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**The webinar will begin shortly.**



Thank  
The webinar

Q&A

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**PSI is a policy expert and consulting nonprofit that powers the emerging circular economy.**

# Food Serviceware

Oregon Department of Environmental Quality  
Extended Producer Responsibility packaging law



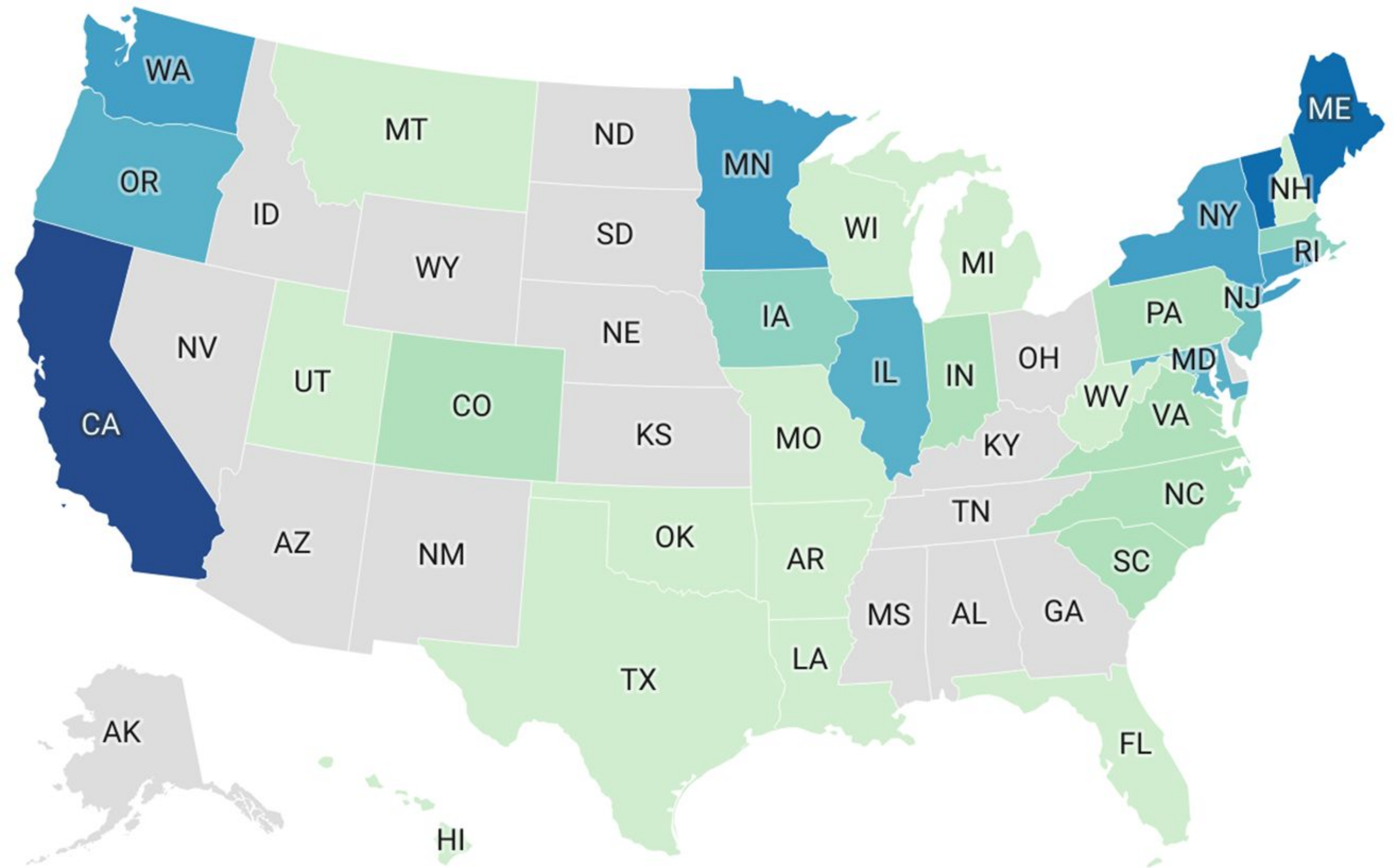
# Who is Product Stewardship Institute?

- **National nonprofit:** 23 years
- **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**



# U.S. EPR LAWS 2024

**139** laws  
**19** products  
**33** states

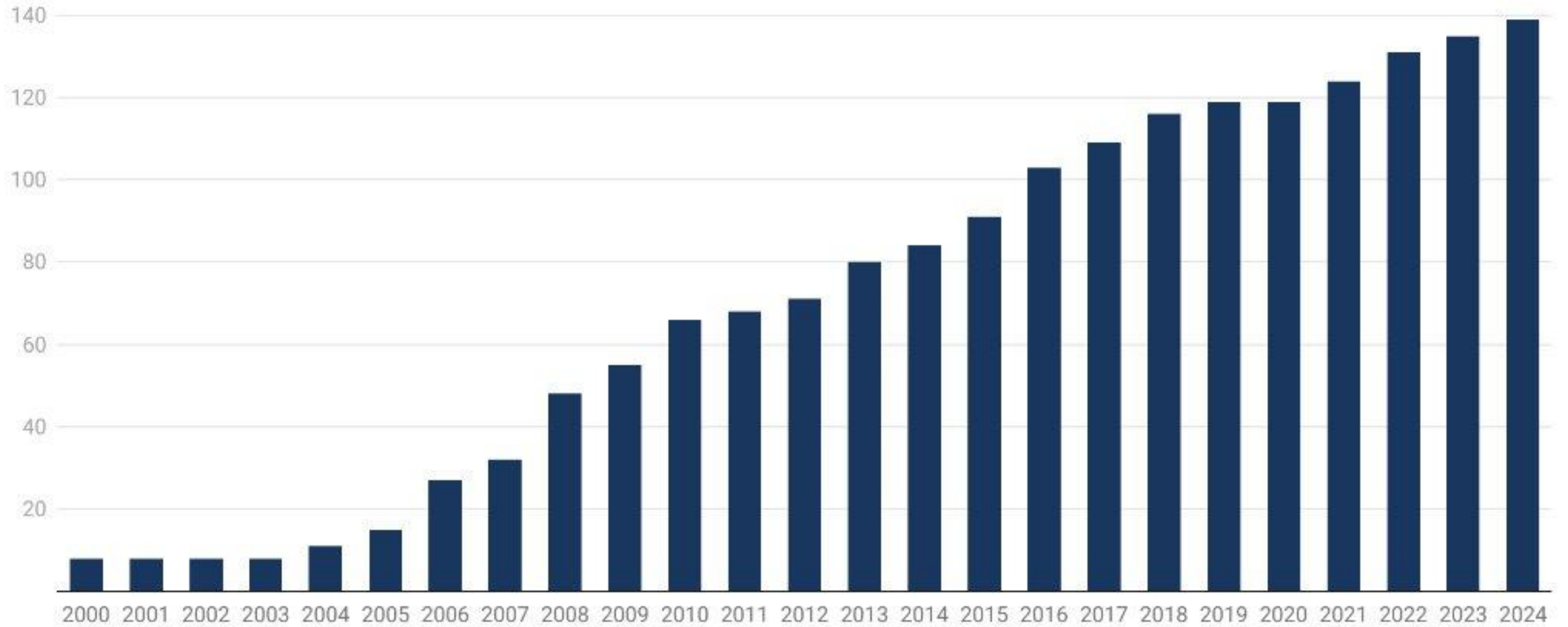


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Number of State EPR Laws



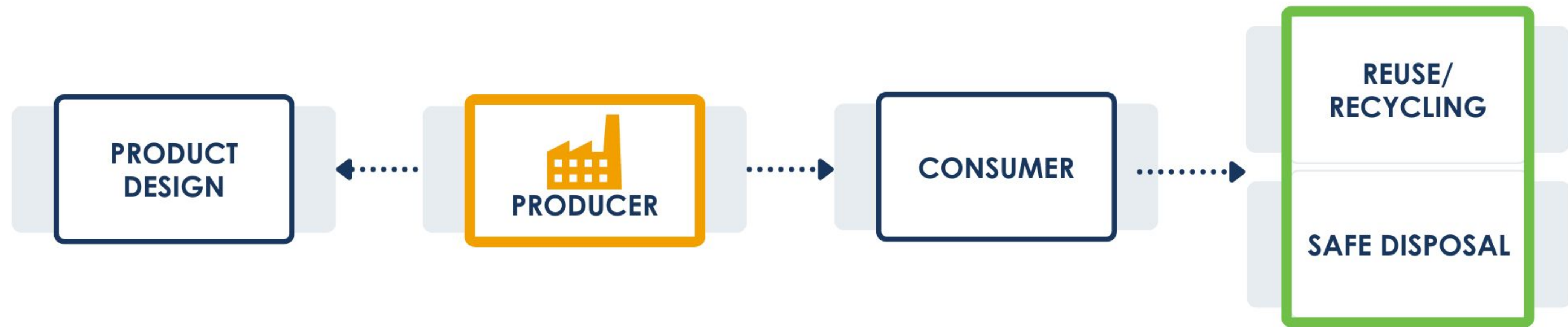
# U.S. EPR LAWS SINCE 2000



**PSI**  
**Founded**



# EXTENDED PRODUCER RESPONSIBILITY



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, or safe disposal.

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# WHY EPR?



Reduces  
**government costs**



Incentivizes **waste reduction, reuse, recycling**



Increases **collection convenience, education**



Establishes **performance goals** to gauge program effectiveness

# ELEMENTS OF EFFECTIVE EPR LAW

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

# Important elements of packaging EPR

## Covered Materials:

All packaging regardless of recyclability or compostability. Some programs also include paper products, food serviceware products and other packaging-like products.

## Responsible Party ('Producer'):

- (1) Brand owner/manufacturer;
- (2) Brand owner/licensee;
- (3) Importer. First sale into state.

## Producer Responsibility Organization (PRO):

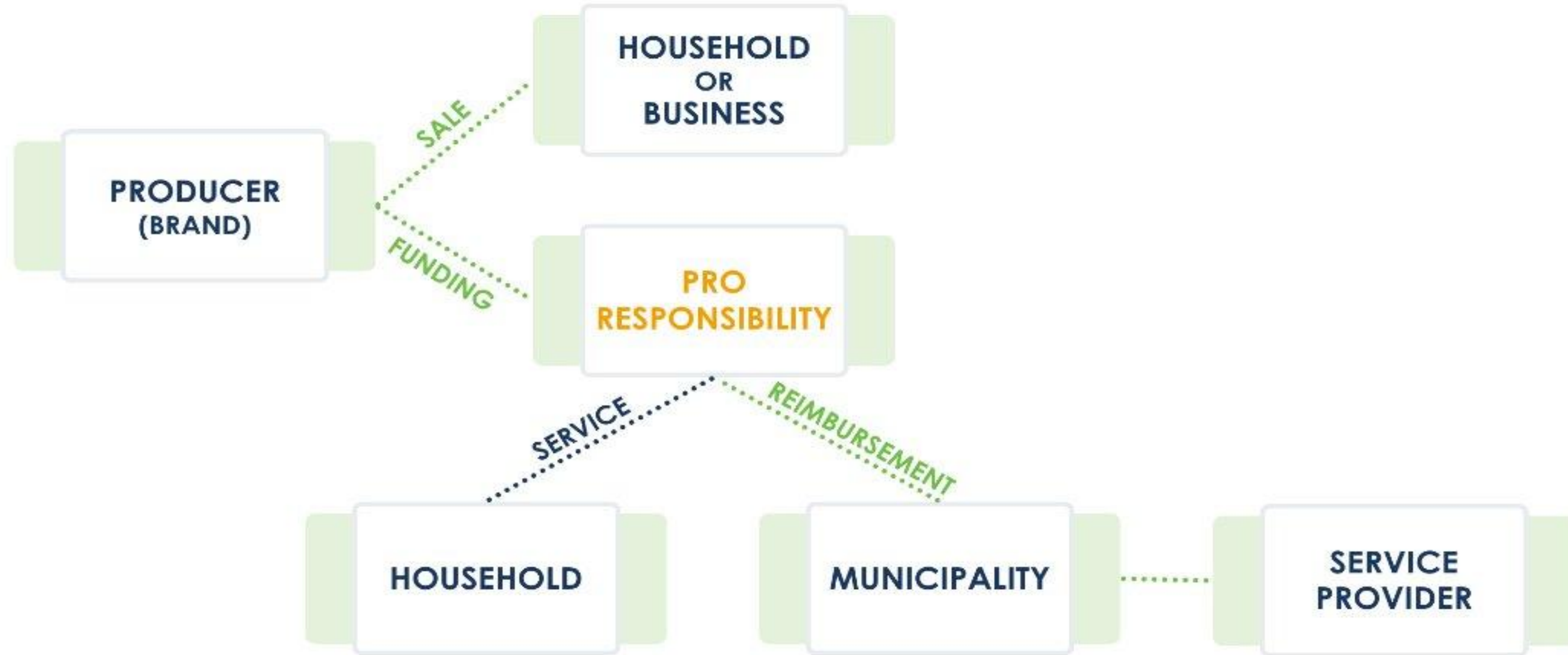
An organization dedicated to managing and implementing an EPR program.



# Current Recycling System



# Packaging EPR Recycling System



# STATE LAW COMPARISON

	Oregon	Colorado	Maine	California	Minnesota
Signed Into Law	August 2021	June 2022	July 2021	June 2022	May 2024
Covered Materials*	<ul style="list-style-type: none"> <li>● Packaging (including packaging-like products and reusable packaging)</li> <li>● Paper products</li> <li>● Food serviceware</li> </ul>	<ul style="list-style-type: none"> <li>● Packaging</li> <li>● Packaging-like products</li> <li>● Paper products</li> </ul>	<ul style="list-style-type: none"> <li>● Packaging</li> <li>● Reusable packaging</li> </ul>	<ul style="list-style-type: none"> <li>● Packaging</li> <li>● Packaging-like products</li> </ul>	<ul style="list-style-type: none"> <li>● Packaging</li> <li>● Packaging-like products</li> <li>● Paper products</li> <li>● Reusable packaging</li> </ul>
Implementation Date	July 2025	July 2025	April 2026	January 2027	January 2029

*\* Note: food serviceware is split out as a separate category (from packaging) of covered product in Oregon, but is covered variously as a subset of “packaging” by the other states.*



# OREGON'S RECYCLING MODERNIZATION ACT



81st OREGON LEGISLATIVE ASSEMBLY—2021 Regular Session

**Enrolled  
Senate Bill 582**

Sponsored by Senator DEMBROW, Representative SOLLMAN; Senators MANNING JR, TAYLOR, Representatives ALONSO LEON, CAMPOS, DEXTER, GRAYBER, HELM, HOLVEY, HUDSON, KOTEK, MARSH, MCLAIN, NERON, NOSSE, POWER, PRUSAK, REYNOLDS, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to modernizing Oregon's recycling system; creating new provisions; amending ORS 90.318, 459.005, 459.015, 459.035, 459.772, 459.995, 459A.005, 459A.007, 459A.008, 459A.025 and 459A.080 and section 3, chapter 534, Oregon Laws 2015; and repealing ORS 459A.675, 459A.680 and 459A.685.

Be It Enacted by the People of the State of Oregon:

**MODERNIZING OREGON'S RECYCLING SYSTEM**  
(Legislative Findings; Definitions)

**SECTION 1. Legislative findings.** The Legislative Assembly finds and declares that:

(1) Oregon's statewide recovery rate, which seeks to preserve public health, safety and welfare and conserve energy and natural resources, has declined each year between 2013 and 2018, and that Oregon is not on track to meet the statewide waste recovery and generation goals pursuant to the measurement methodology that the Legislative Assembly established in 2015.

(2) The way Oregon's residents use and consume materials and products, and the way residents manage them when no longer wanted, has changed significantly in the 35 years since Oregon's first recycling programs were established, that the state's recycling policies were not designed to address such changes, and that these factors have created unintended consequences, such as the deterioration of natural systems regionally and worldwide, as well as increased levels of pollution, greenhouse gas emissions that contribute to global climate change and reductions in human well-being, especially for the most vulnerable populations.

(3) It is necessary to adopt a policy that will minimize such unintended consequences across the entire life cycle of products and that will require producers of packaging and printed paper sold or distributed in Oregon to help finance the management of, and ensure an environmentally sound stewardship program for, their products.

(4) It is the State of Oregon's policy to prioritize practices that prevent and reduce the negative environmental, social, economic and health impacts of production, consumption and end-of-use management of products and packaging across their life cycle, and that it is the obligation of producers to share in the responsibility to reduce those impacts.

**SECTION 2. Definitions.** As used in sections 1 to 43 of this 2021 Act:

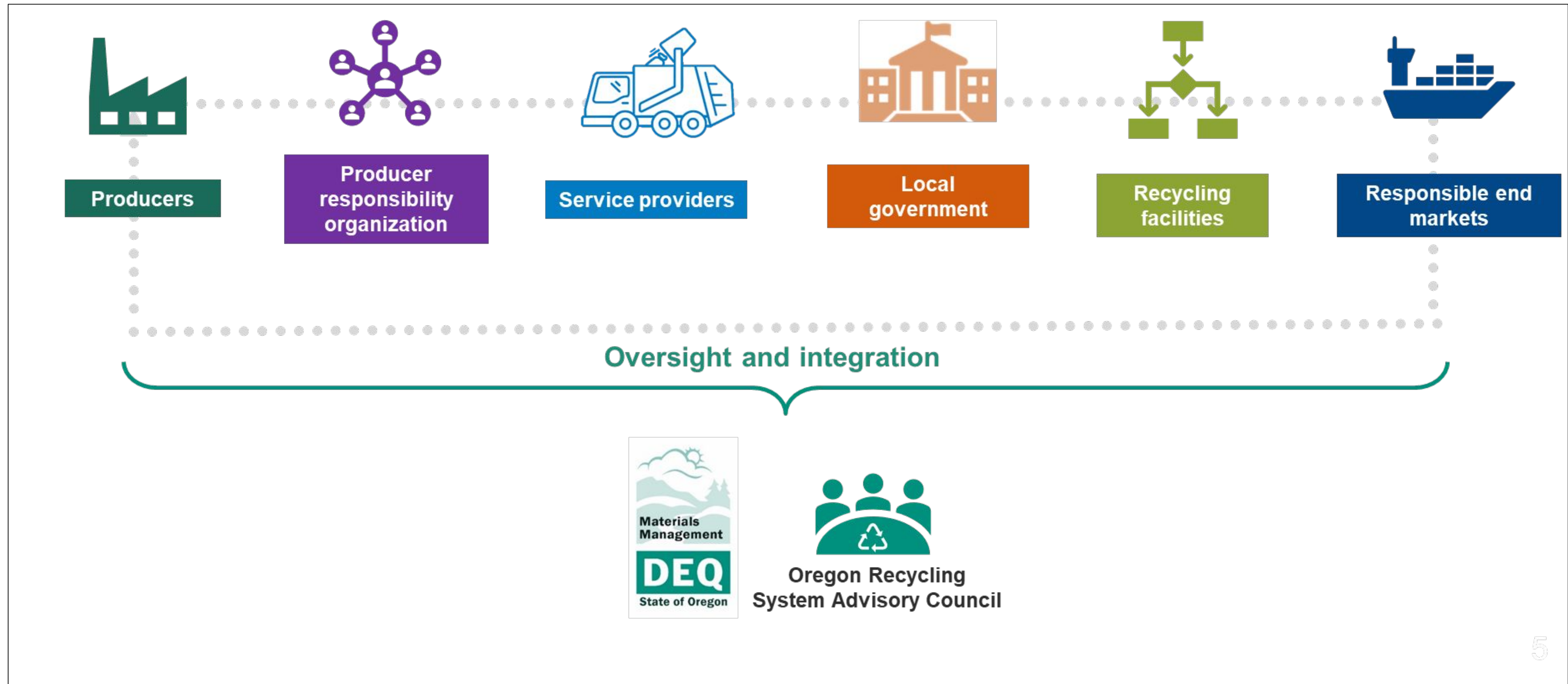
Enrolled Senate Bill 582 (SB 582-B) Page 1



# OREGON'S ACT: HOW DID WE GET HERE?



# SHARED RESPONSIBILITY MODEL



# COVERED PRODUCTS

Examples of covered products



Examples of exempted products under the RMA



Examples of items covered by the Bottle Bill





# A Modernized Recycling System

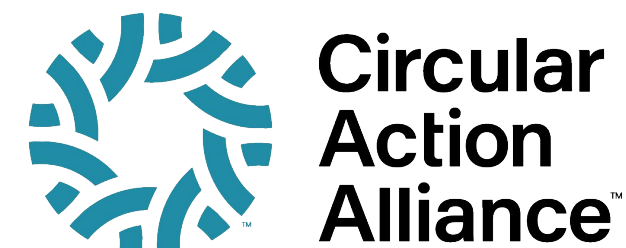
# EXPANDING RECYCLING SERVICES

Funding to level the playing field among our communities.



# STATEWIDE COLLECTION LIST

Oregon commits to recycling better



# MATERIAL PROCESSING

New standards for sorting quality, managing contamination, reporting, and paying workers a living wage.



# EDUCATION & CONTAMINATION REDUCTION

Direct community engagement is an integral part of improvement



# PRODUCER RESPONSIBILITY

Producers pay  $\frac{1}{3}$  -  $\frac{1}{2}$  of system costs



# PRODUCER OBLIGATIONS

- Join a PRO
- Report data on product sold in or into the state
- Pay fees
- **Large Producers only** - Evaluate and disclose the environmental impacts of 1% of products every two years

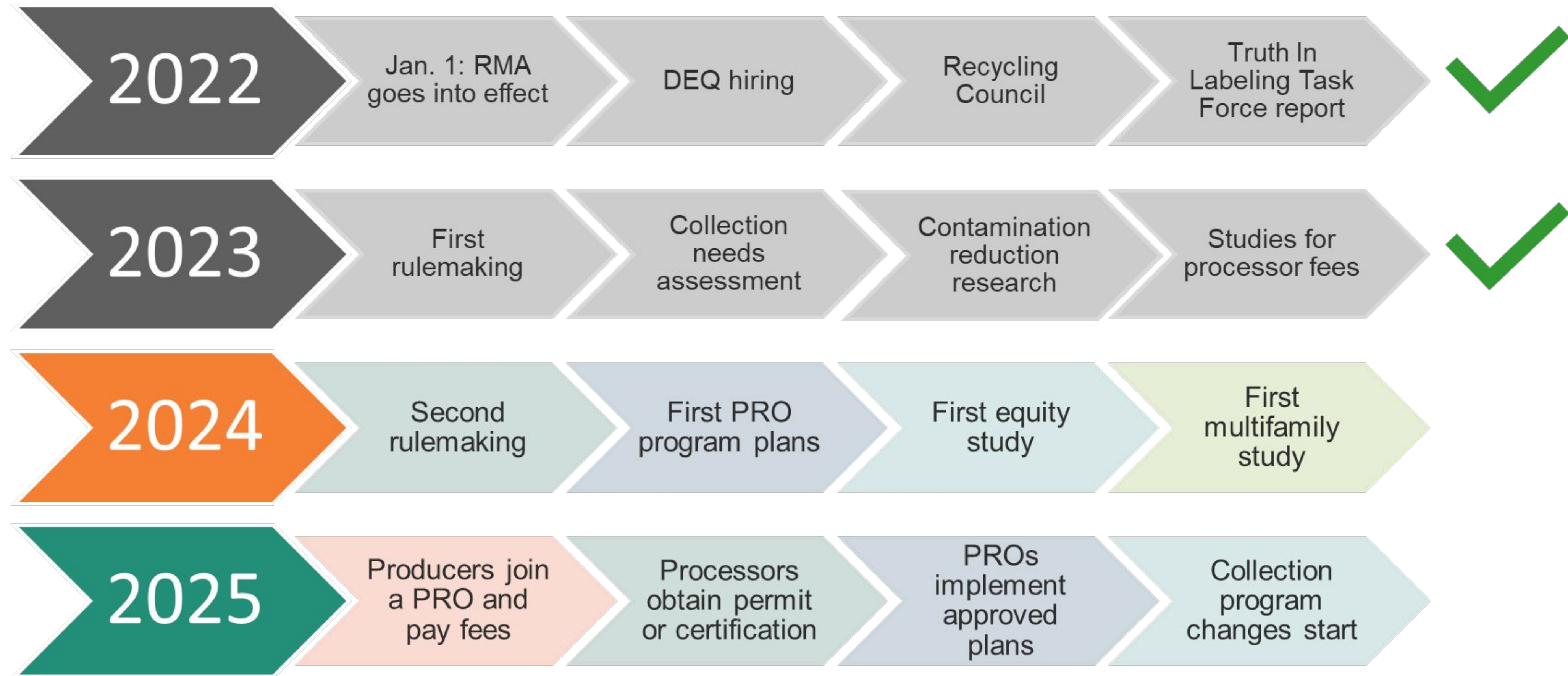


# ENFORCEMENT APPROACH

- Rules proposed as part of the current rulemaking (in public comment now):
  - Failure to join a PRO (any producer) = Class I violation
  - Failure to submit an impact evaluation (large producers) = Class II violation
  - Misreporting of supply volumes (any producer) = Class II violation



# IMPLEMENTATION TIMELINE



# KEY DATES FOR PRODUCERS

CAA producer  
working group join  
date  
July 2024

Likely PRO plan  
approval  
Early 2025

Producer  
pre-registration  
Mar. 31, 2025

PRO plan due  
Mar. 31, 2024

PRO plan start  
date  
Jul. 2025



# INFO FOR FOOD SERVICEWARE PRODUCERS



# IS IT A COVERED PRODUCT?

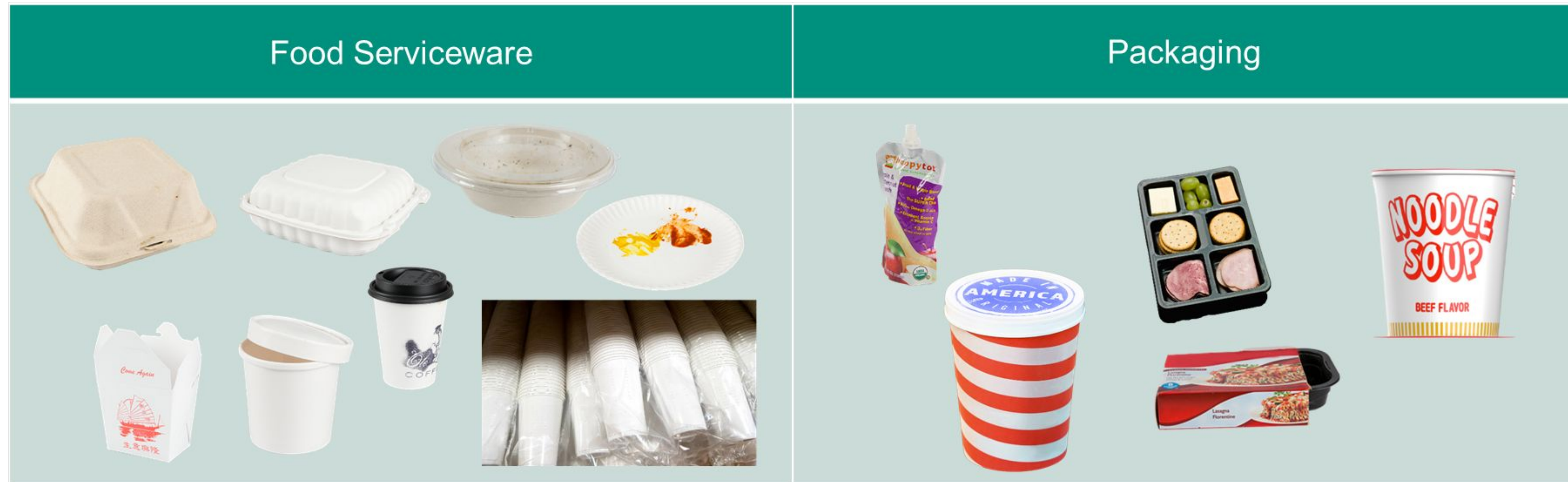
*ORS 459A.863(7): “Food serviceware” means paper or plastic plates, wraps, cups, bowls, pizza boxes, cutlery, straws, lids, bags, aluminum foil or clamshells or similar containers:*

- (a) That are generally intended for single use; and*
- (b) That are sold to a retailer or a dine-in food establishment or a take-out food establishment, regardless of whether the item is used to prepackage food for resale, is filled on site for food ordered by a customer or is resold as is.*



# IS IT FOOD SERVICEWARE OR PACKAGING?

- Food serviceware is sold *empty or unused* to a retailer or dine-in or take-out restaurant who then uses it to prepackage food for resale, fills it on site, or resells it as is.
- Food serviceware is used to contain or consume food that is *ready to eat*.



# IS IT A COVERED PRODUCT? – FURTHER CONSIDERATIONS

- Further considerations for differentiating food serviceware from packaging
  - First ask “Is it food serviceware?” If the answer is “no,” then ask “is it packaging?”
- Key specific exemptions:
  - Napkins, paper towels or other paper intended to be used for cleaning or the absorption of liquids.



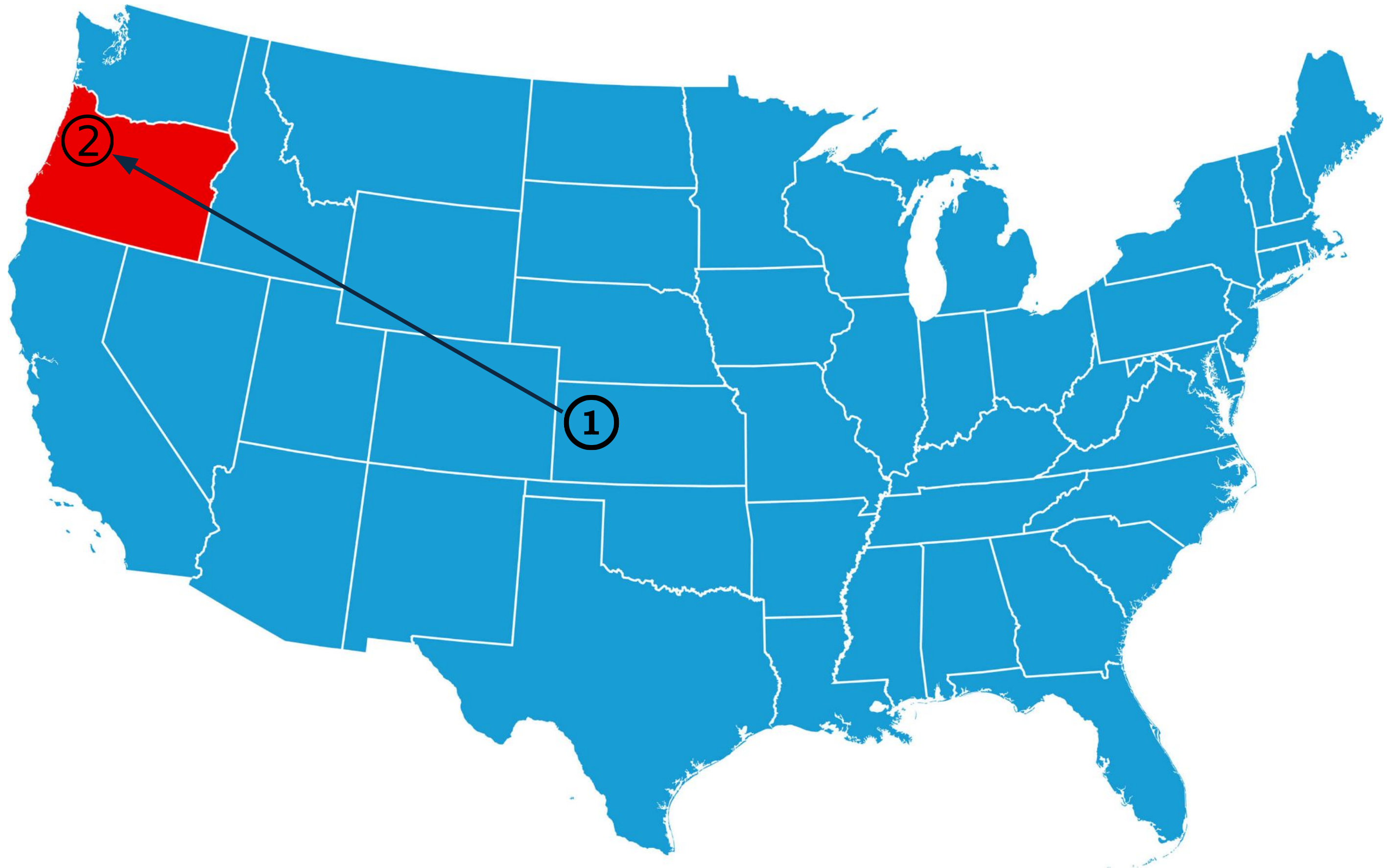
# AM I AN OBLIGATED PRODUCER?

- Small producers are exempt (ORS 459A.863(32))
  - (32)(a) Gross annual international revenues under \$5 million (**lumped across associated producers**),
  - (32)(b) Sells less than one metric ton of covered products onto the market in Oregon (**lumped across associated producers**), – or –
  - (32)(f) Is a restaurant, food cart or similar business establishment (primarily sells ready-to-eat food to the public) and is not a producer of food serviceware

# PRODUCER SCENARIO 1

**Direct sale from out-of-state manufacturer to in-state restaurants**  
First sale in or into the state: Triggers obligation on the *manufacturer*.

1. Manufacturer in Kansas
2. Restaurants in Oregon

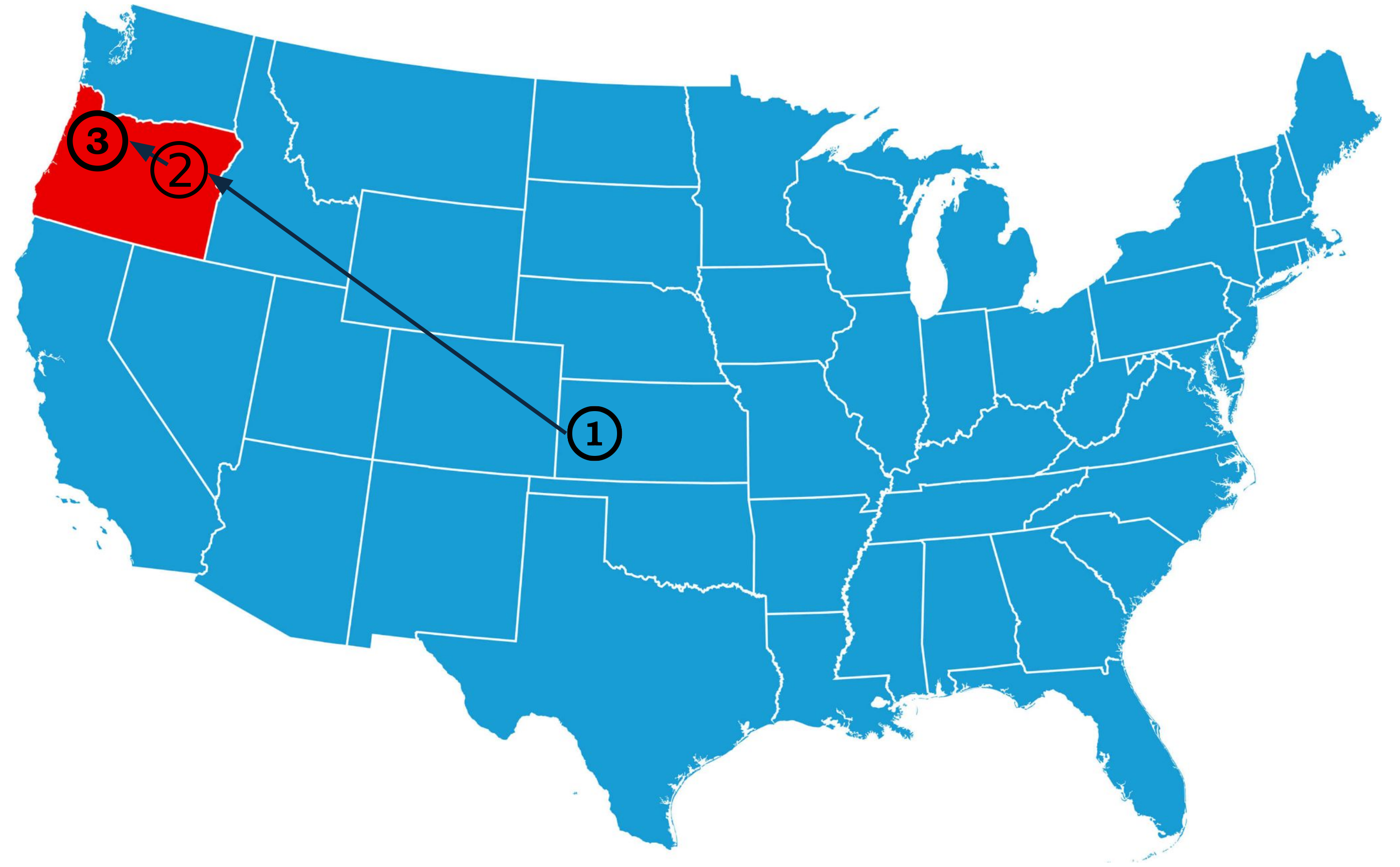


# PRODUCER SCENARIO 2

**Out-of-state manufacturer sells to in-state distributor that sells to in-state restaurants.**

First sale in or into the state: Triggers obligation on the *manufacturer*.

1. Manufacturer in Kansas
2. Distributor in Oregon
3. Restaurants in Oregon

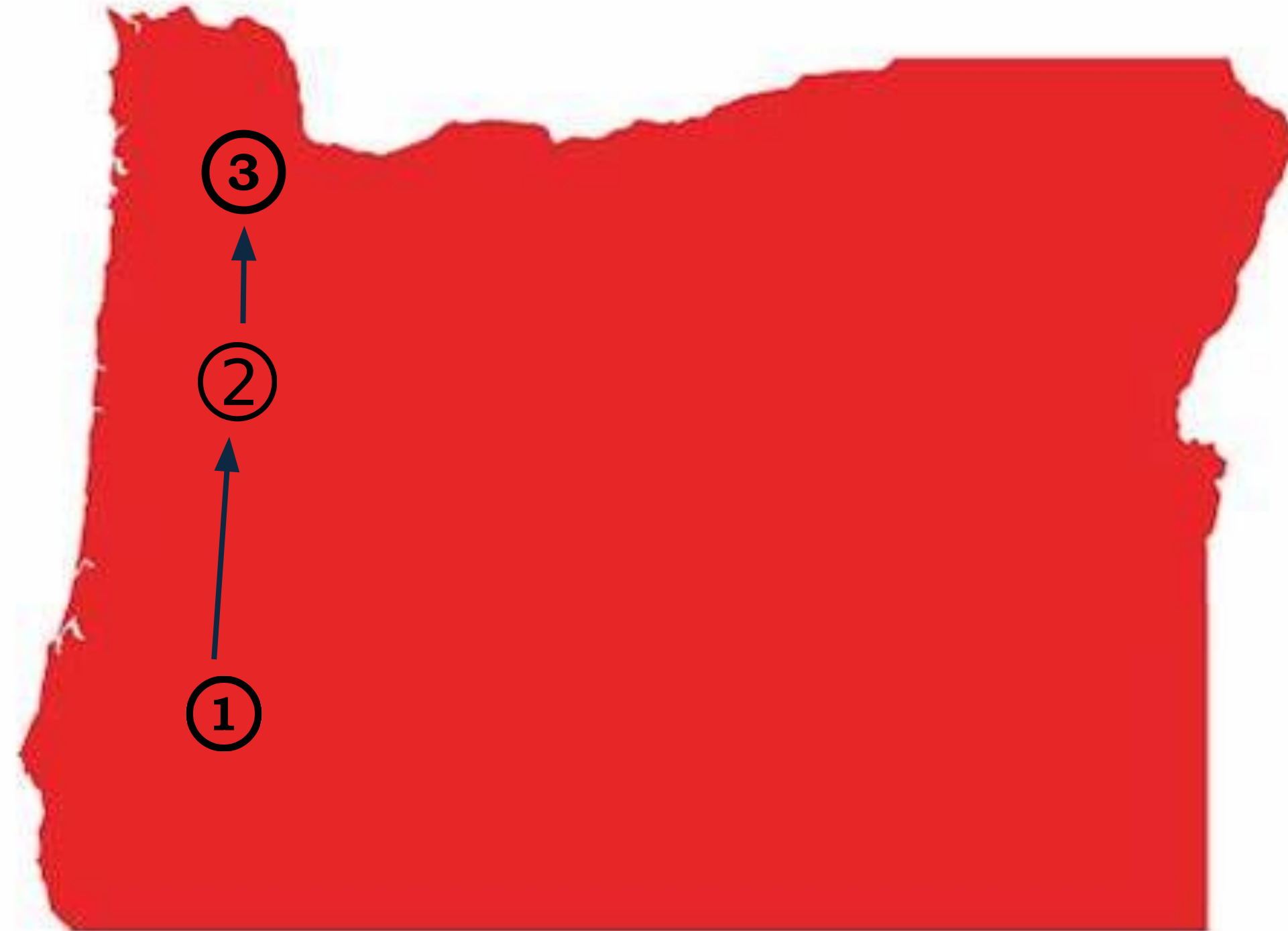


# PRODUCER SCENARIO 3

**In-state manufacturer sells to in-state distributor which sells to in-state restaurants.**

First sale *in* or into the state: Triggers obligation on the *manufacturer*.

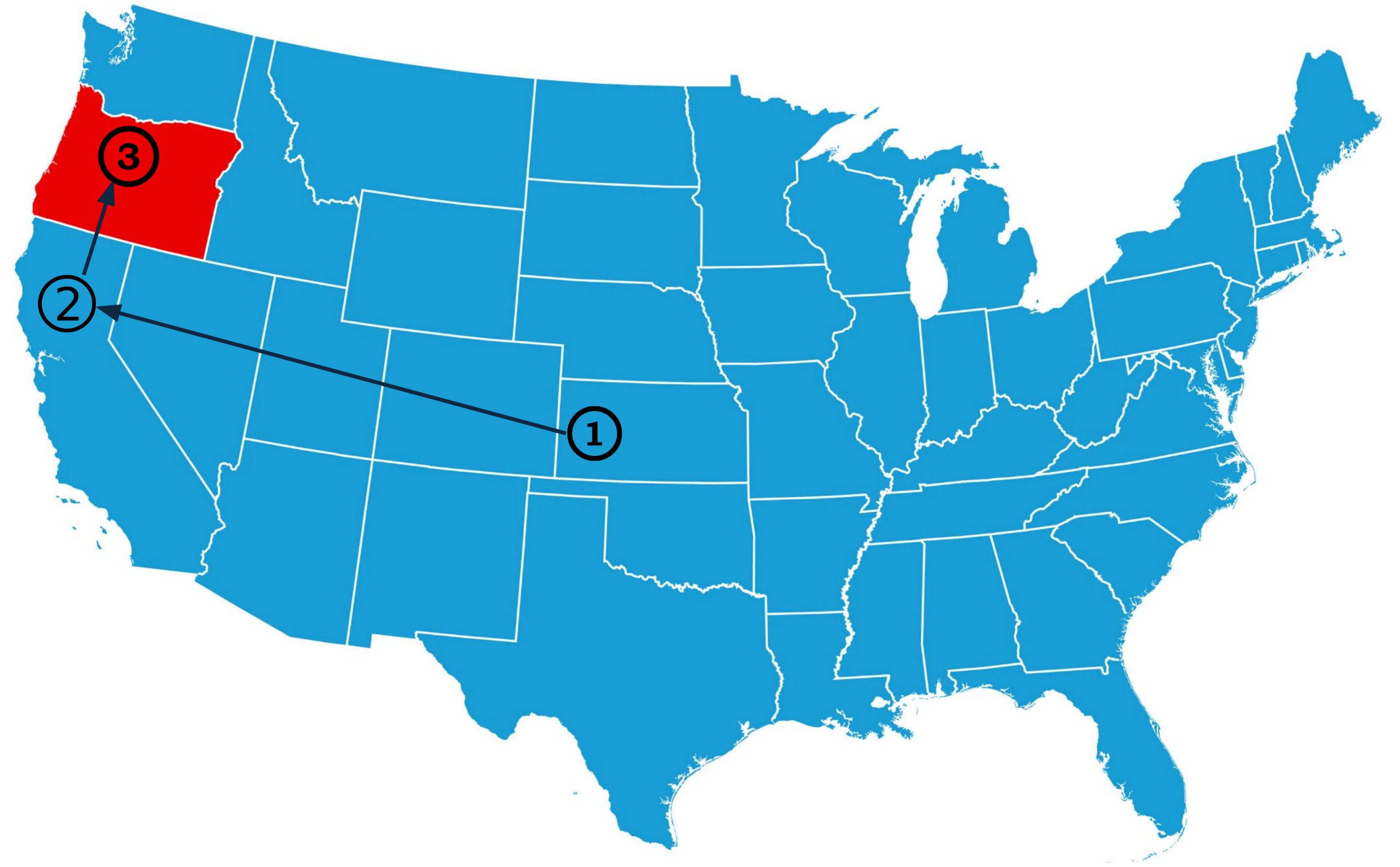
1. Manufacturer in Oregon
2. Distributor in Oregon
3. Restaurants in Oregon



# PRODUCER SCENARIO 4

**Out-of-state manufacturer sells to out-of-state distributor which sells to in-state restaurants.**  
First sale in or into the state: Triggers obligation on the *distributor*.

1. Manufacturer in Kansas
2. Distributor in California
3. Restaurants in Oregon

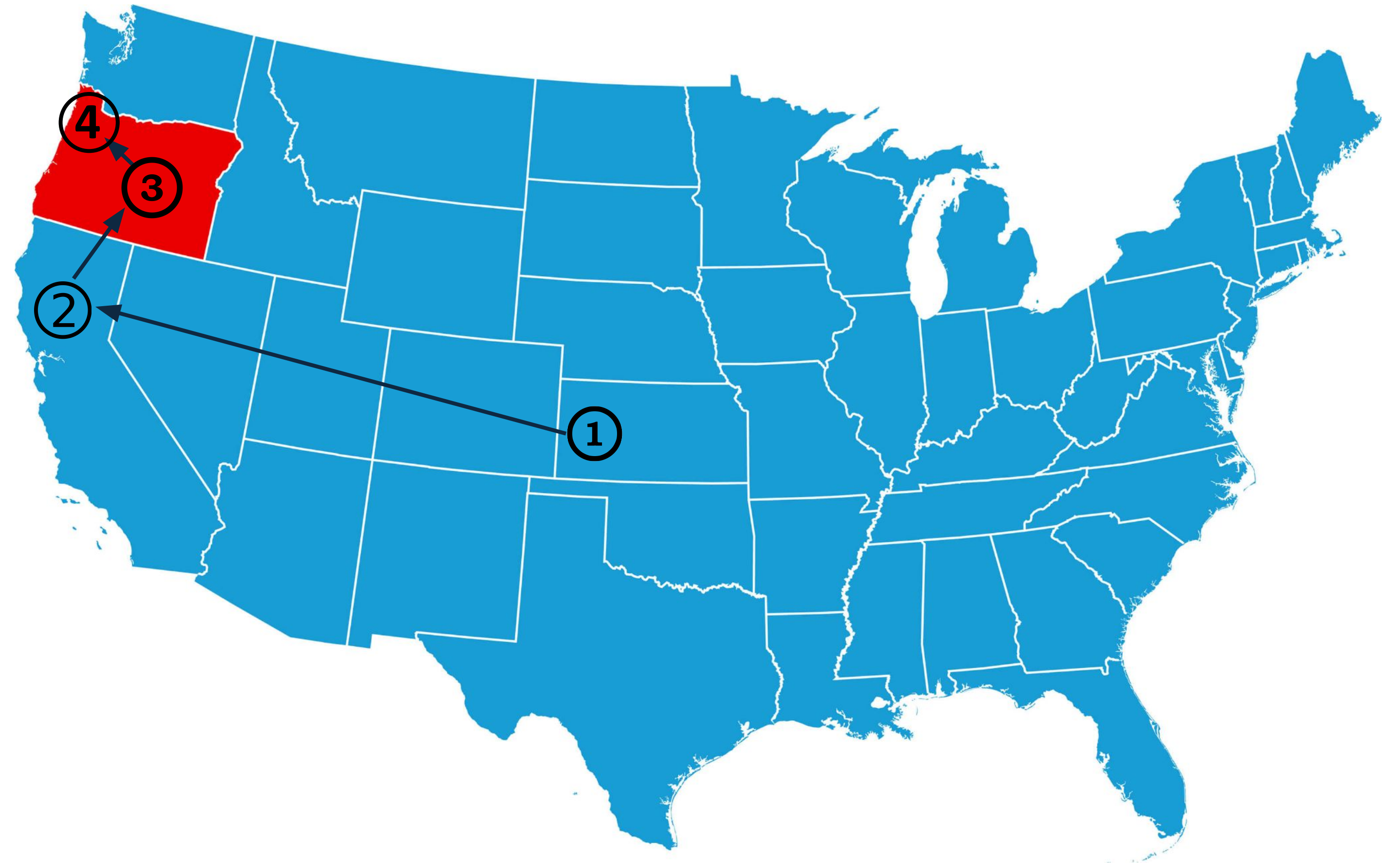


# PRODUCER SCENARIO 5

**Out-of-state manufacturer sells to wholesale retailer and ships the product to the retailer's DC in California. The retailer then brings (rather than sells) the product into the state to be sold at its wholesale retail store, which sells to Oregon restaurants.**

First sale in or into the state: Triggers obligation on the ***wholesale retailer***.

1. Manufacturer in Kansas
2. Wholesale retailer's distribution center in California
3. Wholesale retailer in Oregon (same company as #2)
4. Restaurants in Oregon

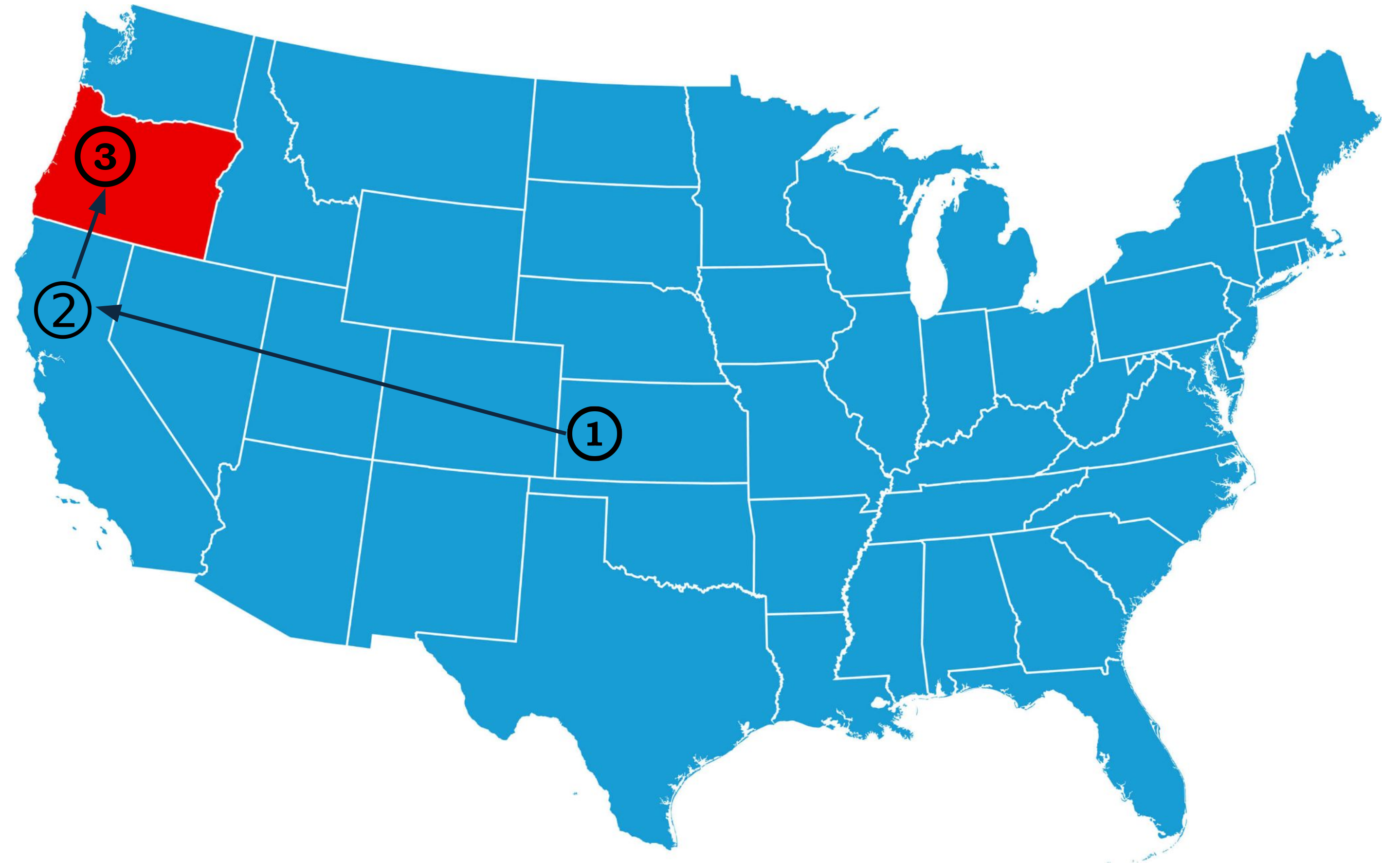


# PRODUCER SCENARIO 6

**Out-of-state manufacturer sells to fast food franchisor's FSW distribution branch and ships the FSW to the franchisor's distribution center in California. The franchisor then sells the FSW to franchisee restaurants in Oregon.**

Sale from franchisor to franchisees is the first sale in or into the state: Triggers obligation on the **franchisor, which is not exempt as a restaurant because it is an FSW producer.**

1. Manufacturer in Kansas
2. Franchisor's DC in California
3. Franchisees in Oregon

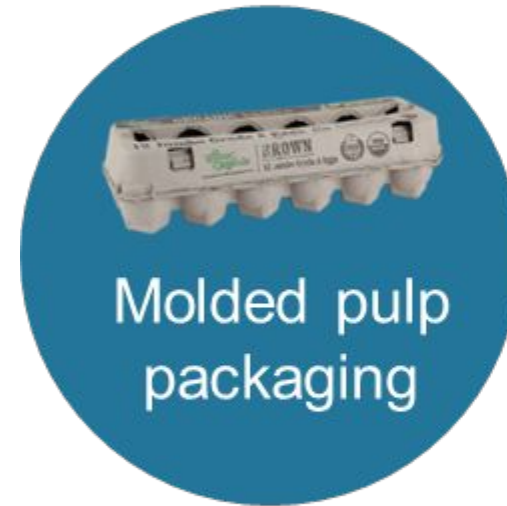


# SCENARIOS – SOME OTHER CONSIDERATIONS

- What if product is distributed into Oregon and then some of it is subsequently distributed into another state?
  - Exemption for materials that are disposed of out of state applies to the materials that went to another state. See ORS 459A.863(6)(b)(J).
- What if the obligated producer lacks visibility into how the product is used in state – i.e., is it used as food serviceware, or as service packaging?
- What about food serviceware sold to the public, e.g. a box of forks at a supermarket. Do the outer box (packaging) and inner products (food serviceware) have different producers?

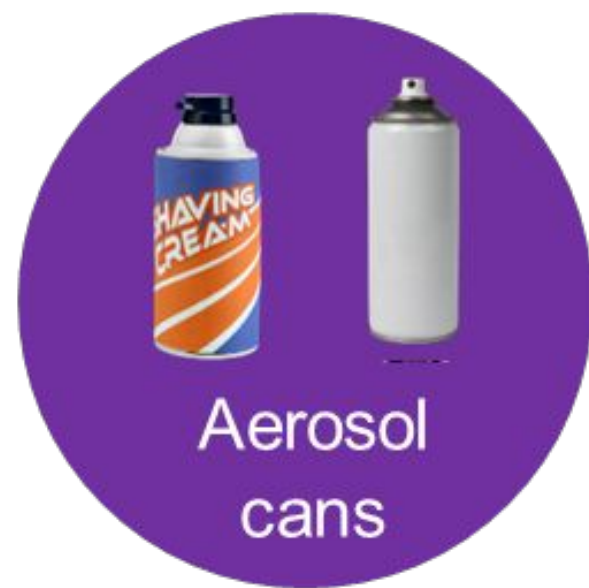
# MATERIAL LISTS

## Uniform Statewide Collection List



# MATERIAL LISTS

## Producer Responsibility Organization Depots



Aerosol  
cans



Aluminum  
foil



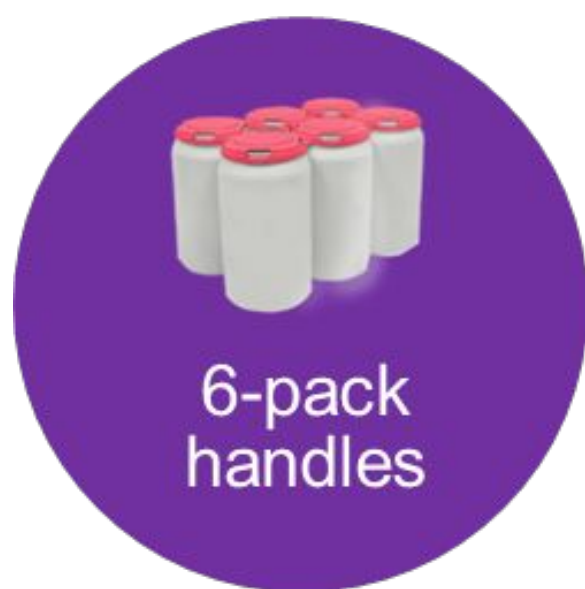
Pressurized  
canisters



Shredded  
paper



Glass bottles  
and jars



6-pack  
handles



Polyethylene  
film



Lids



Block white  
expanded  
polystyrene



Bulky plastic  
containers

# MATERIAL LISTS

## Specifically Identified Materials



Gable-top & aseptic cartons



Nursery Packaging



Metal aerosol containers



Cups



Polycoated paperboard



Shredded paper



Glass bottles and jars



Aluminum foil and pressed foil



PET Thermoforms

# COMPOSTABLES

- Covered product like other single-use food serviceware
- System expansion funding targeted toward recycling rather than composting infrastructure
- Responsible end market provisions are applicable to FSW SIMs.



# ECO-MODULATION

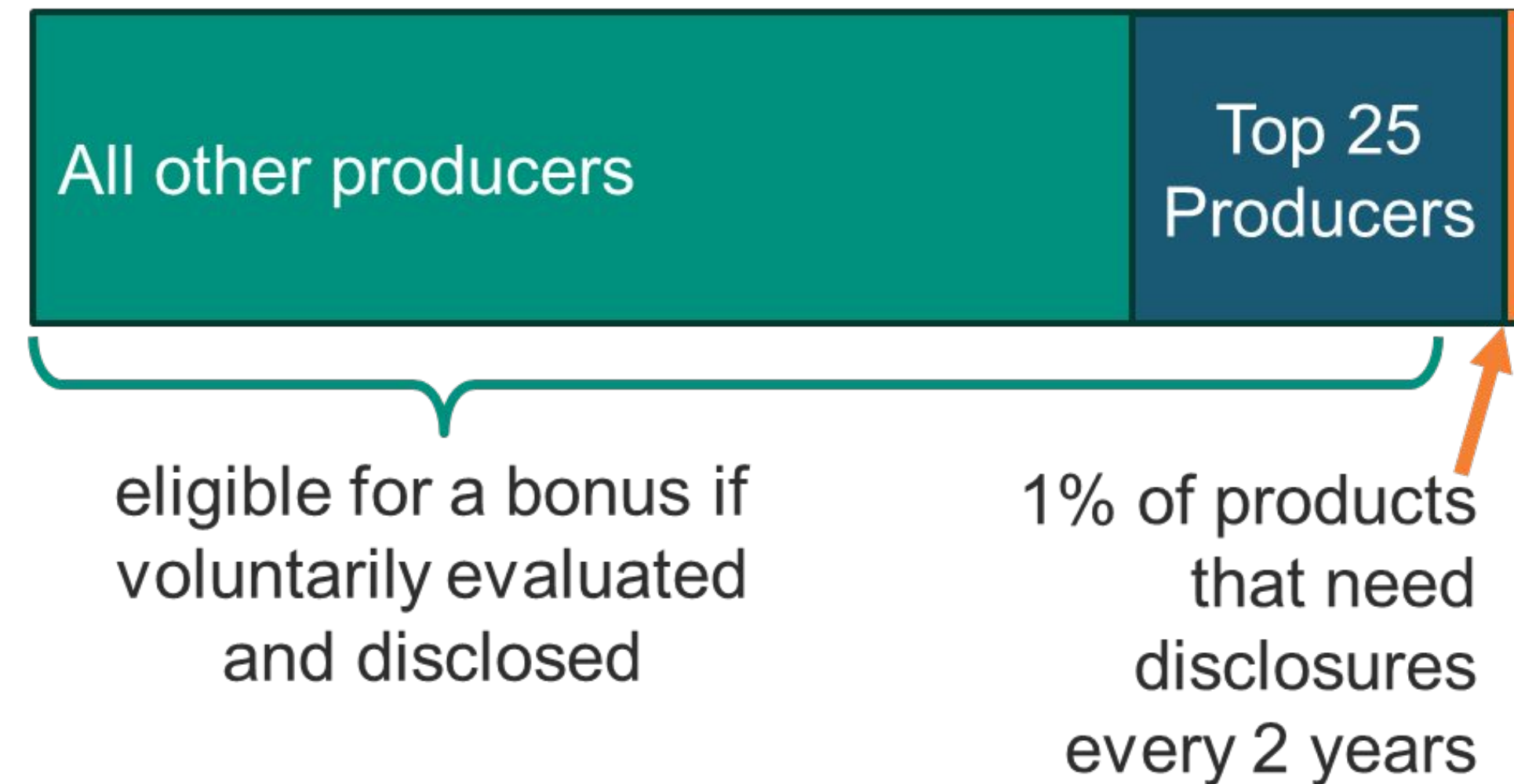
- Fee adjustments applied by the PRO to individual producers' (base) fees.
- PRO proposes criteria and magnitude of fee adjustments in its program plan, must continually incentivize reduction in environmental and human health impacts.
- Plan's proposed approach to eco-modulation must indicate consideration of five factors, including *evaluation and disclosure of life cycle impacts*.



# ECO-MODULATION/LIFE CYCLE ASSESSMENT: PROPOSED RULES

## Rules apply to...

- Top 25 producers that must disclose impacts for 1% of their products once every two years.
- These rules tell them how to define their 1%, the calendar for disclosure, and what to do for subsequent deadlines.
- PROs have to offer their member producers one bonus for simple evaluation and disclosure and a larger bonus for evaluation and disclosure that meets our threshold for substantial impact reduction.



# ECO-MODULATION/LIFE CYCLE ASSESSMENT

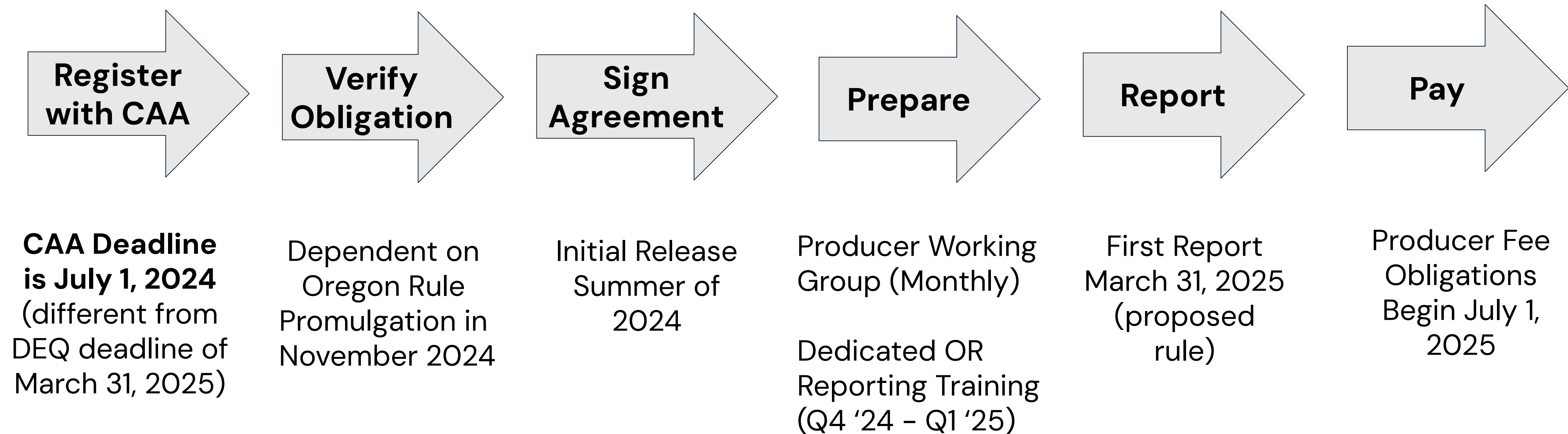
Impact Category Indicator	Seriousness Weighting	Robustness Factors	Intermediate Coefficients	Final Weighting
	(A)	(B)	C = A*B	C Scaled to 100
Climate change	14.41	0.87	12.54	21.24
Water use	10.88	0.47	5.11	8.66
Land use	10.16	0.47	4.78	8.09
Resources use, fossils	8.36	0.6	5.02	8.50
Resource use, minerals and metals	7.58	0.6	4.55	7.71
Ionizing radiation, human health	6.47	0.47	3.04	5.15
Ozone depletion	6.33	0.6	3.80	6.43
Particulate matter	6.2	0.87	5.39	9.14
<b>Plastic physical impact on aquatic biota</b>	5.88	0.17	1.00	1.69
Acidification	5.61	0.67	3.76	6.37
Photochemical ozone formation, HH	5.38	0.53	2.85	4.83
Eutrophication, freshwater	3.55	0.47	1.67	2.83
Eutrophication, terrestrial	3.3	0.67	2.21	3.75
Eutrophication, marine	3.29	0.53	1.74	2.95
<b>Plastic – other impacts</b>	2.61	0.60	1.57	2.65

# ECO-MODULATION/LIFE CYCLE ASSESSMENT

Additional Environmental and Human Health evaluation requirements, under which producers must:

- Report hazardous substances embedded in their products and any associated hazardous release, exposure, and/or alternatives assessments.
- Report any instances of non-compliance in any jurisdiction pertaining to customer health and safety.
- Cross-report EU sustainability reporting regarding material impacts of their packaging on affected communities.

# CAA's Producer Timeline



## Notes:

- A preliminary Oregon fee schedule will be released in September 2024
- Final first year fee schedule will likely be released in May 2025
- Signed agreements will be needed to allow for producer reporting

# Next Compliance Steps – Register with CAA

CAA's producer registration deadline is **July 1, 2024**.

Early producer registration will help:

- Reduce free riders in the system (i.e., non-compliant obligated producers);
- Provide CAA with more precise producer data to inform accurate and fair fee schedules.

Registration consists of filling out CAA's registration form, available through the link, QR code and our website. To ease producer compliance, CAA is working to register all producers in Colorado, California, and Oregon. At this time, there is no cost to register.

Scan the QR code or click the link to complete CAA's [covered producer registration form](#).

This is the first step in the producer registration process.



# Producer Services and Reporting



- CAA is developing guidance materials to provide reporting and compliance instructions to producers, anticipated by September 2024.
- CAA anticipates that reporting categories will be finalized in California and Oregon by July 30, 2024. Once reporting categories are finalized, CAA will be able to finalize reporting guidance for producers.
- The organization's IT team has started the development of the producer reporting portal.
- CAA is projecting that the producer reporting portal will be ready to receive producers' data in Q1 2025.

# Stay Engaged with CAA

## Producer Resource Center

- Producer resources page with FAQs, Producer Working Group information and other updates

## Monthly Newsletter

- The latest updates for each state and new resources

## Producer Working Group

- Next PWG: July 16, 2024
- PWG is now closed to producers that have not registered
- Topic – California Source Reduction, Colorado Program Plan

Scan the QR code or click the link to complete CAA's [covered producer registration form](#).

This is the first step in the producer registration process.



# WEBINAR SERIES: PREPARING PRODUCERS FOR OREGON PACKAGING EPR

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**Thank you!**



**PRODUCT  
STEWARDSHIP  
INSTITUTE**



**Circular  
Action  
Alliance™**



State of Oregon  
Department of  
Environmental  
Quality