Recycle Colorado Extended Producer Responsibility (EPR) Policy Recommendations

Recycle Colorado convened four stakeholder meetings in fall 2021 to explore an EPR policy for packaging materials in Colorado and to develop consensus around core principles of an EPR policy. This document is not all inclusive and does not fully address all of the complexities of EPR policy. The following principles have support from the majority of stakeholders involved in the process and can be used as the foundation for crafting an EPR policy that best serves the needs of Colorado.

Support for EPR for packaging
- Strong support for the pursuit of an EPR policy for packaging from local governments, environmental community, industry, businesses and non-profits.
- The CDPHE EPR policy recommendations are strongly supported as a good foundation for an EPR policy.
- Recycle Colorado should lead this discussion and bill as an action-oriented and mission-driven organization of diverse stakeholders dedicated to advancing recycling in Colorado.
- The group would like to further engage in discussions internally to develop legislation that establishes an EPR system in Colorado.

Goals
- **Improve environmental outcomes** - The science demonstrating the environmental detriment caused by litter and landfilling is long-established. Landfilling recyclable material or worse-yet, disposing of materials irresponsibly so that it ends up in nature has impacts on wildlife habitat and water & air quality. Capturing recyclable materials for reuse will reduce virgin material and diminish the environmental impacts of litter and landfilling, thereby improving environmental outcomes.

- **Increase waste diversion, including recycling, composting & reuse -** Colorado's recycling rate in 2020 dipped to 15.3% Municipal Solid Waste (MSW) Diversion and 34% total diversion averaged state wide[1]. A recent study by Ball and eunomia placed Colorado among the 20 worst-performing states in terms of material recovery. While many factors contribute to Colorado's current performance, consistent, predictably-funded and convenient access systems are the common thread in the top performing

---

[1] https://cdphe.colorado.gov/colorado-recycling-totals

states according to the study.[2] In order to increase recycling rates in Colorado, the state needs to adopt a state-wide policy platform to support recycling to reduce litter, abate environmental impacts, and drive circular markets.

● **Expand convenient, equitable access to recycling -** A significant portion of the state does not have access to convenient or even adequate access to recycling. This issue is not only true for most of Colorado's rural communities, but also for major urban centers of Colorado. Cities like Colorado Springs, Aurora, Westminster, Pueblo and Centennial do not offer or require curbside recycling for residents. Residents may subscribe to curbside recycling services or visit drop off locations to recycle, but those options can be prohibitive to low-income households or those without access to a vehicle to drop recycling. Colorado needs to implement policy to increase convenient access to recycling services to more people to ensure enough material is collected to drive supply for end-market demand and improve environmental impacts. New recycling policies should support and enhance existing recovery infrastructure and expand with infrastructure investments where recycling currently is not offered.

● **Create sustainable cost-sharing funding mechanism for recycling** - Across Colorado, the burden of funding recycling systems has been inconsistent from jurisdiction to jurisdiction if existent at all, resulting in inconsistency in access to services, quality of material, limited participation in recycling programs and weak recycling rates. Providing a stable funding mechanism through a mechanism like EPR addresses cost obligations and provides greater consistency around operations and access without burdening local governments or consumers alone with the cost of programs.

● **Increase use of recycled materials** - To reduce waste of recyclable materials and use of virgin materials, producers and manufacturers need recycled materials to put back into products and packaging. Manufacturers and producers need a reliable source of clean material with which to produce new products. To best recover the material, manufacturers need comprehensive policy to support private efforts of recovery.

Covered Materials

All Packaging Types
Stakeholders supported taking a broad approach to defining the products and packaging covered under an EPR policy. The group supported including primary, secondary and non-industrial tertiary packaging. Containers and packaging are any part of a package or container, regardless of recyclability or compostability, that includes material used for containment, protection, handling, delivery, and presentation of goods that are sold, offered for sale, or distributed in the state. Containers and packaging are further defined to include paper, cartons, plastic, glass, metal, or combinations used in secondary and tertiary packaging, and intended for short-term or single use.

[2] https://www.ball.com/getattachment/na/Vision/Sustainability/Real-Circularity/50-States-of-Recycling-Eunomia-Report-Final-Published-March-30-2021-UPDATED-v2.pdf.aspx?lang=en-US&ext=.pdf

<u>Paper Products</u>
There was strong stakeholder support to include commonly recycled paper products, such as products made from paper and other cellulosic fibers, containers or packaging used to deliver printed matter to a consumer or recipient, and various printed materials.

<u>Single-Use Food Service Packaging</u>
There was strong interest in exploring the inclusion of food service packaging under the definition of packaging, such as straws, utensils, cups, plates, and plastic bags.

<u>Exclusions:</u>
Participants supported a standard list of exemptions as used by other states, such as:
1. Materials or products that could become unsafe or unsanitary to recycle due to their intended use.
2. Paint containers covered by existing EPR law.
3. Medical devices and covered materials and products regulated as a drug, medical device, or dietary supplement.
4. Animal biologics, including vaccines, bacterins, antisera, diagnostic kits, and other products of biological origin.
5. Packaging used to contain toxic or hazardous materials.

Uniform Materials List
- The PRO should establish a minimum list of standardized materials that the PRO can accept applicable statewide for collection purposes to establish a basis for consistent streams and recycling practices.
- The PRO with the Agency and Advisory Council will establish a process to consider adding materials wherever and whenever appropriate.
- Any vendor to the PRO must accept and adequately process the materials on this list in order to be eligible for reimbursement for services.

Covered Costs & Services
- The EPR program should cover collection of approved readily-recyclable materials, including curbside, drop-off centers, and commercial collections of covered materials, including businesses, government, multi-family, public spaced, schools, institutions, etc. The program should not include industrial recycling.
- The EPR program managed by the PRO should cover all costs to operate (collection, process and transportation), administer & comply with the program plan and requirements - including operational costs, reimbursements to providers, municipal & commercial vendors, administrative & enforcement costs, and education programs.
- The EPR program should fund end-market development and innovation initiatives, including but not limited to circular economy market deveopment, new sorting technologies, processing infrastructure and modernization, and composting infrastructure.

- The PRO should leverage existing systems and infrastructure, including municipal collection and existing waste management operations
- Funding may also support composting infrastructure

Access and Convenience Standards
- Material collection should begin with pre-existing convenience and access standards (curbside or drop-off centers) with goals to reach as much of the population as is feasible in the plan developed by the PRO
- To ensure maximum capture of materials, reasonable recycling requirements should be established to require recycling where feasible
- PRO must incorporate considerations for collection in rural, multi-family and underserved communities in the Plan
- Convenience standards for recycling collection should be as convenient as trash collection
- Feasibility standards should be based on the needs assessment and other infrastructure access requirements in statute

Roles
Producer Responsibility Organization (PRO)
- Should be an independent non-profit
- Collects the packaging fees and distributes funding to support the PRO plan
- Develop a multi-year plan to set goals, targets, operational execution, and education and outreach programs
    - Retain an independent third-party organization in consultation with the Advisory Council and the state agency to conduct a needs assessment to ascertain capital and operational costs and needs, analyze existing funding sources, evaluate existing collection and processing frameworks, establish best-practices and reimbursement parameter, assess end-markets, and develop consumer education plans and programs
    - Contract 3rd party auditing to evaluate progress to goals and targets and measure success of program administration and operation
    - Propose expenditures for end-market development, infrastructure enhancements and innovation
- Operate and administer the PRO under the state agency oversight
    - Set realistic and achievable goals and targets for collection and contamination in collaboration with the state agency
    - Set goals for recycled content with the state agency and Advisory Council
    - Ensure member producer compliance, reporting and auditing
    - Submit reports to the state agency and Advisory Council for publication to ensure transparency and data-sharing
    - Develop and execute outreach and education programs to consumers to teach correct recycling practices and improve material stream quality
- May establish alternative and supplemental collection programs such as deposit return systems to achieve goals where appropriate

- May create regional collaboration outside of Colorado to grow collection and expand markets

Oversight and Enforcement Agency
The Colorado Department of Public Health and Environment (CDPHE) is the most natural agency to assume the role of oversight and enforcement agency given its existing purview over solid and hazardous waste regulation, management and enforcement, including the paint EPR program.
- The state agency will review the PRO Plan and be responsible for overseeing compliance with the Plan, including any adjustments to the Plan as necessary.
- Oversee Advisory Council selection in consultation with the PRO and other stakeholders
- Review and collaborate on goals and targeting on collection, contamination, education & outreach and access
- Collect data and publish reporting from PRO and Advisory Council

Advisory Council
- Must reflect the broad range of stakeholders impacted by the EPR policy and suggest that selection process mirrors other state advisory councils and boards
- Review and make recommendations and reports regarding the plan submitted to the state agency
- Advises the state agency and the PRO on modifications and improvements to PRO performance, processes to enhance collection and end market development, and overall state of the EPR system
- Suggest the consolidation of Boards and Councils housed under CDPHE to oversee the various functions assigned, with a unique PROversight Council, to reduce redundancy and provide comprehensive perspective of the state's solid waste diversion efforts.

Local Governments
- Local governments should have the choice to continue as service providers or to contract with haulers for services.
- Municipal government programs or contracted programs should meet minimum service and program standards determined by the PRO and Advisory Council in order to establish and maintain a consistent, effective statewide system.

Fees/Dues
- PRO sets a fee schedule for all covered materials under the EPR system based on all operational, administrative, compliance and enforcement costs of the EPR system
- Fees are based on the amount and type of materials producers put into the market each year as reported to the PRO
- Fees should incentivize waste reduction and minimize environmental impact of product design, including recyclability, compostability, reuse, and higher recycled content

- Fees should disincentivize materials that disrupt or contaminate recycling
- As is common practice, producers selling less than one ton of covered materials, have less than $1 million or operate a single point-of-sale (not franchised) annually in the state are exempt from fees/EPR requirements