

E-Commerce & Online Retail Packaging

**Oregon Department of Environmental Quality
Extended Producer Responsibility packaging law
September 10, 2024**



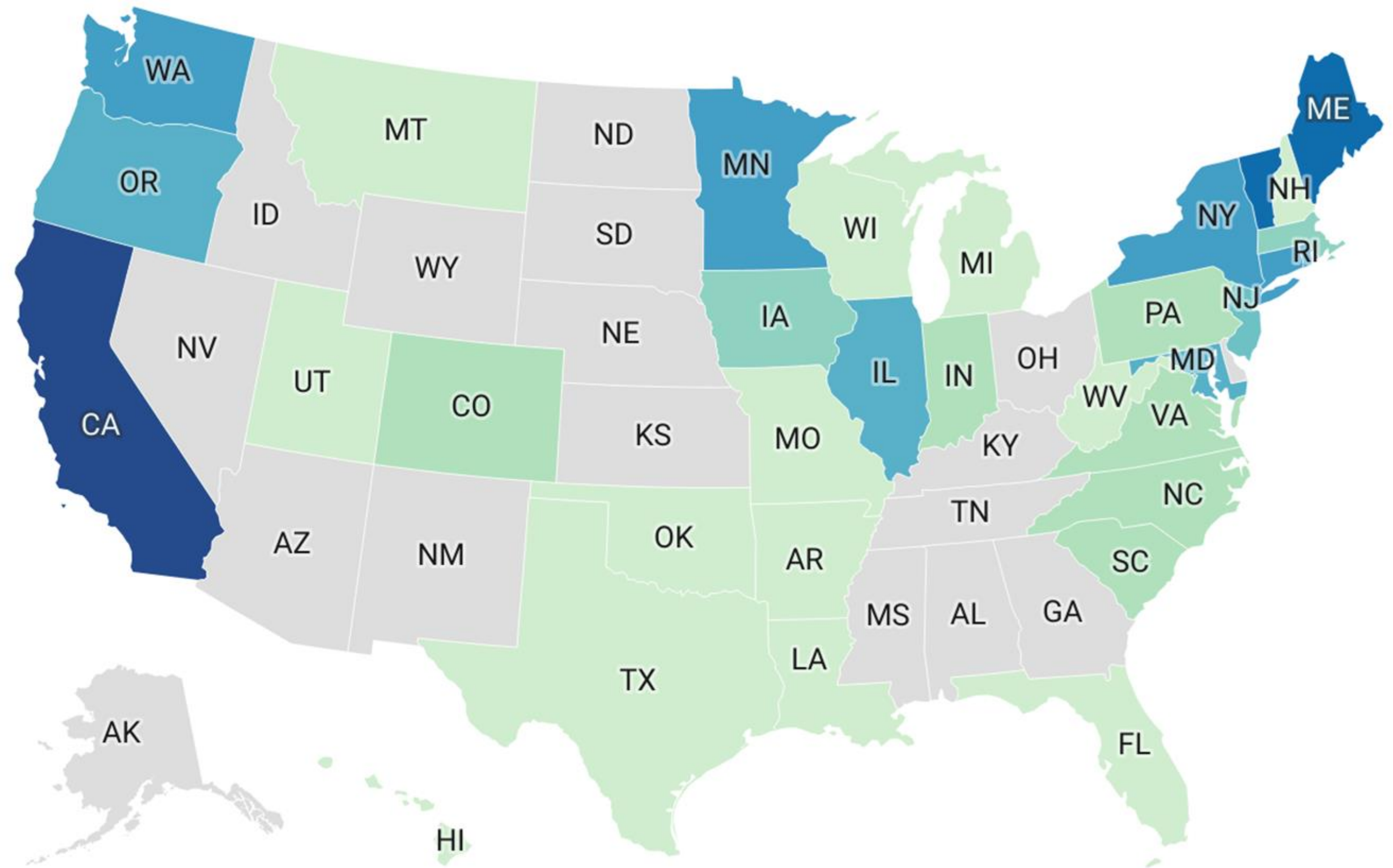
Who is Product Stewardship Institute?

- **National nonprofit:** 23 years
- **Focus:** Consumer products and packaging
- **Members:** State & local gov't'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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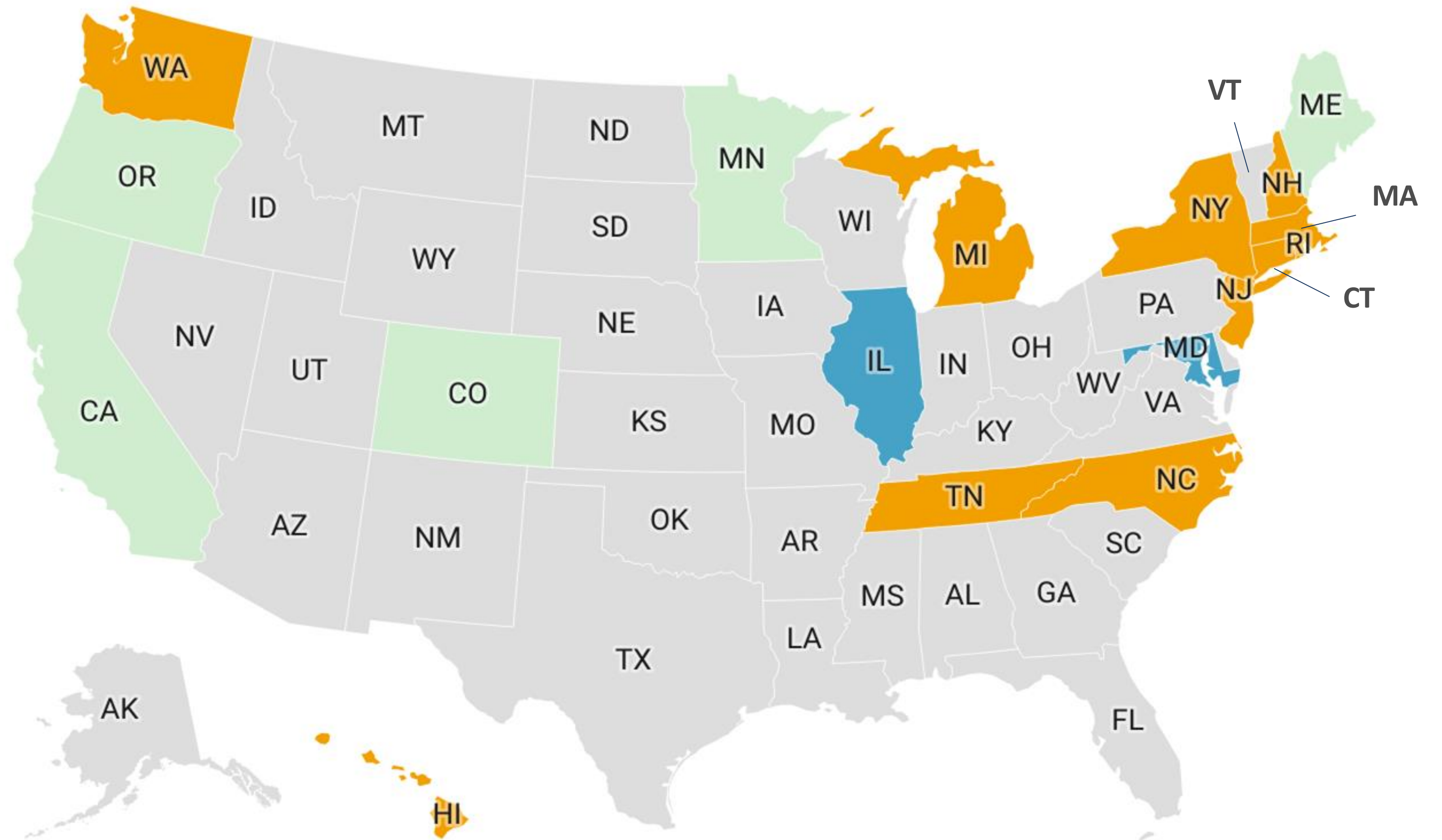
Number of State EPR Laws





U.S. PACKAGING EPR LAWS AND BILLS

5 LAWS

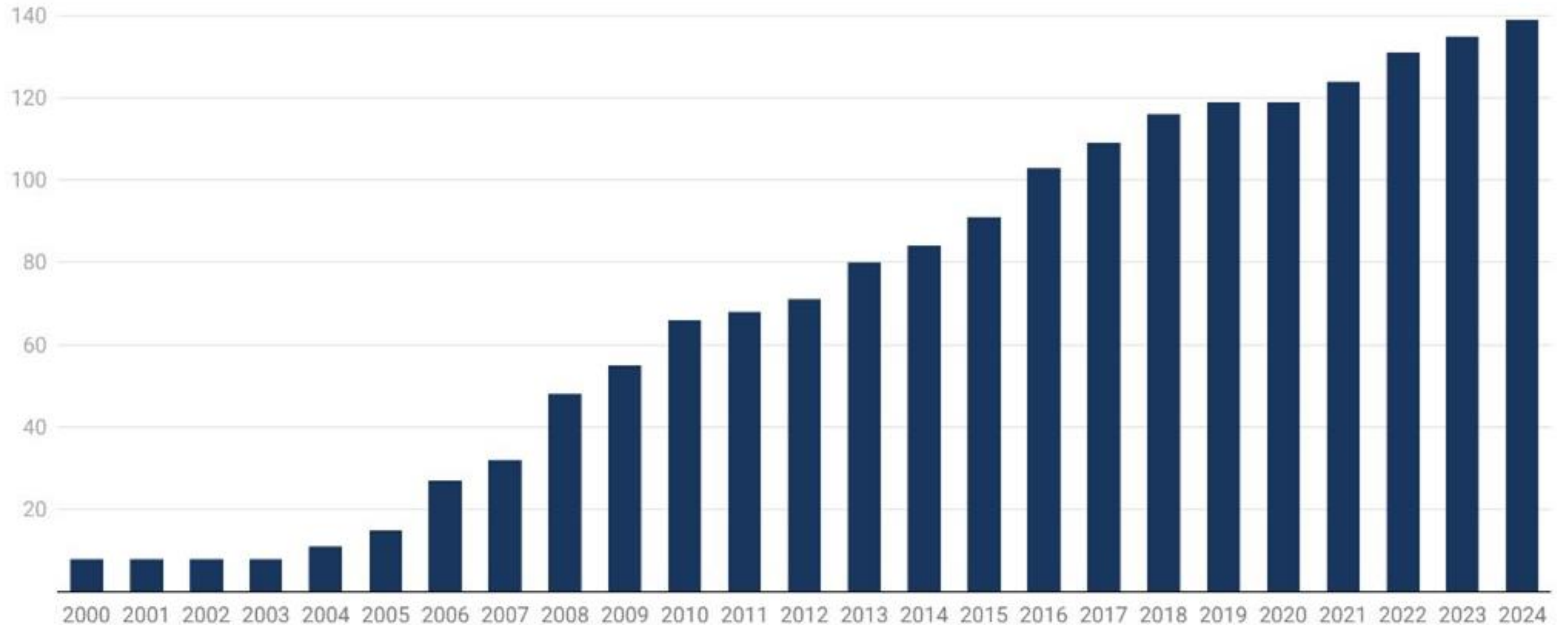


- Orange square: Packaging EPR bills 2023-2024
- Blue square: Packaging needs assessment laws enacted
- Green square: Packaging EPR laws enacted

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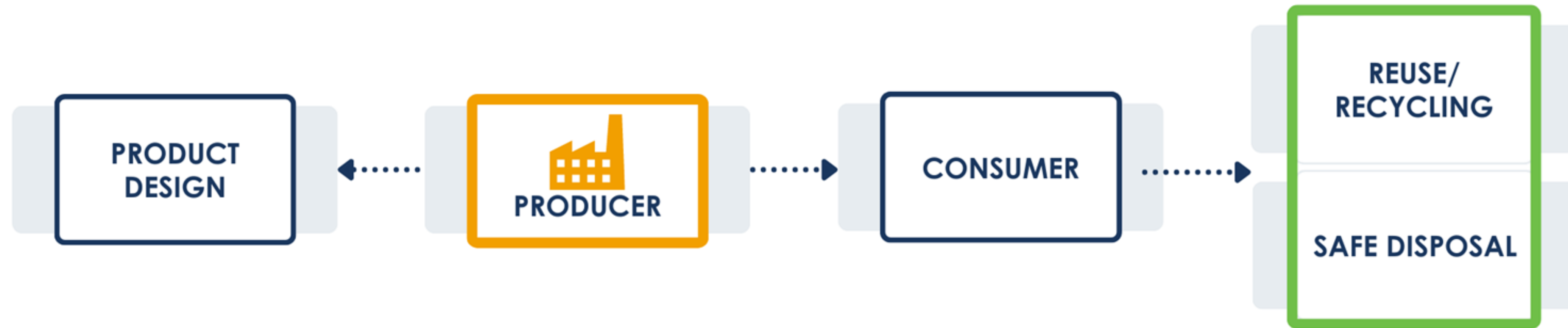
U.S. EPR LAWS SINCE 2000



↑
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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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:

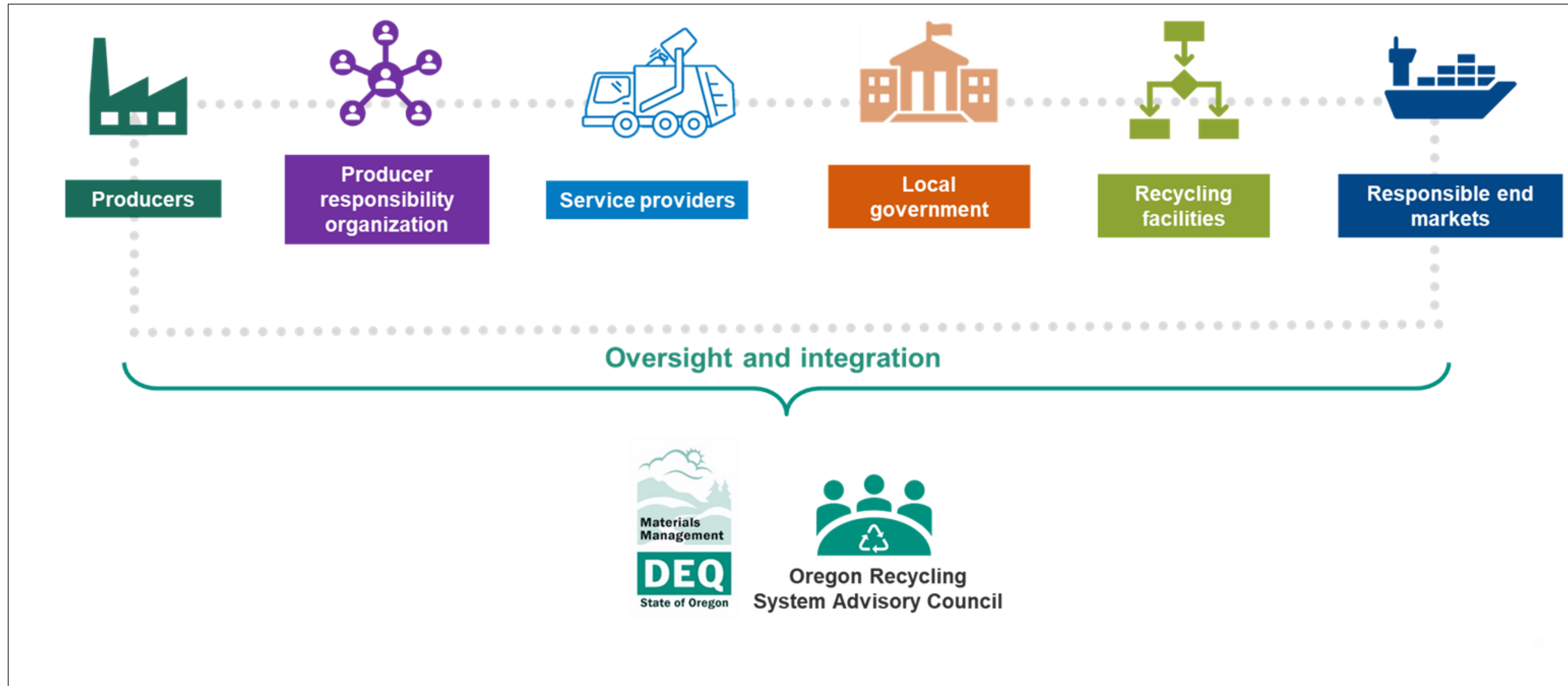
Enrolled Senate Bill 582 (SB 582-B) Page 1



OREGON'S ACT: HOW DID WE GET HERE?



SHARED RESPONSIBILITY MODEL





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

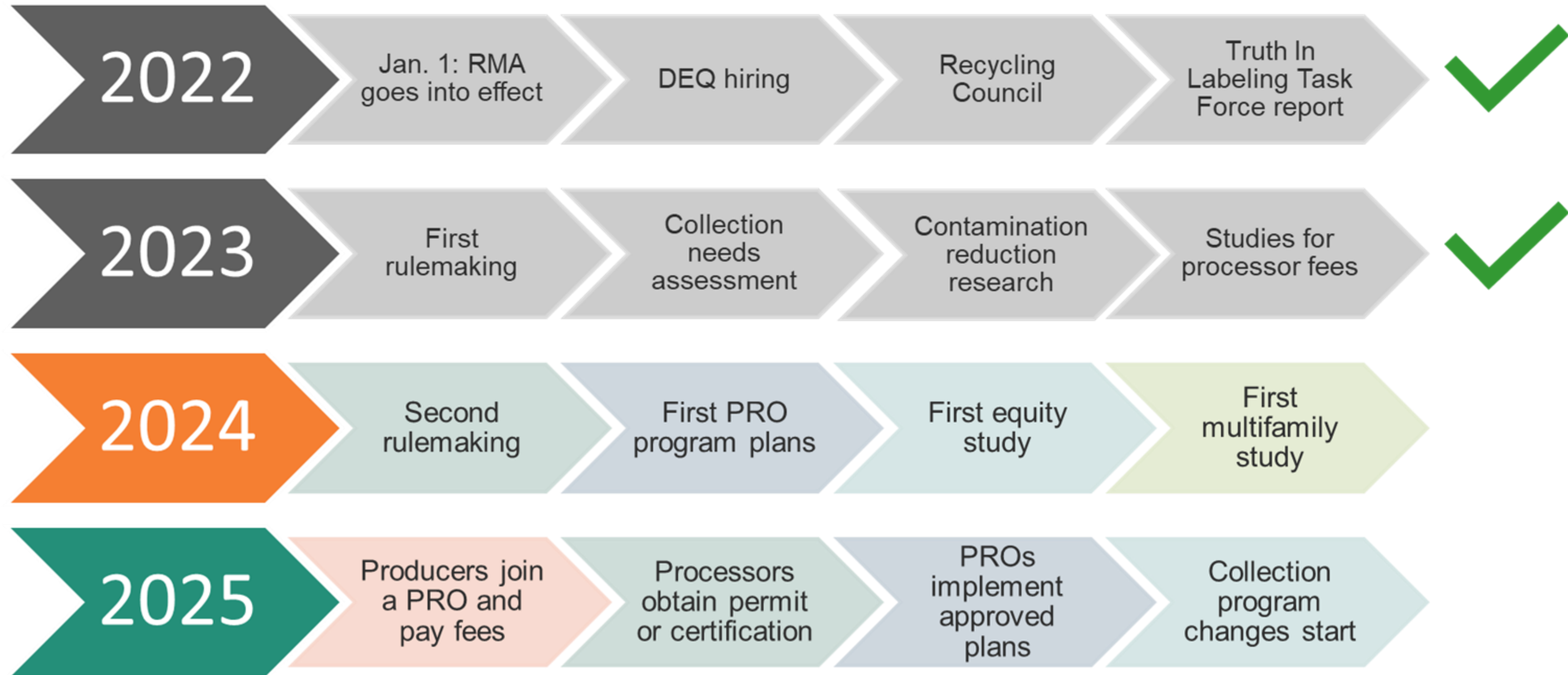
- Join a PRO
- Report data on product sold in or into the state
- Pay fees
- **Large Producers only** - Evaluate and disclose the environmental impacts of 1% of products every two years



ENFORCEMENT APPROACH

- Rules proposed as part of the current rulemaking:
 - 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

E-COMMERCE AND ONLINE RETAIL PACKAGING



WHAT DO WE MEAN BY E-COMMERCE?

Physical Retail



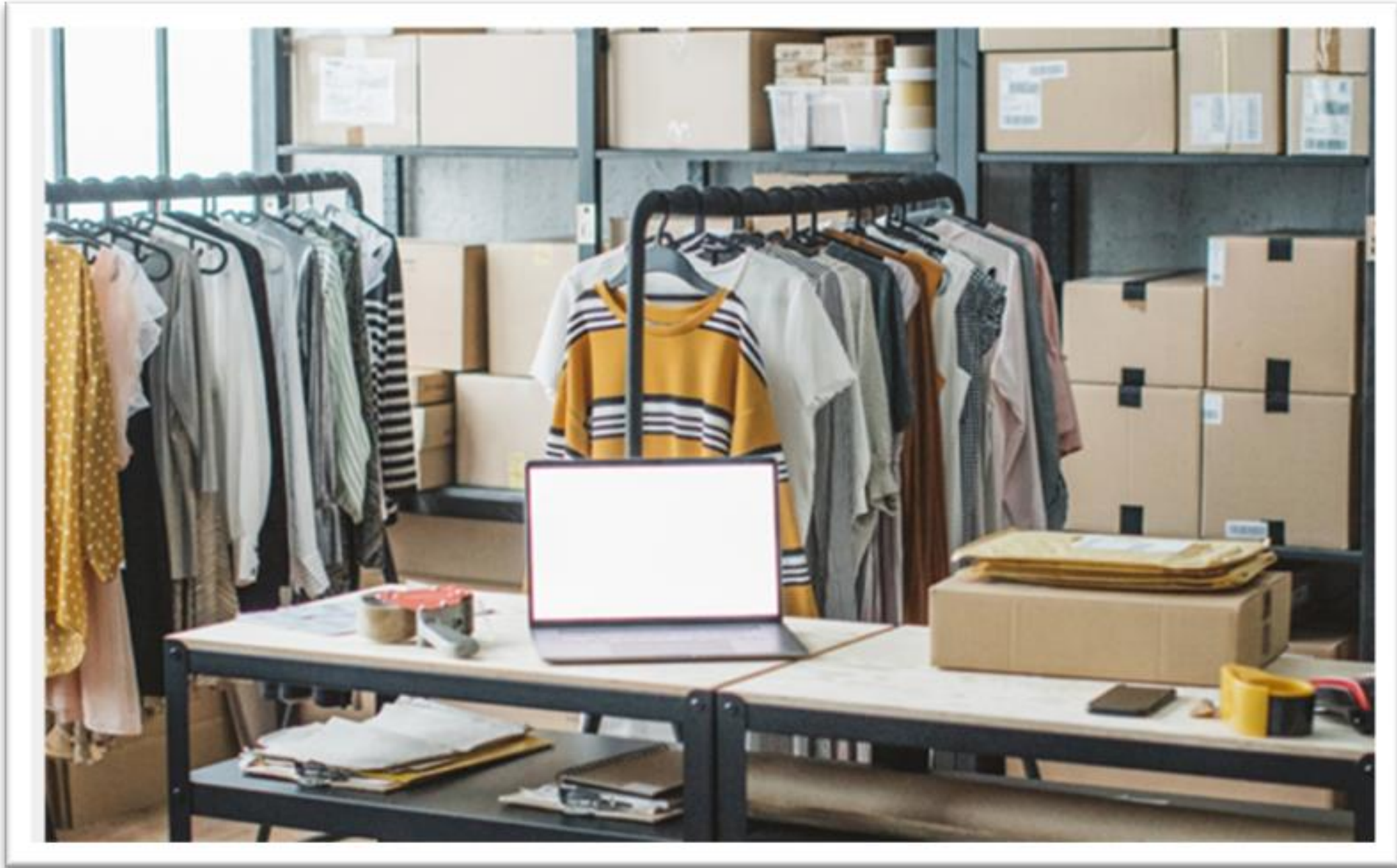
Remote Distribution



REMOTE DISTRIBUTION



Resident buys online



Business buys online

IS IT A COVERED PRODUCT?

459A.863(18)(a) "Packaging" means:



(A) Materials used for the containment or protection of products, including but not limited to paper, plastic, glass or metal or a mixture thereof;



(B) Single-use bags, including but not limited to shopping bags; and



(C) Nondurable materials used in storage, shipping or moving, including but not limited to packing materials, moving boxes, file boxes and folders.

THREE PROPOSED SUBCATEGORIES OF PACKAGING



Storage Items - an item purchased empty and used for storage of other materials.



Service Packaging - packaging that is filled at the point of sale for the purpose of transferring goods to a consumer.



Consumer Wraps – wraps sold directly to consumers.

DIFFERENTIATING COVERED PRODUCTS



Packaging (*storage item*)



Not a covered product



Packaging or Printing and Writing Paper
(*case specific*)



Packaging



Food serviceware



Food serviceware



Packaging

NOTABLE EXEMPTIONS

In statute



Proposed in rule



NOTABLE EXEMPTIONS (CONT.)



Trays that transport component parts to a manufacturer



Pallet wrap added by someone other than the obligated producer



Cores and wraps for packaging rolls used in manufacturing



Rigid pallets

NOTABLE EXEMPTIONS (CONT.) – NON-OTR RECYCLING

Three criteria for qualification –

- 1) Collected outside of Opportunity To Recycle
- 2) Not separated at a commingled recycling processing facility
- 3) Recycled at a responsible end market

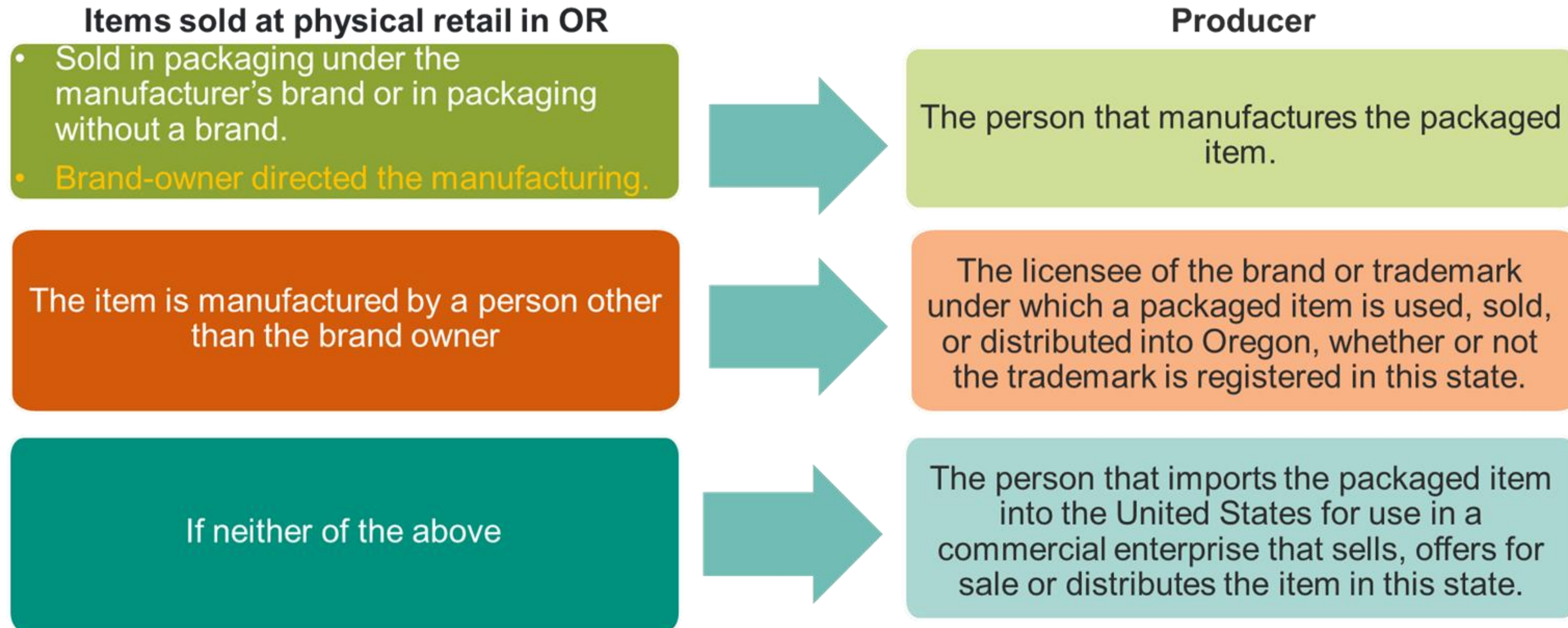
Exemption applies only to the proportion of a producer's product that meets all three criteria.



AM I AN OBLIGATED PRODUCER?

- Small producers are exempt (ORS 459A.863(32))
 - (32)(c) Gross annual international revenues under \$5 million (lumped across associated producers), –or–
 - (32)(d) Sells less than one metric ton of covered products onto the market in Oregon (lumped across associated producers)

PRODUCER DEFINITION FOR RETAIL PRODUCTS



--If no producer captured by any of the 3 tiers – distributor is obligated--

PRODUCER DEFINITION FOR REMOTE DISTRIBUTION

The producer of packaging used to ship an item to a consumer is the person that packages and ships the item to the consumer.



The producer of the inner product uses the same three tiers shown on the previous slide.



PRODUCER SCENARIOS



SCENARIO #1



Retailer A operates an online platform where consumers can buy groceries for home delivery.



Customer B orders groceries.



Retailer A packages the groceries and ships them for home delivery.

Who is the obligated producer?

The groceries individually have obligated producers identified according to the three-tiered definition. **Retailer A** is responsible for the shipping packaging used to deliver the groceries to **Customer B**.

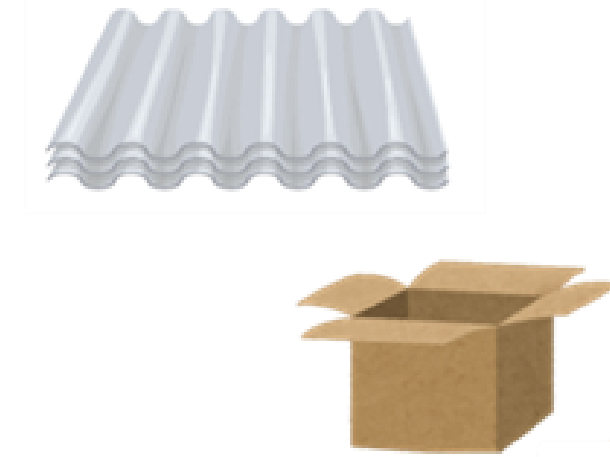
SCENARIO #2



Roofing manufacturer **Company A** manufactures roofing at its factory in the US under its brand.



Contractor B buys the roofing from Oregon-based home improvement **Retailer C** online.



Retailer C packages the roofing for shipping, and ships it to **Contractor B**.

Who is the obligated producer?

Tier 1 of the retail product producer definition applies to the roofing. **Company A** is responsible for the inner packaging containing it and tertiary transport packaging for shipping to the retailer. **Retailer C** packaged and shipped the roofing to the end user. **Retailer C** is responsible for any added shipping packaging.

SCENARIO #3



Furniture manufacturer and online retailer **Company A** produces furniture under its brand and sells the furniture through its e-commerce site.



Logistics **Company B**, co-located with Company A in the same business park, is contracted by **Company A** to package and ship the furniture to **Business C**.



Company B ships the furniture to end user **Business C**.

Who is the obligated producer?

Tier 1 of the retail product producer definition applies to the furniture. **Company A** is responsible for the inner packaging containing it. **Company B** is responsible for any added shipping packaging as it packaged and shipped the item to the end user (**Business C**).

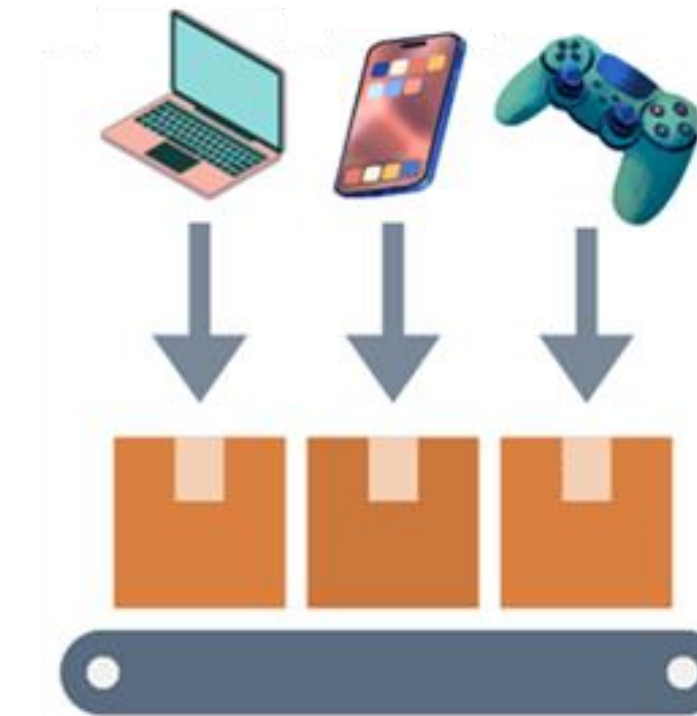
SCENARIO #4



Electronics manufacturer **Company A** produces and packages electronics under its brand.



E-commerce platform operated by **Company B** sells these electronics on its website.



Company B's fulfillment center in California packages and ships electronics directly to **Customer D**.

Who is the obligated producer?

Tier 1 of the retail product producer definition applies to the electronics. **Company A** is responsible for the packaging directly containing it. **Company B** is obligated for any added shipping packaging because it packaged and shipped the item to the consumer at its fulfillment center.

SCENARIO #5



Seller A produces pottery under its own brand.



E-commerce Platform B provides a marketplace for **Seller A** to list the pottery.



Seller A packages and ships the pottery directly to **Customer C**.

Who is the obligated producer?

Tier 1 of the retail product producer definition applies to the pottery. **Seller A** is responsible for both the inner packaging of the pottery, and for the shipping packaging, because it shipped and packaged the items.

MATERIAL LISTS

Uniform Statewide Collection List



Corrugated cardboard



Paperboard boxes



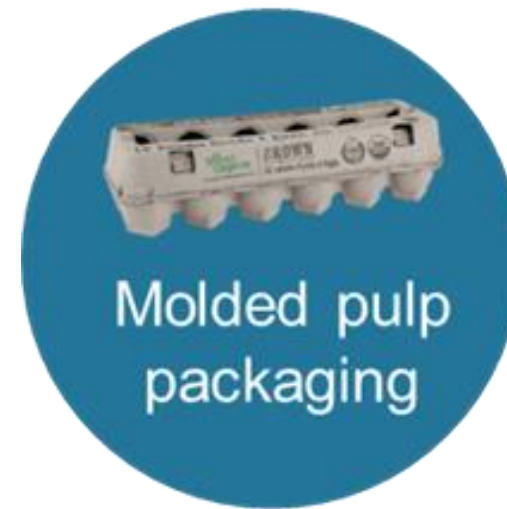
Kraft paper



Office and other paper



Paperback books, telephone directories



Molded pulp packaging



Tissue paper and gift wrap



Newspaper and magazines



Cartons



Plastic bottles



Plastic tubs



Nursery pots



Plastic buckets, and pails



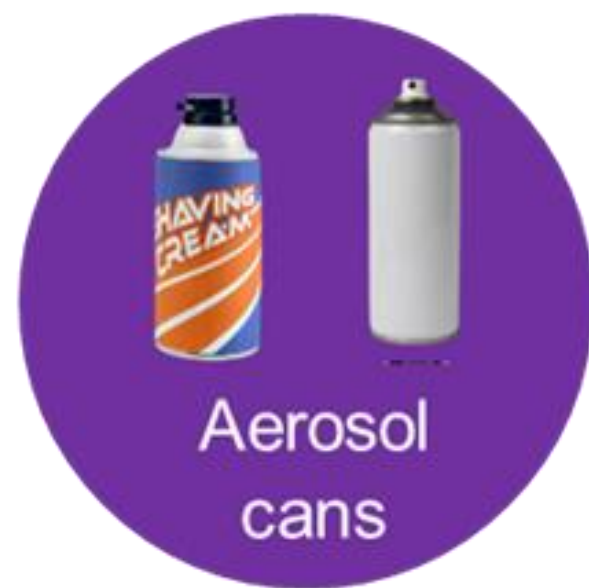
Aluminum and steel cans



Scrap metal

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

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
Plastic physical impact on aquatic biota	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
Plastic – other impacts	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.

ADDITIONAL ASPECTS OF THE LAW

- Permit program for Commingled Recycling Processing Facilities (CRPFs)
 - Outbound bale contamination standards
 - Material-specific capture rate targets
- Joint obligation on 1. PROs and 2. CRPFs to send materials sent to recycling to responsible end markets that are
 - Compliant
 - Transparent
 - Environmentally-sound
 - Achieving adequate yields



Producer Journey to Compliance



- Initial Registration (CAA deadline of July 1, 2024 has passed, but registration is still open today)
- Sign Participant Producer Agreement and Oregon State Addendum

- Review CAA reporting guidance to prepare data in Q4-2024
- Submit material supply data to CAA by March 31, 2025

- Utilize Sept 2024 program plan submission for fee estimates and internal budgeting
- Receive published fees in June 2025
- Receive invoices and pay fees in July 2025

Registration with CAA is non-obligating. The sooner producers register and sign an agreement with CAA, the more prepared they will be for reporting.

Producer Guidance & Resources



Ask your questions and get answers from CAA

- [Onboarding Sessions](#) for companies new to their EPR journey
- **[Producer Working Group \(PWG\)](#) for a more complex dive into producer compliance*



Review at your convenience

- [Producer Resource Center](#) for FAQs, action items, etc.
- **[Library of past PWG meeting summaries and slide decks](#)*



Get the latest updates

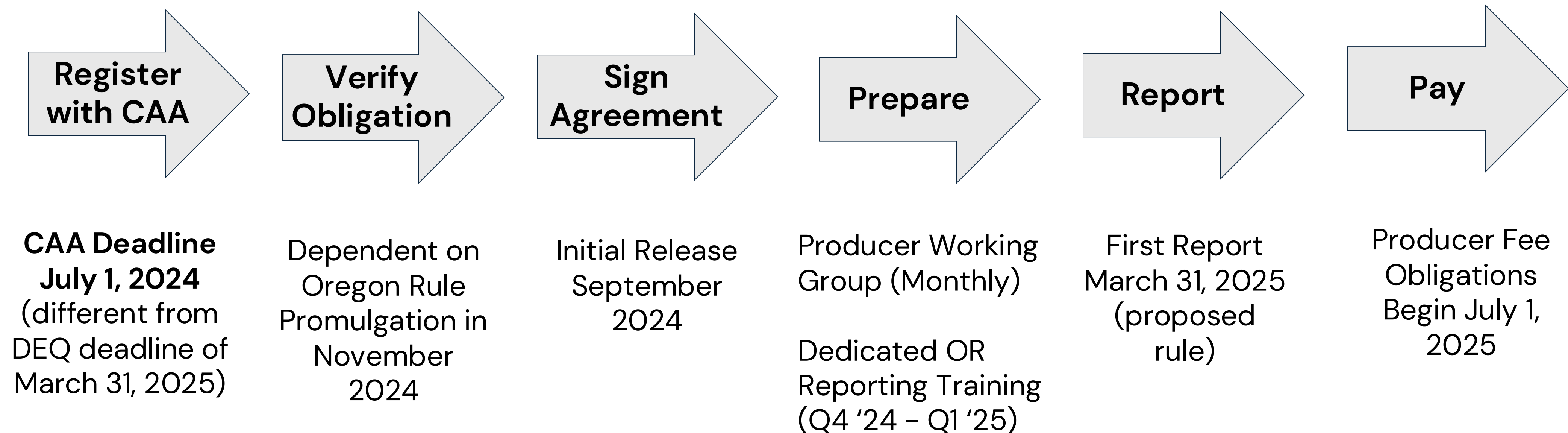
- Sign up for the [newsletter](#)
- Follow CAA on [LinkedIn](#)



Coming Soon:

- Producer Reporting Guidance – Q4 of 2024
- Fee Methodology FAQ – estimates in late September 2024

CAA's Oregon Producer Timeline



Notes:

- Final first year fee schedule will likely be released in May 2025
- Signed agreements will be needed to access producer reporting guidance and allow for producer reporting

Next Compliance Steps – Register with CAA

Regulations in Colorado require producers to register by **October 1, 2024**. CAA will also be required to provide the Oregon DEQ with a list of registered producers as part of CAA's revised program plan, due by September 27, 2024.

- Producers who are not registered with CAA in Oregon may be subject to enforcement actions.
- Registering with CAA in all states where you are obligated gives you access to regulatory updates and education and resources to support data preparation and reporting.
- Registering and reporting data helps CAA set accurate and fair fee schedules and reduce free riders in the system.

The registration form is available on CAA's website. There is currently no fee to register with CAA and a registration can be amended or canceled at any time, as needed.

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 detailed guidance materials to provide reporting instructions to producers.
- Producers can expect guidance materials to be released by Fall 2024. Producers will need to sign a legal agreement with CAA to access the guidance and CAA's reporting portal.
- CAA is working on 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: September 17
- Open to all registered producers, their legal counsel, and trade organizations
- Topic – Participant Producer Legal Agreement

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

Thank you!



**PRODUCT
STEWARDSHIP
INSTITUTE**



**Circular
Action
Alliance™**



State of Oregon
Department of
Environmental
Quality