a **Public Resource Stewardship Advisory Council** of 15 members to provide technical input and public recommendations. At all times, at least 9 members (60%) shall represent the public interest, including environmental justice organizations, local governments, independent reuse and zero-waste nonprofits, labor unions unaffiliated with private waste contractors, consumer protection organizations, and independent public health experts. No more than four members (26%) may represent producer, packaging, retail, or private waste industry interests, and trade associations may not comprise more than two seats. The Advisory Council may provide technical input and written recommendations, but shall have no vote, no veto, and no authority over DPRS budgets, rulemaking, targets, enforcement, or contracting. All Advisory Council submissions, meetings, and communications shall be logged and publicly posted. No advisory recommendation shall be binding on DPRS, and DPRS shall publish written responses to major recommendations explaining acceptance or rejection based on the public record.

Advisory Council appointment:

(a) Nine members shall be appointed by the DPRS Board from nominees submitted by environmental justice organizations, local governments, independent reuse and zero-waste nonprofits, labor unions unaffiliated with private waste contractors, consumer protection organizations, and independent public health organizations.

(b) Four members shall be appointed by the DPRS Board from nominees submitted by producers, retailers, packaging manufacturers, and private waste/recycling companies, provided that trade associations may not hold more than two seats.

(c) Two members shall be selected through an open public nomination process

administered by DPRS, from among qualified individuals with demonstrated commitment to environmental justice, public health, and waste prevention and no financial ties to regulated entities.

Composition rule:

At all times, at least 9 members (60%) shall represent the public interest as defined in (a) and (c), and no more than one-quarter shall represent producer, packaging, retail, or private waste industry interests.

Rationale: This amendment restructures the advisory council to prevent industry dominance, ensure supermajority public-interest control, and make council review a binding check on implementation. It rewrites the original composition to ensure alignment with environmental justice and zero waste goals.

3. Chemical Recycling and Molecular Conversion Prohibition and Funding Ban

Problem: The bill leaves room for industry to reintroduce chemical recycling under euphemisms such as "molecular conversion" or "advanced recycling," particularly via ISO-aligned or ASTM-standard definitions. This mirrors the loophole in California's SB54, where CalRecycle accepted ISO 59014 definitions that quietly re-legitimize pyrolysis, gasification, and solvolysis. Without explicit statutory language, DEC could adopt similar standards during rulemaking, undermining legislative intent.

Suggested Insertion Point: Replace § 27-3401(24) (pdf p. 5), alongside definitions of "recycling" and "disposal", and insert a new subsection in § 27-3437, Rules and Regulations.

Amendment Language:

"Chemical conversion," "molecular conversion," "advanced recycling," and other forms of feedstock recovery or fuel generation through processes such as pyrolysis, gasification, solvolysis, or similar thermal/chemical treatment shall not be considered recycling, reuse, or waste reduction under this title.

No guidance, standard, or regulatory definition adopted by the DPRS or any agency pursuant to this title may incorporate language or frameworks from ISO 59014, ASTM D8474, or related industry-defined standards for chemical recycling, fuel recovery, or material circularity.

The DPRS shall not enter into contracts, funding agreements, or memoranda of understanding with any entity that processes plastic or packaging materials through chemical conversion or claims circularity based on such processes.

Any submission or reporting that includes chemical recycling as a compliance strategy shall be automatically rejected and publicly posted with justification.

Chemical recycling is hereby prohibited as a compliance pathway, waste management method, or permitted activity under this title.

Rationale: This amendment provides an airtight safeguard against the reintroduction of chemical recycling under ISO/ASTM-aligned euphemisms. It prevents agency capture through industry-defined standards and codifies the Legislature’s intent to support genuine recycling and reuse—not fuel recovery or greenwashing schemes masquerading as circularity.

4. Mass Balance and PCR traceability prohibition

Problem:

The bill leaves open the possibility that post-consumer recycled content (PCR) could be calculated using mass-balance accounting methods, including “free allocation.” These methods can allow producers to claim far higher recycled content on paper than is physically present in a specific package. In practice, small amounts of recycled feedstock can be used to justify large recycled-content claims across products without direct physical incorporation or traceable chain-of-custody.

Suggested Insertion Point:

Add a new subsection following § 27-3429 (Recycled content standards) or alongside § 27-3401(18) (definition of “post-consumer recycled material”).

Amendment Language:

Post-consumer recycled content shall be determined through direct physical traceability and verification of material flows. The use of mass-balance accounting, free allocation, or any other bookkeeping method that assigns recycled content credits without physical incorporation into the specific packaging material is prohibited under this title. Any recycled content claim must be substantiated through verifiable chain-of-custody documentation and shall reflect the actual percentage of post-consumer recycled material physically present in the packaging.

Rationale:

This amendment closes a loophole that would allow producers to inflate recycled-content claims through accounting methods rather than physical content. It ensures recycled-content standards are measurable, verifiable, and honest.

5. Transparency and public data access

Problem: Producer data is not required to be public; FOIL access is uncertain and limited.

Suggested Insertion Point: § 27-3417, starting around line 38-50 (PDF page 18)

Amendment Language:

All producer registration information, material tonnage data, and producer fee schedules submitted to the Department of Public Resource Stewardship (DPRS) shall be made publicly available in machine-readable format on the department's website annually. No proprietary exemption shall apply to data necessary for public oversight of compliance or material flow.

Rationale: Without public access to core data, watchdog groups cannot monitor greenwashing or underreporting.

6. Protect Local Self-Reliance and Initiatives on Reuse

Problem:

PRRIA assigns exclusive jurisdiction over costs and funding to the state under the control of PRO (§ 27-3439, p. 27), effectively preempting local policies and funding programs that fall outside the PRO's framework. Even strong BYO (Bring Your Own) ordinances or community reuse models - like those supported by the cities of Toronto, Hong Kong, or Seoul - could be excluded from funding or support. Without statutory protections, grassroots systems may be excluded or overridden in favor of standardized, corporate-controlled models.

Under the status quo, the majority of funding is likely to be directed toward:

- MRF upgrades and plastics-sorting technology *with no investment in local source separation*,
- Corporate Deposit Return System (DRS) - increasingly privatized and unscrutinized
- Packaging “innovations” such as lightweighting and questionable bioplastics,
- Consultant-driven data tools and outreach platforms designed by industry or large NGOs,
- Producer offset schemes that fulfill paper targets without driving structural change.

Although § 27-3439 preserves municipal discretion over recycling lists, it says nothing about reuse or reduction mandates, and reuse remains an optional add-on rather than a core obligation, and is likely to be underfunded or de-prioritized unless local governments assert control and receive guaranteed support. It also does not affirm the right of cities or counties to fund or require more ambitious reuse systems. Without explicit statutory protection, local BYO laws, single-use reduction ordinances, and infrastructure investments are left vulnerable—particularly if the PRO's statewide plan contradicts or excludes them.

To counter this, the bill must guarantee that a significant portion of infrastructure and operational funding is directed to local governments and nonprofit-led systems—not corporate logistics platforms. In this context, it is important to **explicitly fund local source separation and community collection systems**, as they provide the operational foundation for all future DPRS programs - including the recovery of household goods, textiles, building materials, and electronics.

Finally, funding should support local DRS programs, reuse businesses, cooperatives, and thrift networks, backed by the Public Department's state-wide support and coordination, while excluding large-scale corporate DRS from dominating the reuse category.

Suggested Insertion Point:

Insert within the revised sections for the creation of DPRS, or alternatively in § 27-3415 on reuse requirements.

Amendment Language:

Nothing in this title shall be interpreted to preempt, limit, or prohibit local governments from adopting or enforcing more stringent reuse, refill, or bring-your-own-container (BYO) ordinances or systems. Local governments and non-profit reuse operators shall remain fully eligible for funding and reimbursement under this title, provided their programs meet or exceed the environmental objectives of this act.

During its initial years of implementation, no less than 50% of all infrastructure investments by the Department of Public Resource Stewardship (DPRS, the Public Department) under this title shall be directed toward public-access foodware reuse systems, including:

- Public foodware reuse infrastructure, including support for BYO community initiatives and related education,
- Shared washing hubs and return logistics; collection, delivery, storage, inventory, and source separation systems operated or contracted by local governments, cooperatives, or community-based organizations, with appropriate funding through the Public Department,
- Reuse and refill programs managed independently of corporate-led DRS, with preference for local enterprises, cooperatives, and nonprofit networks supported by the Public Department.

Over time, the Department of Public Resource Stewardship (DPRS) shall expand its infrastructure investments beyond foodware to include salvage and reuse systems for building materials, household goods, textiles, and electronic equipment. Beginning in the third year after enactment, no less than 40% of all DPRS-directed funding under this title shall be allocated to community-based reuse systems beyond foodware, including operations for deconstruction, testing, repair, redistribution, and storefront-based material recovery. These funds shall be made available to local governments, cooperatives, nonprofits, and community-based enterprises, and shall not be allocated to corporate-owned sorting or resale platforms.

Rationale:

Strong local systems are essential to a just transition. Protecting local authority and guaranteeing funding access prevents the marginalization of grassroots and municipal reuse efforts in favor of industry-led systems. The Public Department (DPRS) - not a producer-controlled PRO - must partner with and strengthen, not preempt, local capacity.

Additionally, as DPRS expands beyond foodware, material reuse and salvage operations will require a growing share of public investment. Unlike short-cycle packaging systems, these operations involve labor-intensive logistics - including collection, repair, safety testing, inventory, and storefront management - and often require significant physical space and skilled personnel. This infrastructure supports climate goals, economic resilience, and job creation, and must receive a majority of long-term reuse funding under DPRS.

7. PFAS class definition

Problem: The bill bans PFAS without defining it as a class, allowing evasion by chemical substitution or weak thresholds.

Suggested Insertion Point: § 27-3425, line 50 (PDF page 21)

Amendment Language: For the purposes of this title, “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom, including any substance meeting the definition used in ECL § 27-3201(11).

Rationale: Adopts New York’s own Carpet EPR precedent and aligns with Maine and EU language to close all substitution loopholes.

8. Timeline acceleration and waiver guardrails

Problem: Multiple multi-year delays allow industry time to lobby, weaken, or avoid implementation.

Suggested Insertion Point: § 27-3417, waiver provision, starting at line 16 (PDF page 19)

Amendment Language: The DPRS shall finalize all implementing regulations within twelve months of the effective date. Program implementation by producers shall begin no later than eighteen months after enactment. The DPRS shall not grant extensions for plan approval or implementation beyond these deadlines except in cases of natural disaster or administrative error. No waiver shall be granted for more than one year, may only be renewed once, and shall be subject to public notice and comment. All waivers must be publicly posted with justification, the name of the producer, the packaging category affected, and estimated environmental impact of non-compliance.

Rationale: Ensures action within one legislative cycle and prevents regulatory slow-walking.

9. Shell company loophole fix

Problem: Producers can create multiple low-volume subsidiaries to avoid compliance thresholds.

Suggested Insertion Point: § 27-3417(6), after line 53-55, and 1-4 (PDF page 18-19)

Amendment Language: For purposes of exemption thresholds under this title, the gross revenue and packaging weight of all entities under common ownership, branding, or control shall be aggregated. The organization shall report publicly any pattern of fragmented entities under shared ownership claiming exemptions.

Rationale: Prevents fake “small producers” and matches anti-fraud practices in other sectors.

10. Revised Definition of "Recycling"

Problem: While the bill appropriately excludes combustion, energy recovery, chemical conversion, and landfill disposal from the definition of “recycling,” it leaves a major loophole: it allows downcycling into non-recyclable products such as synthetic turf, plastic lumber, and composite benches. These outputs do not preserve material quality, are not recyclable, and ultimately become waste. The bill also fails to require source

separation, leaving room for commingled collection systems that produce contaminated, low-value outputs. In addition, the repurposing or reuse of synthetic turf and similar materials—such as cutting it into fill, footpaths, or padding—is still allowed and may be claimed as recycling or reuse, despite merely delaying disposal while continuing to shed microplastics and toxins. This practice must be explicitly excluded to protect material integrity and prevent greenwashing.

Suggested Revision Point: Replace § 27-3401(24) (PDF p. 5)

Amendment Language:

“Recycling” means a process by which *source-separated* discarded products, components, or materials are collected, sorted, and processed into new materials or products of equal or greater value, with demonstrated end markets, in a manner that preserves material quality and reduces the need for virgin inputs. “Recycling” shall not include:

- (a) disposal via combustion, incineration, or energy recovery or generation by any means, including but not limited to, combustion, incineration, pyrolysis, gasification, solvolysis, or waste-to-fuel;
- (b) any chemical conversion process or chemical recycling;
- (c) processing that results in more than 15% of incoming material being landfilled or used as engineered fuel;
- (d) downcycling into products that are not themselves recyclable, do not preserve material quality, and are not part of a circular material loop (e.g., plastic lumber, synthetic turf, park benches).

Repurposing or reuse of synthetic turf or similar materials for secondary applications shall not be considered recycling or reuse under this title.

Rationale: This definition closes loopholes for misleading “recycling” outcomes often promoted by industry by requiring source separation and excluding commingled collection that leads to contamination. It sets a performance threshold to limit landfilling to no more than 15% of incoming material and explicitly prohibits downcycling into non-

recyclable, disposable outputs such as synthetic turf or composite plastic products. It also clarifies that the repurposing or reuse of synthetic turf and similar materials shall not be considered recycling or reuse under this title, ensuring that pollution is not prolonged under the guise of material recovery.