



INTENTIONS FOR A PACKAGING AND PAPER PRODUCT PRODUCER RESPONSIBILITY POLICY FOR MICHIGAN

A Packaging and Paper Products (PPP) Producer Responsibility policy would require producers to take responsibility for recycling in Michigan. Producers would create an organization (Producer Responsibility Organization or PRO) to meet the performance requirements of the law on behalf of obligated producers. The PRO would assess fees on producers and uses those funds to reimburse municipalities or engage private service providers to ensure that all Michigan dwellings have recycling collection service that is as convenient as trash service. This policy framework provides a funding and governance mechanism to help the state achieve and exceed the objectives of [Part 115, Solid Waste Management](#), including achieving a minimum recycling rate of 30% by January 2029 and 45% by January 2035.

GOAL: Provide convenient recycling services to all residents throughout the state at no cost and

- Develop a clear common list of what can be recycled statewide
- Increase recycling rates and reduce GHG emissions
- Save money for state and local governments
- Support state businesses and local economies by recycling in-state
- Reduce unnecessary packaging and plastic waste

TABLE OF CONTENTS

| | |
|--|---|
| Regulatory Framework | 2 |
| Key Definitions | 2 |
| Obligated Producers..... | 2 |
| Role of State Government..... | 2 |
| Covered Material | 2 |
| Covered Entities | 2 |
| Collection Convenience..... | 2 |
| Recycling Rate Goals | 3 |
| Advisory Board | 3 |
| Membership of Advisory Board..... | 3 |
| Producer Responsibility | 3 |
| Producer Responsibility Organization (PRO)..... | 3 |
| Producer Responsibility Plan Contents | 3 |
| Financing Responsibilities | 4 |
| Funding Mechanism | 4 |
| Provision of Service | 4 |
| Requirements for PRO to Work with Service Providers | 5 |
| Role of Local Government | 5 |
| Reimbursement Rates | 5 |
| Producer Fee Structure | 5 |
| Education and Outreach | 5 |
| Annual Report | 6 |
| Other Requirements and Components | 7 |
| Needs Assessment | 7 |
| Right of First Refusal for postconsumer-recycled materials | 7 |
| Facility Reporting | 7 |
| Restriction on Consumer Fees | 7 |
| Rulemaking | 7 |
| Program Timeline | 7 |

REGULATORY FRAMEWORK

KEY DEFINITIONS

A PPP Producer Responsibility bill will include or reference clear definitions for a number of terms to ensure clarity of intentions including, but not limited to; producer, recycling, compost, collection rate, recycling rate, recycling service provider, and each covered material category.

OBLIGATED PRODUCERS

The obligated entity is the producer of packaging and paper products, sold or distributed in the state greater than the de minimis amount. Producers pay fees on all designated packaging and paper products sold in the state, regardless of whether it is recycled, composted, or disposed of, although the fees are used to fund recycling collection, processing, education and other related activities. The producer definition follows this hierarchy and should clearly include remote / online sales:

- Brand owner / manufacturer of covered materials.
- Retailers.
- The licensee of a brand or trademark.
- The franchisor for which a franchisee operates in the state.
- The importer of a covered material, either by direct distribution or online sales.

Non-obligated producers are those entities with less than five million dollars in gross total revenue in the U.S. (de minimis) during the prior calendar year or has sold or distributed less than one ton of covered material within or into the state during the prior calendar year.

ROLE OF STATE GOVERNMENT

The state regulatory authority has two key roles in program governance, as reflected in the enabling legislation:

1. Ensure a level playing field among the obligated producers; and
2. Monitor overall compliance and progress toward the goals of the program. To ensure a level playing field, the statute should require producers to register with the Producer Responsibility Organization (PRO), which subsequently reports all registered producers to the state agency. If the PRO chooses to collaborate with the state agency to identify producers who are not registered, the state can initiate compliance actions and, if necessary, enforcement activity. The specific penalties for non-compliance may be stipulated in the implementing statute or may stem from the state agency's broader enforcement authority. To ensure program effectiveness, the state agency will review and comment on the PRO plan and ultimately approve the PRO plan prior to program initiation, pursuant to the timeline established in the legislation. The state agency will also review annual program reports to monitor progress, and where necessary, stipulate corrective actions that must be taken by the producers or the PRO to bring the program into compliance with the goals of the plan or the statutory requirements.

COVERED MATERIAL: WHICH PRODUCTS ARE AFFECTED UNDER THE PROGRAM

Covered material includes but is not limited to packaging, single-use products, and packaging-like materials for products intended single or short-term use and used for the containment, protection, transportation, delivery, or handling of consumer products. Covered material also includes other printed paper products like flyers, brochures, booklets, mail, magazines, and writing paper. Covered material does not include bottle deposit materials; paper products and single-use products that, through their use, could become unsafe or unsanitary to handle including household hazardous materials and materials regulated by the Insecticide, Fungicide, and Rodenticide Act; medical waste; bound books; and, packaging material used exclusively in industrial or manufacturing processes.

COVERED ENTITIES: WHO RECEIVES RECYCLING SERVICES

The program launch includes all residentially generated covered materials (single and multi-family curbside services and drop-off centers). The program will be expanded over time to phase in nonresidential locations such as public places, small businesses, schools, hospitality locations, and state and local government buildings.

COLLECTION CONVENIENCE STANDARDS

- All covered products included in the statewide list are collected through a system that is, at minimum, as convenient as trash collection.
- Communities that do not have curbside collection access may be serviced by other means (e.g., drop-off centers).

RECYCLING RATE GOALS

The recycling rate for this policy is a measure of covered material recycled divided by covered material recovery rate sold in the state. While states may have a recycling rate and other performance goals already in statute, a statewide needs assessment will demonstrate how the state's current system is performing in regards to covered materials and outline the path forward for reaching statewide goals along with the estimated costs of doing so. Recycling rate will be measured as outbound tons as the MRF or similar facility.

ADVISORY BOARD

Advisory boards provide feedback and technical expertise to both the state agency and the PRO. The department may select an impartial, third-party facilitator to convene and provide administrative support to the advisory board.

Responsibilities of the board include reviewing and providing recommendations related to:

- The needs assessment (and subsequent needs assessments).
- The program plan (and program plan amendments).
- Annual reports and any other program reports.
- Ongoing program evaluation to identify issues that are inhibiting program success and identify necessary course corrections.

MEMBERSHIP OF ADVISORY BOARD

The advisory board could consist of stakeholders appointed by the director representing (a/an):

- Local government (or association) – should include urban, suburban, and rural representatives
- Materials recovery facility
- Recycling service providers
- A packaging material supplier that is not a producer
- Trade association, chamber of commerce, or other business advocacy organization representing businesses
- Retailer's association or a retailer that is not a producer
- Representatives from materials-focused trade associations
- Compost facility
- Nonprofit recycling organization
- Organization addressing environmental justice and representing underserved communities
- Environmental advocacy organization
- Board members should be based within the state when feasible.

The PRO and state agency are non-voting members of the board.

PRODUCER RESPONSIBILITY

PRODUCER RESPONSIBILITY ORGANIZATION (PRO)

The primary obligation of the PRO is to meet the performance requirements of the law on behalf of obligated producers. The PRO must:

- Be an independent non-profit registered as a 501c3.
- Have a governing board that represents a diverse range of producers by size and type as well as different types of covered materials.

While the initial law should mandate one PRO, additional PROs may be designated after the completion of the first planning period, starting five years after the program starts. A coordination plan will be required if there are multiple PROs.

PRODUCER RESPONSIBILITY PLAN CONTENTS

The PRO plan shall:

- Include contact information for the organization and a representative of the organization.
- Select an independent contractor to conduct the execution of a statewide needs assessment.
- Define annual program needs based on the needs assessment.
- Develop a program plan to achieve statutory goals and those set by the PRO (every 5 years).
- Describe how the plan proposal will address and implement the findings of the needs assessment.
- Describe how the organization solicited and considered input from the public, stakeholders, and the advisory board in developing the plan proposal.

- Describe how the organization will notify affected producers of their obligations.
- Describe how the organization will track compliance among producers and will collaborate with the department to bring producers into compliance.
- Include a comprehensive list of the covered materials included in the program.
- Maintain communications with the public and stakeholders through webinars, social media, public meetings, and direct outreach.
- Establish recycling practices that:
 - Meet or exceed the convenience standards.
 - Use open, competitive, and fair procurement practices when entering into contracts with service providers.
 - Ensure that any covered materials collected for recycling will be transferred to a responsible end market.
 - Use environmentally sound management practices.
- Establish a budget, funding mechanism and set fees for producers based on the program plan execution.
- Include reimbursement rates of 100 percent of net collection and recycling services.
- Describe the process to develop, evaluate and revise the objective cost formulas as necessary and using documented costs.
- Disburse funds to eligible entities.
- Describe how the organization will set and verify minimum postconsumer-recycled-content rates for each packaging material category based on feasibility, or inadequate supply, and propose a mechanism to issue waivers.
- Develop metrics and strategies to increase the use of reusable and refillable packaging.
- Set interim targets for the minimum collection rates and recycling rates for each material type for each year of the plan.
- Describe how the organization plans to continue to increase the minimum collection rates, minimum recycling rates, and minimum postconsumer-recycled-content rates after January 1, 2030, and January 1, 2035.

FINANCING RESPONSIBILITIES

A core function of the PRO is to determine the necessary annual program expenses based on the needs assessment and reasonable costs of delivering services, allocate those expenses through the setting of fees (eco-modulated to reflect program priorities), and disburse the funds to achieve the program objectives. To facilitate the collection of fees, the organization must develop a procedure for producers to submit required sales and related data, fee setting formula, and fee remittance procedures. The organization must also develop the operating agreements with service providers, determine granting and financial transfer mechanisms to fund the activities and investments required to implement and operate the program, and implement auditing procedures to ensure that state-specific reporting, particularly on financial transactions, is accurate. Producers are to establish an objective formula to reimburse 100% of the net recycling services costs of public and private recycling service providers performing services under the program.

FUNDING MECHANISM

The producer responsibility program fees must vary by the type of covered material, whether or not the material is readily recyclable, and be based on the net collection and recycling services costs for each covered material in the state. The organization may use up to five percent of the producer responsibility fees collected from producers for administration of the program, over the terms of the program, in accordance with generally accepted accounting principles. Fees should be sufficient to cover the direct and indirect costs of implementing the program, including the costs of:

- Conducting the Needs Assessment.
- Developing and updating the final plan.
- Providing recycling services under the program through contracts with service providers or reimbursement of municipal recycling services costs.
- Developing and implementing statewide education and outreach programs.
- Meeting the reporting requirements.
- Reimbursement of the department's costs to administer and implement the program, including the costs of the advisory board and oversight and enforcement.

PROVISION OF SERVICE

The PRO is to ensure that the collection convenience requirements are met. It can do so through contracting with private service providers (haulers) or reimbursing municipalities that continue to provide service directly or contract with a service provider.

REQUIREMENTS FOR PRO TO WORK WITH EXISTING SERVICE PROVIDERS

In the plan, the PRO is to describe how it will utilize and expand on existing recycling services, infrastructure, and education and outreach programs. This should be based on the baseline established in the needs assessment and be connected to goals and targets set by the PRO.

ROLE OF LOCAL GOVERNMENT

The law does not require local governments to provide recycling services or participate in the program. Local governments may choose to provide recycling services to their residents and be reimbursed by the PRO. This includes local governments that wish to continue operating curbside recycling programs or drop-off centers.

The program plan will include an objective cost reimbursement formula and will describe the process to evaluate and revise the formulas as necessary and using documented costs, include a schedule of reimbursement rates for service providers that elect to participate in the program.

REIMBURSEMENT RATES

The reimbursement rate formulas for local governments and service providers proposed in the plan are to be:

- Calculated using an objective cost formula or formulas
- Incorporate the relevant cost information identified by the needs assessment
- Calculated on a per unit basis such per household, or other unit of measurement, and take into account:
 - Regional recycling services costs
 - Population density
 - The number and types of households served
 - The collection method used
 - The revenue generated from covered materials
 - The amount of inbound contamination and other factors affecting the quality of covered materials
 - Other demographic factors identified in the needs assessment

PRODUCER FEE STRUCTURE

Producer fees should provide sustainable funding for infrastructure, education and outreach, and operations, including collection and processing, that will improve residential recycling and advance a circular economy for all residents.

The fees paid by producers are to be based on weight of the covered materials placed on the market in the state and, for each material, must be based the costs to collect, transport and process that material and must consider commodity market value. Producer fees should be proportional to each material's impact on net system costs and should be eco-modulated to drive improved recycling system performance and environmental outcomes. Modulated fees are required that lower producer's fees through criteria such as reduction in packaging material used, amount of recycled content, innovations to enhance recyclability.

or

commodity value, designs for reuse and refill, and high recycling and reuse rates. The PRO must modulate fees so that higher fees are paid for designs that increase recycling, composting and reuse costs, or create disruptions to recycling system. The PRO is to adjust fees paid by participating producers based on factors that affect system costs.

At a minimum, charges shall be variable based on:

- Costs to provide recycling services consistent with the convenience standards, including curbside collection from residential dwellings or alternative collection services such as drop off locations.
- Costs to process covered materials or products for acceptance by secondary material markets.
- The commodity value of a covered material or product.

EDUCATION AND OUTREACH

The PRO shall develop and implement a statewide education and outreach program that is designed to increase the recycling and reuse of covered materials and includes education and outreach on:

- Proper end-of-life management of covered materials
- The location and availability of recycling services under the program; and
- How to prevent litter of covered materials.

The education and outreach program must, at a minimum:

- Provide clear and concise recycling instructions about covered materials that are consistent statewide and accessible for all demographic groups.
- Coordinate with existing recycling education materials and services provided throughout the state.
- Be designed to help the state achieve the minimum collection rate and minimum recycling rate targets established and reduce levels and impacts of inbound contamination from covered materials at materials recovery facilities and compost facilities.

The organization shall consult with the advisory board and other entities providing recycling education in the state on the development and distribution of education outreach services and materials.

ANNUAL REPORT

The PRO must submit an annual report that includes a detailed description of the progress toward each element of the final program plan including:

- Contact information for the producer responsibility organization.
- A list of all the participating producers, brands, and covered materials covered by the final plan.
- A list of producers that are not participating in the program and any producers that may be out of compliance with one or more obligations.
- The total weight of each type of covered materials that are sold or distributed in the state.
- The total weight of each type of covered material that is collected and managed by the program, with the data broken down by:
 - Means of collection
 - The number of covered entities, by type and by county, serviced through curbside collection.
 - Material collected by county.
 - The method used to handle the collected covered material.
 - Material collected by drop-off facility.
- An evaluation of success and challenges in achieving the collection convenience requirements
 - The recycling rate, collection rate, and postconsumer-recycled-content rate for each type of covered material and a description of the organization's process in achieving the minimum rate targets set forth in the final plan.
 - The rate schedules for reimbursement to service providers, and any proposed adjustments to the rate schedules.
- A description of the education and outreach efforts to consumers:
 - A description of the organization's efforts to ensure that covered materials have been responsibly managed and delivered to responsible end markets under the program.
 - A list of the recycling end markets of any covered materials, and, if the covered materials are processed through a method other than mechanical recycling, the list must include:
 - A description of how the method will affect the ability to recycle the covered material into feedstock for the manufacture of new products.
 - A description of how the method will increase the types and amounts of recycled plastic for food and pharmaceutical-grade packaging and applications.
 - A description of any applicable state and federal air, water, and waste permitting compliance requirements for the method.
 - An analysis of the environmental impacts of the method compared to the environmental impacts of disposing of the materials as solid waste.
- A copy of an independent third party's audit report.
- The PRO's cost and revenues, including an updated budget and any updates to the fee schedule necessary to ensure the revenues are sufficient to cover the full costs of implementing this program in the upcoming year.
- Any amendments to the final plan submitted to the advisory board.
 - Any updates to the minimum recyclable list in response to recycling collection and processing improvements and changes in recycling end markets.
- A description of the advisory board's feedback on any amendments to the final plan.

OTHER REQUIREMENTS AND COMPONENTS

NEEDS ASSESSMENT

In order to set achievable targets to increase recycling, the PRO will conduct a needs assessment. The Needs Assessment will be informed by County Materials Management Plans and state reporting on gaps. The Needs Assessment is required to identify how the goals of the program will be achieved through an analysis of the factor, such as:

- Service availability and gaps in recycling and composting services to residents (single-family and multi-family) throughout the state and the prices paid for services.
- Actual recycling and compost services costs incurred by public and private service providers to provide services for residents.
- Demographic factors and other variables to be considered in the development of reimbursement rates for service providers.
- Levels of contamination at materials recovery facilities and compost facilities throughout the state and the impacts of contamination on those facilities.
- Identification of education and outreach needs and strategies.
- Processing capacity and infrastructure needed for the program to meet or exceed the program goals on the recycling rate and collection rate of covered materials.
- A proposed list of covered materials for inclusion in the minimum recyclable list and additional materials that may be collected in different geographic areas through curbside services or drop-off centers.
- Market conditions and opportunities for the use of recycled covered materials in the state.

Future needs assessments will include a study to determine how to expand the program to designated nonresidential properties, including small businesses, government buildings, and public spaces.

RIGHT OF FIRST REFUSAL FOR POSTCONSUMER-RECYCLED MATERIALS (OPTIONAL)

In the plan, the PRO is to describe how the organization will provide producers with the opportunity to purchase postconsumer- recycled materials from processors at fair market prices.

FACILITY REPORTING

Each materials recovery facility and compost facility shall report annually to the department and the PRO on the following:

- Contamination levels.
- Incoming and outgoing weight of covered materials.
- A list of incoming material sources, and outgoing material destinations that receive covered material by type of material and weight.

RESTRICTION ON CONSUMER FEES

A person shall not charge any kind of point-of-sale or point-of-collection fee to consumers to recoup its costs.

PROGRAM TIMELINE

Year 1State convenes Advisory Board.

PRO selected.

PRO contracts for Needs Assessment.

Year 2Needs assessment finalized.

PRO develops plan.

Year 3Advisory Board reviews PRO plan.

Environment, Great Lakes and Energy (EGLE) approves plan to meet goals.

PRO implements plan.

Year 4 (end).....First annual report due.

Year 5Additional PROs may be designated.

PRO to update Needs Assessment (every five years thereafter).