

U.S. PLASTICS PACT

SUPPORTIVE POLICIES

2022



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Policy & The Pact Workstream: Supportive Policies

PURPOSE:

This paper is intended to be a resource for U.S. Plastics Pact (U.S. Pact) Activators and U.S. Pact Workstreams as the U.S. Pact develops consensus-driven policy suggestions. The intent of this document is to be an educational resource for U.S. Pact Activators. It provides a description of policies the U.S. Plastics Pact workstream believes are necessary for national progress toward the established U.S. Pact targets. It is also meant to provide additional detail to the U.S. Pact's Roadmap policy references. **This is not an exhaustive list or endorsement of specific policy proposals.**

The U.S. Pact views policy as an integral pillar of change that can enable national progress toward the U.S. Pact's four targets:

- 1 Define a list of packaging that is problematic or unnecessary by 2021 and take measures to eliminate items on the list by 2025.
- 2 100% of plastic packaging will be reusable, recyclable, or compostable by 2025.
- 3 Undertake ambitious actions to effectively recycle or compost 50% of plastic packaging by 2025.
- 4 Achieve an average of 30% recycled content or responsibly sourced biobased content by 2025.

The U.S. Plastics Pact's Policy & The Pact Workstream outlines three key policy mechanisms as important pathways to help create a circular economy and change the landscape for managing plastic in the U.S. These policies are as follows: extended producer responsibility (EPR), deposit return systems (DRS), and postconsumer recycled content (PCR) mandates. These programs, designed using global best practices for EPR and DRS, can overhaul our linear system, integrate greater consumer access, produce strong environmental outcomes, and create financial efficiencies. The legislative design and architecture of these programs is critical to their success. EPR, DRS and PCR content mandates alone will not address all the challenges associated with creating a circular economy for plastics and managing plastics waste. Creating and sustaining a true circular system requires the participation of all stakeholders from producers to governments, NGOs, haulers, MRF operators, processors, and consumers.

Target 3 calls the U.S. Pact to support ambitious actions to dramatically increase the recycling or compost rate for plastic packaging in the U.S. New policies would immensely support the systems-wide change required to meet a 50% recycling rate for plastic packaging in the U.S. The supply of PCR plastics generated through an increased recycling rate would better enable the U.S. Pact to meet its **Target 4** obligations to dramatically increase the average use of PCR content or biobased content (*demand*).

EXTENDED PRODUCER RESPONSIBILITY (EPR)

Roadmap to 2025 Reference Language:

Support extended producer responsibility (EPR) for all packaging as an opportunity to finance and improve collection and sortation programs for all recyclable packaging (not plastic alone), enabling the incentives to design for recyclability (via eco-modulation), and the ability to recycle greater amounts of quality materials.

- EPR refers to mandatory, fee-based extended producer responsibility programs for packaging and paper products, described by the Organisation for Economic Co-operation and Development as “an environmental policy approach in which a producer’s responsibility for a product is extended to the postconsumer stage of a product’s lifecycle.”
- EPR can provide necessary and sufficient funding and operational control to optimize recycling, directing dedicated funding for collection, sortation, processing, infrastructure, promotion, and education.
- Reuse and composting are valid end of life applications, and discussions continue as to how best they may be included in EPR programs.
- EPR should be designed so that each material pays its own net costs and does not subsidize other materials, and include eco-modulation of fees, based on environmental criteria, and the environmental performance of packaging design. This could include bonus/malus modulation for the incorporation of recycled content.
- EPR programs, including collected fees, disbursed funds, program productivity rates and covered products should be publicly transparent. Before recycling targets are established a needs assessment should be funded by the producer responsibility organization (PRO) to determine how the recycling or potential composting targets will be met and any associated costs, including infrastructure needs.
- Fees may only be used for recycling system costs and investments, unless the legislation has expanded scope, to address composting, reuse, or litter abatement. Government reimbursement for rulemaking and oversight costs are included in assessed program fees.
- The program, in fee assessment and program objectives, should incorporate environmental and social equity principles.
- A non-profit PRO should manage program funding, fee allocation and disbursement, implement system changes, fund operations that meet program standards and arrange for services through municipal reimbursement, direct contracting, or both.
- A designated government agency, in consultation with a knowledgeable stakeholder advisory group, evaluates and approves the PRO’s plan for achieving goals, monitors and verifies progress, provides oversight, and conducts enforcement.
- Producers should have access to recycled materials at market prices to ensure a closed loop system. End markets for recyclable materials should prioritize and reward the highest and best use of recycled materials.
- EPR alone is not a sufficient response to the significant barriers that inhibit the creation of a circular economy in the U.S. Many other stakeholders have additional roles to play in creating and sustaining a circular economy for plastics packaging in the U.S.

DEPOSIT RETURN SYSTEMS (DRS)

Roadmap to 2025 Reference Language:

Support deposit return systems (DRS), working in parallel with EPR or separately as needed, to drive increased participation in recycling programs, expanded infrastructure, and higher material quality.

- DRS programs should be operated with accountability for meeting recycling targets, transparency, program objectives, and funding responsibility.
- All containers (e.g., metal, glass, or plastic) should carry a uniform deposit.
- A non-profit DRS PRO, made up of deposit initiators (producers, distributors, and private-label retailers) should coordinate the design, operation, and financing of the system across the entire jurisdiction.
- The PRO should be the financial clearinghouse for deposits and refunds and works with stakeholders to design and operate a network of redemption sites and a system to collect and process redeemed material. All revenue and uncollected deposits are returned to the PRO to offset operating and investment costs and reinvest in the system.
- Each material should “pay its own way” with costs, commodity revenues and unclaimed deposits tracked by material and producer fees set accordingly to cover the remaining costs and program administration.
- DRS may consider reuse or refill as possible applications.
- Recovered commodities should be the property of the PRO with revenue from their sale used to defray costs; producers have first right of refusal to purchase their share of available materials at market prices to facilitate return of materials to new containers.
- The DRS PRO is responsible for reimbursing applicable government agencies for oversight, enforcement, and rulemaking costs, including program verification and approval.
- The PRO should establish fraud prevention measures, conduct regular audits of redemption centers and coordinate with government on enforcement measures.
- Deposit reassessments come at the recommendation of the PRO, and are made in line with program performance and can be made within the authority of the oversight agency in consultation with the DRS PRO.
- DRS alone is not a sufficient response to the significant barriers that inhibit the creation of a circular economy in the U.S.

POSTCONSUMER RECYCLED CONTENT (PCR) MANDATE

Roadmap to 2025 Reference Language:

Support postconsumer recycled (PCR) content mandates and procurement policies in coordination with strong programs and policies like EPR and DRS to assist with the increased supply (collection and sortation) of recyclable plastic packaging.

PCR mandates could be implemented as part of one of the following statutory options:

- PCR mandates as part of EPR or DRS programs; or,
- PCR mandates as a standalone requirement.

It is strongly recommended that such mandates be in parallel with policies that incentivize recycling to ensure adequate PCR supply.

In evaluating progress toward U.S. Pact targets, the U.S. Pact identifies recycled content percentages as a weight-based average across plastic packaging categories sold onto the U.S. market. Legislation should mirror this data collection and standardize the metrics upon which programs will be evaluated.

- PCR mandates should include material-specific targets and schedules for percentages, including identifying packaging or material types that may achieve or are appropriate for higher levels of PCR content.
- PCR mandates should include periodic reviews of the targets, specifications for food grade material, criteria for granting waivers, and other factors affecting PCR supply.
- Statutes should provide flexibility for innovation regarding the use of PCR, enabling manufacturers to use averaging across portfolios of similarly packaged products and report national averages.
- Implementation dates should take into account time needed to setup systems to report and track PCR material and packaging.
- Statewide minimum PCR standards should be uniform across the state.
- PCR mandates alone are not a sufficient response to the significant barriers that inhibit the creation of a circular economy in the U.S. It would be prudent to simultaneously support the supply of recycled content as well as demand side policies for PCR.



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