

Rhode Island Packaging/DRS Commission

January 27, 2025

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CEO and Founder, Product Stewardship Institute



**PRODUCT
STEWARDSHIP
INSTITUTE**

PSI CEO/FOUNDER

- **40 years in waste management**
 - Environmental nonprofit
 - Local and state government
 - Private solid waste management
- **MA Executive Office of Energy and Environmental Affairs**
 - Director of Waste Policy and Planning – 1993-2000
 - Wrote 4 solid waste master plans w/DEP
 - Wrote strategic plans on PAYT and HHW
 - Oversaw DRS/bottle bill system

PSI CEO/FOUNDER

- **Founded Product Stewardship Institute (PSI) in 2000**
- **Founding Board Member – Marine Debris Foundation (affiliated w/NOAA)**
 - Created by federal Save our Seas Act
 - U.S. Senator Sheldon Whitehouse (RI) – co-sponsor
 - U.S. Senator Dan Sullivan (AK) – co-sponsor



Who is PSI?

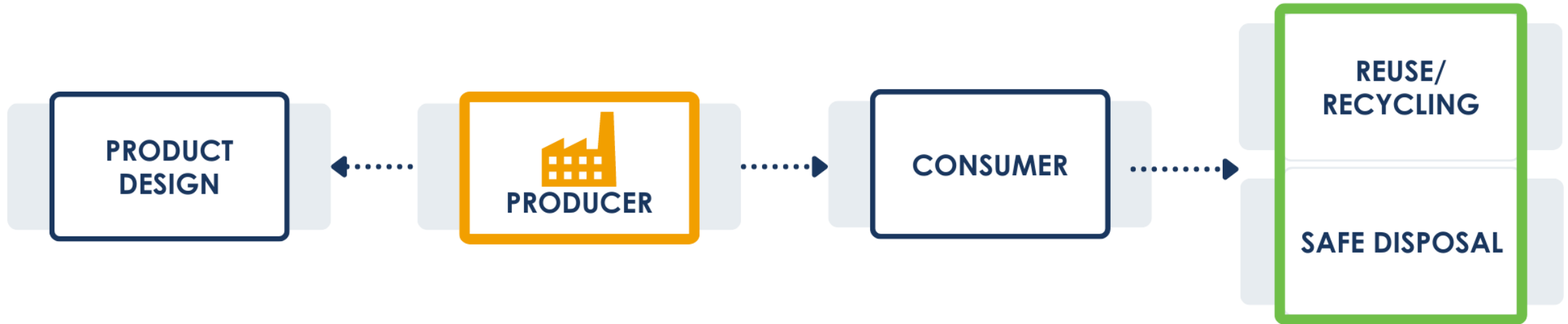
- **National nonprofit:** 25th Anniversary
- **Focus:** Consumer products and packaging
- **Members:** State & local govt's /Board of Directors
- **Partners:** Business, non-profits, int'l gov'ts, academic
- **Collaborative problem solver**
- **Multi-stakeholder engagement**



WHAT WE DO



EXTENDED PRODUCER RESPONSIBILITY PARADIGM SHIFT



A **law** that **extends** a producer's financial and managerial **responsibility** for its products and packaging beyond the manufacturing stage — both **upstream** to product design and **downstream** to **postconsumer** reuse, recycling, composting, or safe disposal.

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WHY IS CHANGE NEEDED?



EXTENDED PRODUCER RESPONSIBILITY

Municipal
management
of trash



Volunteer
recycling



Municipal-funded
and managed
recycling programs



Producer-funded and managed
recycling programs with multi-
stakeholder accountability



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Network of Accountability

- Producers
- Collectors
- Recyclers
- Retailers
- Municipalities
- State agencies
- Consumers/Public



Phase in Policy Over Time

Phase in aspects of the bill over time and continue to build a stronger policy

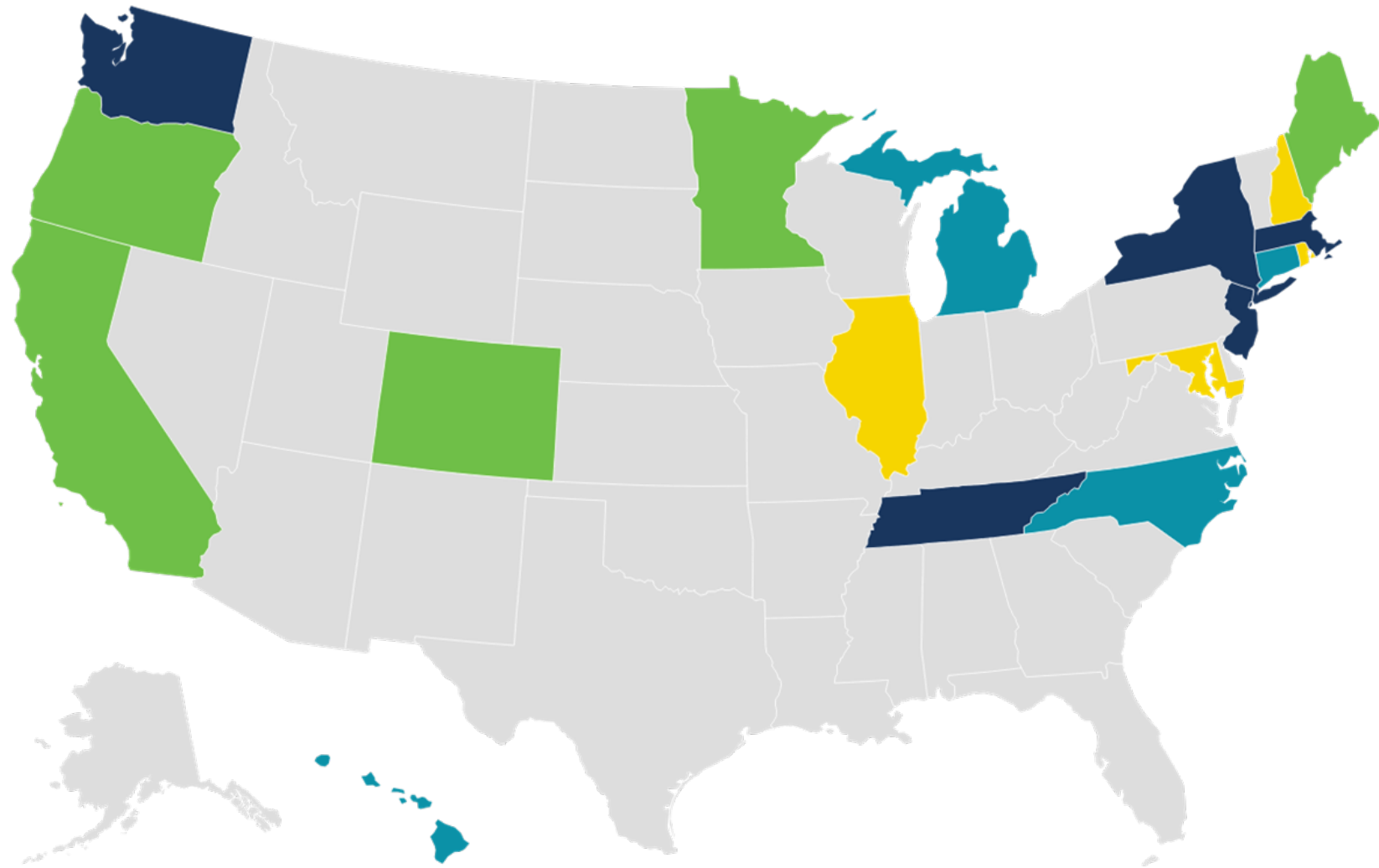
Policy Options

- Include in **existing law**.
- Require agency to develop **regulation** by specific date.
- Require PRO to **propose plan** for adding aspect by a specific date and have it reviewed by Advisory Council and approved by agency.



**5 Packaging EPR
Laws**

**13 Packaging EPR
Bills
(2023/2024)**



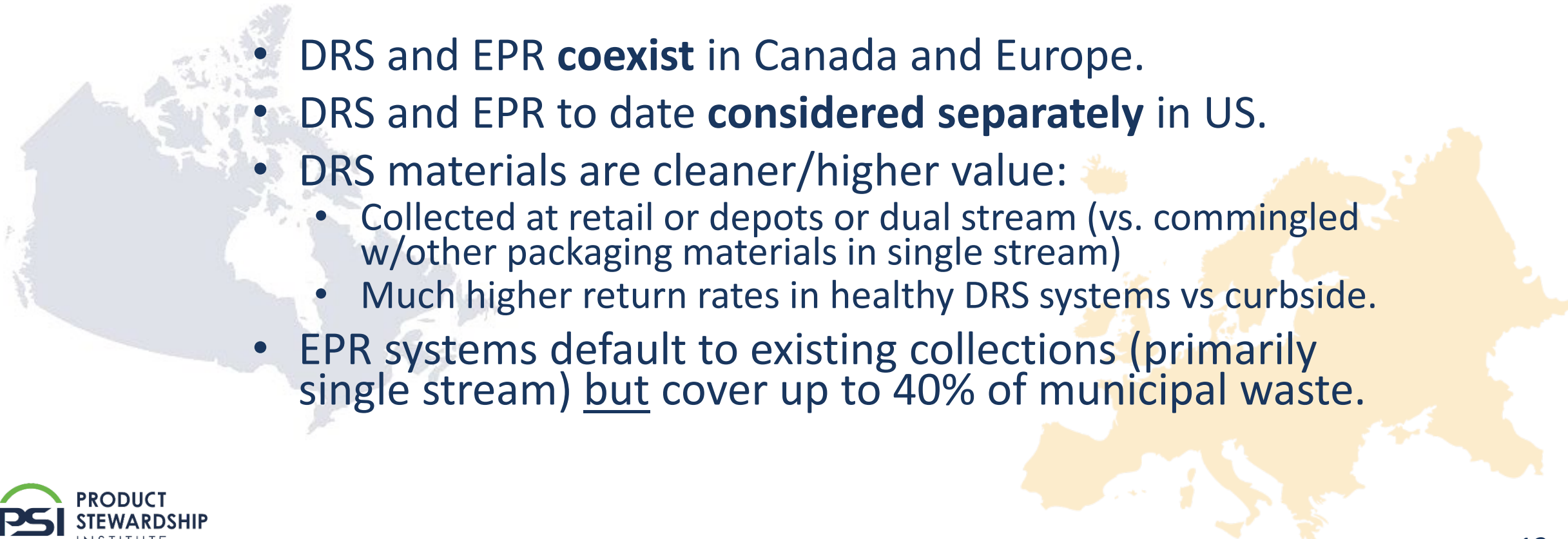
Legislative Activity

Existing Law(s) Active Bill Expected Bill 2025 Bills introduced 2023-24, not expected in 2025



PACKAGING EPR BILLS & DEPOSIT RETURN SYSTEMS

Packaging EPR Bills & Deposit Return Systems (DRS)

- 
- A faint background map showing the outlines of North America (Canada and the United States) in light blue and Europe in light yellow.
- DRS and EPR **coexist** in Canada and Europe.
 - DRS and EPR to date **considered separately** in US.
 - DRS materials are cleaner/higher value:
 - Collected at retail or depots or dual stream (vs. commingled w/other packaging materials in single stream)
 - Much higher return rates in healthy DRS systems vs curbside.
 - EPR systems default to existing collections (primarily single stream) but cover up to 40% of municipal waste.

Packaging EPR & DRS Systems

A FEW KEY ISSUES

- Who **owns** the materials (e.g., to use for PCR credit/claims) and receives the **value** from recycled materials – collector/recycler (municipality) or brand owner and commodity supplier (e.g., glass, aluminum, steel, plastic).
- How materials are **collected** (retail, depots, dual stream vs. single stream).



Packaging EPR Bills & Deposit Return Systems

GOAL: RESOLVE DIFFERENCES IN KEY INTERESTS

- Brands (soda, beer, spirits)
- Beverage distributors
- Local governments (collect and process or contract for collection and processing with waste management)
- Waste management (collect/recycle)
- Commodity suppliers (e.g., glass, aluminum, steel, plastic)
- Environmental Groups
- State Government



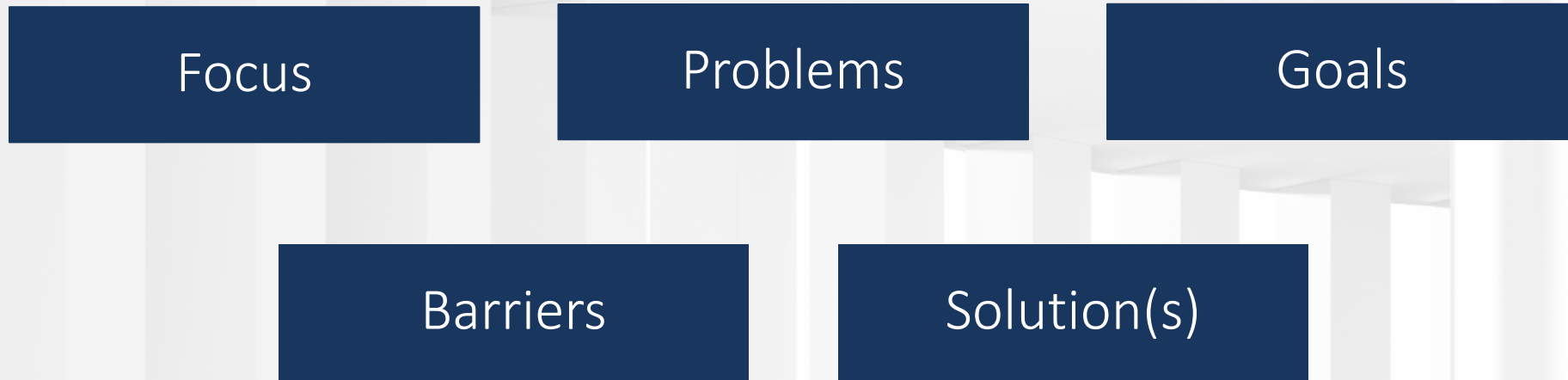
PSI's Consensus Building Process

- Identify **key stakeholders** needed for agreement.
- Clarify **outcome** sought (e.g., introduce EPR bill in 2025 session).
- Clarify **timeframe** for agreement to take place.
- Develop **approach**:
 - Start with existing industry EPR/DRS bill?
 - Contextualize with PSI's element-by-element best practices approach w/options?



5 Pillars of a Mediated Dialogue

The Foundation



PSI's Consensus Building Process

Clarify 5 pillars of a dialogue – Examples Below:

- **Focus:** consumer packaging, including beverage containers.
- **Problems:** lack of material recovery, material contamination (reduced market value), dwindling landfill capacity, marine pollution, municipal financial burden, confusing recycling labels, etc.
- **Goals:** increased reuse, recycling, and composting; greater consumer collection convenience, municipal financial savings, increased material value, etc.



PSI's Consensus Building Process

Clarify 5 pillars of a dialogue – Examples Below:

- **Barriers:** potential regulatory changes needed; gaps in reuse, recycling, and composting infrastructure; financial investments needed, etc.
- **Potential Solutions:** what type of EPR bill will satisfy stakeholder interests (e.g., address problems, achieve goals, and overcome barriers)?





FLEXIBLE PACKAGING DIALOGUE: CASE STUDY

Flexible Packaging Dialogue

- **PSI facilitated a dialogue** with the Flexible Packaging Association (2020).
- **Participants:** manufacturers of flexible packaging, state and local government agencies, (a few environmental groups and recyclers).
- **Agreement** on eight legislative elements of a packaging EPR bill.



Flexible Packaging Dialogue

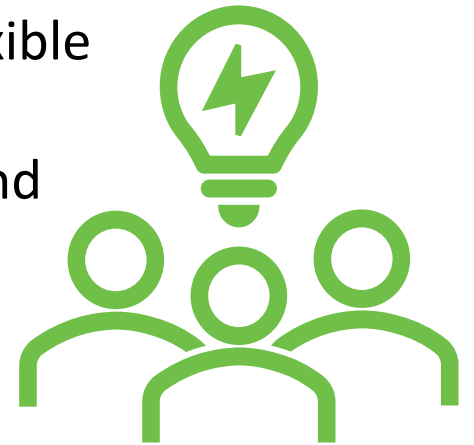
Dialogue process included:

1. Stakeholder identification.
2. Stakeholder interviews on 5 pillars.
3. Refined process based on interviews.
4. Conducted web-based calls + 2-day in-person meetings.
5. **Agreement** on foundational aspects including:
 - Benefits of flexible packages
 - Multi-faceted problem statement
 - Attributes of a sustainable system for managing flexible packaging
6. **Agreement** on eight legislative elements of a packaging EPR bill.



Flexible Packaging: Problems

1. Lost resources from lack of material recovery.
2. Flexible packaging is prevalent and visible in the waste stream and as litter, leading to aesthetic impacts, municipal costs, and ocean debris.
3. An increasing number and type of packages need to be managed and there are:
 - few systems in place to collect them;
 - few recycling systems in place to process them; and
 - a lack of recycling end markets.
4. Broad confusion about the difference between non-recyclable flexible packages and recyclable flexible packages.
5. Recycling contamination including issues with domestic exports and resulting impacts.



Flexible Packaging: Problems

5. Sold in countries lacking management infrastructure (global concern).
6. The cost of virgin materials impacts the demand for recycled plastics.
7. Responsibility for materials management along the supply chain, both upstream and downstream, is not clear and explicit.
8. Governments and taxpayers have borne the primary cost of post-consumer management and mismanagement.
9. Governments lack adequate funding for recycling and handling increased waste loads.
10. Producers and consumers do not bear the true lifecycle costs of the goods they buy (true of all products).



ELEMENTS OF EFFECTIVE U.S. EPR LAWS

Covered Materials/Products	Governance (PRO, Advisory, Govt)	Performance Standards	Stewardship Plan Contents
Covered Entities	Funding Inputs	Outreach & Education Requirements	Annual Report Contents
Collection & Convenience	Funding Allocation	Equity & Environmental Justice	Implementation Timeline
Responsible Party ("Producer")	Design for Environment	Enforcement & Penalties for Violation	Additional Components & Definitions

Key Policy Choices

Covered Materials

- Packaging (including reusable packaging).
- Paper products.
- Packaging-like products (including food serviceware).

Covered Entities

- All entities currently served by local government (baseline).
- Residential and/or commercial and/or schools and/or public spaces.

Collection & Convenience

- Recycling to be as easy as trash disposal.

Performance Goals

- Waste reduction, reuse, recycling, composting, PCR content.
- Performance goals to be set either in statute, rule, or program plan and be informed by needs assessment.



Key Policy Choices

Responsible Party (tiered)

- Brand owner/manufacturer
- Brand owner/licensee
- Importer – first sale into state

Governance

- Producer Responsibility Organization (PRO), Advisory Council, State Oversight Agency

Funding Inputs & Outputs

- Inputs – 4 aspects of eco-modulated fees
- Outputs – allocated based on Needs Assessment (gap analysis)

Annual Report

- Evaluation provides the opportunity to course correct



“Eco-Modulated” Packaging Fees



Producer fees based on **the material itself**



Producer fees based on **quantity of the material put on the market**
(reuse/refill - lower/no cost)



Producer fees based on **cost to the system**
(how expensive is it to manage)



Producer fees based on **other environmental factors**
(toxics, recycled content quantity, carbon impact, litter contribution)

Element	Best Practice Packaging EPR – High Level
1. COVERED MATERIALS <i>Materials subject to the EPR program</i>	<ul style="list-style-type: none"> - Packaging (primary, secondary, tertiary, and reusable) - Paper products (e.g., newspaper, magazines, copy paper, unwanted mail) - Food serviceware (“packaging-like products;” including plastic or bamboo cutlery, cups, plates) - Covered material producers pay into the program regardless of whether the covered materials are recyclable or compostable. - Common Exemptions: materials covered under state law (e.g., beverage containers, paint cans) (<i>see state comparison document</i>)
2. COVERED ENTITIES <i>Stakeholders that may use the EPR program</i>	<ul style="list-style-type: none"> - Single and Multi-Family Residences - Depots and transfer stations - All entities served by local government collection programs, including schools, state and municipal buildings, public spaces, and commercial.
3. COLLECTION & CONVENIENCE <i>The minimum level of collection convenience that a stewardship plan must provide to Covered Entities</i>	<ul style="list-style-type: none"> - All covered entities use the system for free, including subscription communities. - At a minimum, the PRO must maintain and expand on the current “baseline” system. - Convenience standards <ul style="list-style-type: none"> - The program must provide convenient, free, and on-going consumer access to collection facilities and/or collection services that are as convenient as trash disposal. - Where curbside collection is not available, producers are required to provide convenient, equitable access to permanent drop-off collection facilities that are within a reasonable drive time to 95 percent of the population. - State agency can approve Individual Program Plans for specified materials (e.g., Styrofoam, flexible packaging, plastic bags)
4. RESPONSIBLE PARTY (“PRODUCER”) <i>Defines who is responsible for funding and managing the EPR program.</i>	<ul style="list-style-type: none"> - The “Responsible Party” is determined based on the following three-tiered approach. For example, the responsible party is most often the brand owner. If that does not apply, it would be the manufacturer/licensee. And if that did not apply, it would be the first importer into the state. - Brand owner - Manufacturer/licensee - First importer into the state - Unique Provisions <ul style="list-style-type: none"> - Un-Branded Packaging: The producer is the manufacturer of the packaged item (the product inside the packaging). - Shipping Packaging: The producer is the person that packages or ships a product to a consumer. - Producer Exemptions <ul style="list-style-type: none"> - Local government - Nonprofit charitable organization - Producers of drug or device covered under the Federal Food, Drug, and Cosmetic --Act - Small Businesses: <1 ton of covered packaging materials or <\$5 million gross annual revenue

ELEMENT

BEST PRACTICE PACKAGING EPR – High Level

<div>5. GOVERNANCE</div> <div><i>Defines roles for producer responsibility organization (PRO), state oversight agency, and multi-stakeholder advisory council.</i></div>	<div><div>-</div><div>PRO<ul style="list-style-type: none">Obligated producers must join a producer responsibility organization (PRO).One PRO to start (first program plan cycle, 5 yrs), after that additional PROs may be approved.PRO can be either for-profit or non-profit. Currently, one non-profit PRO – Circular Action Alliance (CAA) – operates in 4 states.</div><div><div>-</div><div>Oversight Agency<ul style="list-style-type: none">State oversight agency will approve only one PRO for the first program plan cycle. After that time, additional PROs must be approved by the state.</div><div><div>-</div><div>Advisory Council<p>The state environmental agency director will appoint representatives to a multi-stakeholder Advisory Council that provides program recommendations to the PRO and the state oversight agency. Advisory Council members must represent local governments, recyclers and waste management, environmental, and environmental justice interests. The state oversight agency may contract with a facilitator to support the Advisory Council and the state agency by providing an objective perspective, reducing agency workload, and freeing up the agency to participate actively in discussions.</p></div></div></div></div>
<div>6. FUNDING INPUTS</div> <div><i>How producer fees are determined.</i></div>	<div><div>-</div><div>All producers of covered materials contribute funding, whether or not their materials are recycled or composted.</div><div><div>-</div><div>Fees are paid by producers to the PRO based on material type, weight, and cost to the system (base fee).</div><div><div>-</div><div>Added to the base fee will be “eco-modulated fees” that provide either a bonus (fee reduction) to incentive factors such as post-consumer recycled content or reusability, or a penalty (fee increase) for factors such as low recycling rate or toxicity.</div><div><div>-</div><div>The PRO usually proposes a fee structure based on covered materials via the stewardship plan.</div></div></div></div></div>
<div>7. FUNDING ALLOCATION</div> <div><i>How EPR program funds are spent.</i></div>	<div><div>-</div><div>Covered costs include recycling and composting collection, transportation, and processing, reuse, recycling processing, composting, consumer education and outreach, and agency program administration.</div><div><div>-</div><div>To receive reimbursement, municipal programs and service providers must collect and/or process all covered materials listed on a statewide list. Other materials can be collected but are not required.</div><div><div>-</div><div>Full EPR vs Municipal Reimbursement<ul style="list-style-type: none">States with robust recycling programs have chosen the route of municipal reimbursement (ME, OR, CA, MN). One state (CO) has chosen full EPR because there are very few municipal recycling programs.Municipalities that elect to participate in the program have the option of using their existing collection service providers and receive a reimbursement from the program. Calculations for payments to municipalities must incentivize operational/cost efficiency and contamination reduction.Specific language outlining how a formula for municipal reimbursements is best addressed on a state-by-state basis, but generally, service providers and local governments should be able to request reimbursement at a “reasonable rate” for their costs associated with collecting, transporting, and processing covered materials. Municipalities must submit documentation to the PRO for cost reimbursement.Municipalities that opt out of participating in the stewardship program will continue to use their current system but will not receive compensation.</div><div><div>-</div><div>Hybrid Approach<ul style="list-style-type: none">PRO(s) are responsible for reimbursing municipalities that elect to continue running their recycling services and receive reimbursement; if a municipality does not elect to provide service and receive reimbursement the PRO is responsible for contracting with service provider to provide recycling services free of charge to all covered entities (this applies to subscription communities as well).</div><div><div>-</div><div>Needs Assessment<ul style="list-style-type: none">An additional Needs Assessment to capture any data not uncovered in the initial needs assessment and/or ongoing Needs Assessment undertaken every 5 years should be considered, see Minnesota statute as an example.</div></div></div></div></div></div>
<div>8. DESIGN FOR ENVIRONMENT</div> <div><i>Provisions beyond eco-modulated fees that minimize environmental and health impacts of Covered Materials.</i></div>	<div><div>-</div><div>Covered Materials should be designed to minimize their overall environmental and health impacts.</div><div><div>-</div><div>In statute or through rulemaking, the state should outline the elements the PRO must incorporate into their fee structure to incentivize environmental design. These could include toxic reduction, PCR content, etc.</div></div></div>

What to include in Statute, Rule & Plan?

	Oregon	Maine	Colorado	California	Minnesota
Product Exemption	Statute/Rulemaking	Statute/Rulemaking	Statute/Rulemaking	Statute/Rulemaking	Statute/Rulemaking
Reimbursement Mechanism	Rulemaking/ Program plan	Rulemaking/ Program Plan	Statute/ Program plan	Program plan	Program plan
Eco-modulated fees	Statute/ Rulemaking/ Program plan	Rulemaking	Statute/ Rulemaking/ Program Plan	Statute/ Program plan	Statute/ Program plan
Performance Goals	Statue/ Rulemaking/ Program plan	Rulemaking	Program Plan	Statute	Rulemaking/ Program Plan
Readily Recyclable List	Rulemaking/ Program Plan	Rulemaking	Program plan	N/A	Other (State Develops)
Convenience Standards	Rulemaking	N/A	In Statute	N/A	N/A

Comparison of Pkg EPR laws

	Maine	Oregon	Colorado	California	Minnesota
Signed Into Law?	July 2021	August 2021	June 2022	June 2022	May 2024
Packaging Covered?	Yes	Yes	Yes	Yes	Yes
Paper Products Covered?	No	Yes	Yes	No	Yes
Food Service Ware Covered?	No	Yes	Yes	Yes	Yes
Multiple PROs Possible?	No	Yes	After 2028	After 2030	After 2032
Producer Funds System?	100%	≈ 28%	100%	100%	Phased approach to 90%
Eco-modulated Fees?	State regulation	PRO proposes	PRO proposes	PRO proposes	PRO proposes
Recycling Targets?	State regulation	In Statute	PRO develops	In Statute	State regulation / PRO Develops
Implementation Date?	Fall 2026	July 2025	Early 2026	January 2027	January 2029~

PAINT DIALOGUE: CASE STUDY

PSI Paint Dialogue Roadmap

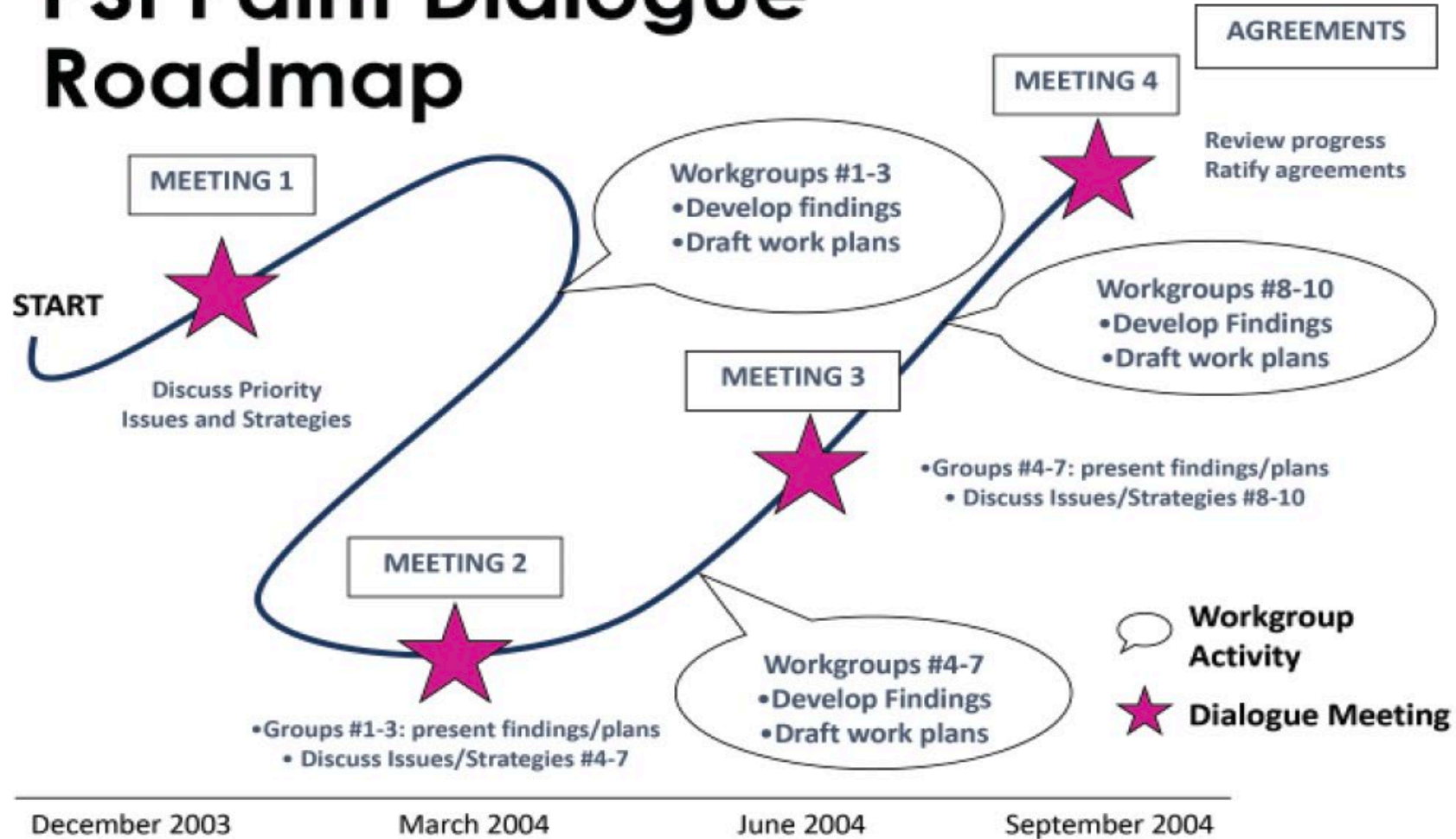


Figure 6.1 PSI Paint Dialogue Road Map

Source: © 2023 Product Stewardship Institute, Inc.

PSI
2003 multi-
stakeholder
dialogue



PaintCare



2010 Oregon



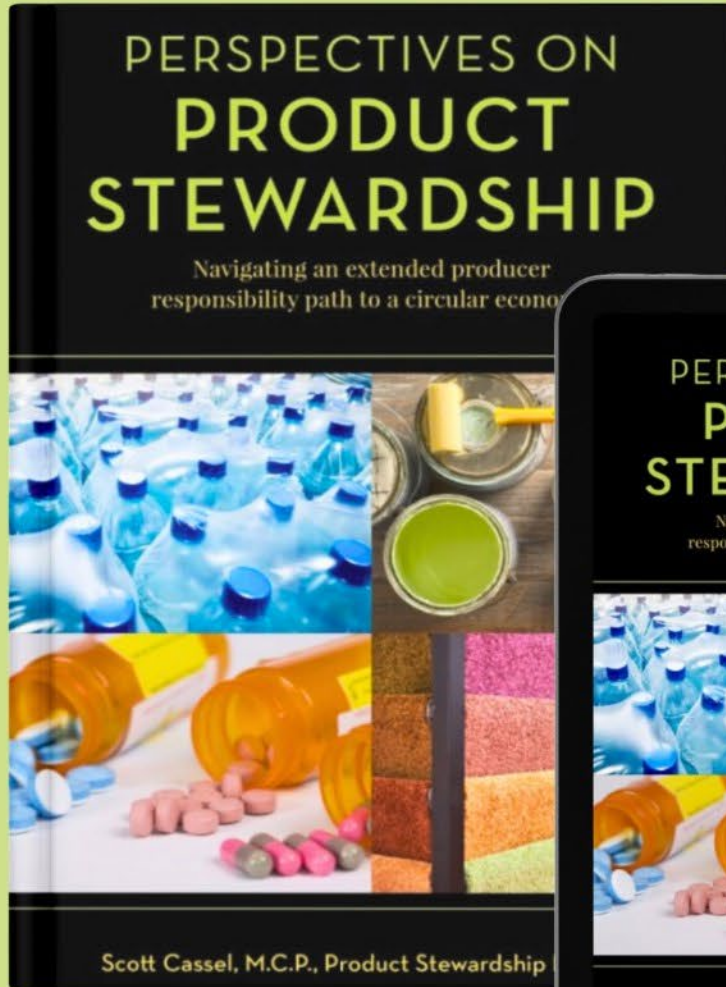
11 states +
D.C.

Established 2,000 collection
sites

Collected 51 m. gallons of
paint

Recycled 72% of leftover
latex paint

Saved governments and
taxpayers \$300 million



By Scott Cassel
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