Summary of

Elements of Packaging and Paper Products (PPP) EPR Legislation

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This document provides a short summary of legislative "elements" and options for extended producer responsibility (EPR) bills for packaging and paper products (PPP). A separate version of this document provides more specific guidance for the development of effective EPR legislation in the United States, including pros and cons of options. The documents were developed by the Product Stewardship Institute (PSI) and a working group consisting of PSI state and local government members. For more information about membership or about developing an EPR bill for packaging, please contact PSI's Sydney Harris at 617-236-4771 or sydneyh@productstewardship.us.

ELEMENT	RECOMMENDATIONS
1. **COVERED MATERIALS/ PRODUCTS/ MARKET SECTOR** (what materials are included in the program?)	The EPR program should cover consumer-facing packaging that contains and/or protects goods; service packaging filled at the point of sale; paper sold as a product; and all printed materials (except bound books). Options include covering all packaging-like products, single-use plastic products only, and/or PPP marketed to the industrial, commercial, and institutional (ICI) sectors. *Note that a key principle for EPR for packaging is that Covered Materials (Element #1) and Covered Entities (Element #2) should align (i.e., the program should process material that producers are paying for under Covered Materials).*
2. **COVERED ENTITIES** (groups that may use the producer funded recycling program free of charge)	The program should cover the existing municipal recycling program, such as curbside service to households (including single and multi-family dwellings), subscription services paid directly by residents, recycling services at transfer stations, and public recycling services for places such as sidewalks, plazas, and parks. There are options to include industrial, commercial, and institutional sectors.
3. **RESPONSIBLE PARTY ("PRODUCER")** (who is responsible for funding the recycling program; who is exempted?)	A "responsible party" is one that makes, licenses, or imports PPP for sale, use, or distribution in the state, or that distributes service packaging. The program should include guidelines to exempt entities that fall below specified revenue and weight thresholds. The definition of responsible party should be tiered.
4. **STEWARDSHIP ORGANIZATION(S)** (or Producer Responsibility Organization, PRO) (groups of producers who work together to collect and recycle PPP)	Producers can comply individually or via a stewardship organization representing multiple producers. Additional options relate to an organization's board composition, the creation of an advisory board, maintaining a manageable number of PROs, and coordination among multiple PROs.
5. **FUNDING MECHANISM** (method of defining producers' financial obligations)	Producer internalized funding covers all recycling program costs. Additional options include reimbursements to municipalities for the portion of PPP that is not recyclable or not recycled, payment for costs associated with litter and compost contamination, and establishing a fee system that incentivizes sustainable design and material choices.

ELEMENT	RECOMMENDATIONS
6. PERFORMANCE STANDARDS	PPP should be managed in accordance with a state's waste management hierarchy or sustainable materials management policy, with recycling and reuse rate targets for specific materials based on a percentage of the amount of a material on the market.
7. CONVENIENCE STANDARDS	Covered entities should have convenient, free, and on-going access to collection facilities and/or collection services provided by producers.
8. DESIGN-FOR- ENVIRONMENT	Covered Materials should be designed to minimize their overall environmental and health impacts. Producer fees can be structured to incentivize design-for-environment (see #5, Funding Mechanism).
9. STEWARDSHIP PLAN CONTENTS	Producers submit a 5-year plan for initial review and then subsequent review at 5-year intervals. Legislation should describe specific requirements for contents of the plan, including performance and convenience standards, outreach and education, and consultation with stakeholders.
10. REPORTING REQUIREMENTS	Producers annually report activities and outcomes on a variety of data that can be used to track, evaluate, and improve the program. Legislation should describe specific requirements for reporting and give the state the authority to require additional information to meet performance goals and convenience standards.
11. OUTREACH & EDUCATION REQUIREMENTS	Producers must educate consumers on proper end-of-life management for Covered Materials, must include labels on Covered Materials that instruct people specifically on how to recycle the material in the producers' program, and must provide information on the location and availability of curbside and drop-off collection opportunities. Information should be consistent statewide, easy to understand, and easily accessible.
12. ANTI-TRUST AND COMPETITION	A producer carrying out activities in accordance with an approved stewardship plan is immune from liability for any claim of a violation of antitrust to the extent conduct is necessary to plan and implement the program.
13. PREEMPTION/RELATED LAWS	See PSI's Preemption Policy Statement.
14. PENALTIES FOR VIOLATION	Provisions to ensure compliance, such as a sales ban and penalties, must be included to ensure a level playing field.
15. ADMINISTRATIVE FEES	Administrative fees should be paid by producers and should be sufficient to cover all state agency oversight costs.
16. AUDIT REQUIREMENT	Annual reports should include an independent financial audit. Additional options include health, safety, and environmental audits at facilities involved in the final disposition of materials, and periodic materials flow audits.
17. GOVERNMENT ROLES	The state oversight agency provides program oversight and enforcement.
18. TRANSITION/ IMPLEMENTATION SCHEDULE	The legislation should specify when the initial stewardship plan is due, how long the state has to review the plan, and a process for revisions.
19. DEVELOPMENT OF MARKETS	Producers use existing infrastructure to the extent it is technologically feasible and economically practical. Legislation may require producers to invest a certain percentage of funding in research and development and market and infrastructure development.