

## **Massachusetts Extended Producer Responsibility Commission**

October 29, 2025 | 9:30 a.m. to 12:30 p.m.

In-person and via Zoom

Meeting minutes

### **Commissioners present**

- John Beling, Chair, and Deputy Commissioner, Massachusetts Department of Environmental Protection
- Sharon Byrne Kishida, Nominee, Senate Minority Leader
- Kris Callahan, Director of Policy and Regulatory Affairs, Bureau of Climate and Environmental Health, Massachusetts Department of Public Health
- Jose Delgado, Councilor, City of Springfield, Arise for Social Justice
- Janet Domenitz, Executive Director, MassPIRG
- Lew Dubuque, Vice President, Northeast Chapter, National Waste and Recycling Association
- Sam Larson for Magda Garncarz, Vice President of Government Affairs, Associated Industries of Massachusetts
- Sarah Kalish, Executive Office of Economic Development
- David Melly, Legislative Director, Environmental League of Massachusetts
- Conor O'Shaughnessy, Budget Director and Environmental Policy Analyst, Office of Representative Bradley Jones, House Minority Leader
- Catherine Ratte, Director, Land Use and Environment Department, Pioneer Valley Planning Commission
- Bill Rennie, Senior Vice President, Retailers Association of Massachusetts
- Neil Rhein, Executive Director, Keep Massachusetts Beautiful
- Waneta Trabert, Vice President, MassRecycle
- Tracy Triplett, Senior Enforcement Counsel, Office of Attorney General Andrea Joy Campbell
- Abbie Webb, Vice President of Sustainability, Casella Waste Management

### **Commissioners absent**

- Rep. Christine Barber, House Chair, Joint Committee on Environment and Natural Resources Appointee, Massachusetts House of Representatives
- Senator Mike Barrett, Senate Chair, Joint Committee on Telecommunications, Energy, and Utilities
- Leigh-Anne Cole, Executive Director, Community Action Works
- Andrew Potter, Chair, Select Board, Town of West Stockbridge

### **Staff and consultants present**

- John Fischer, Deputy Director, Solid Waste, Massachusetts Department of Environmental Protection
- Julie McNeill, Attorney, Bureau of Air and Waste, Massachusetts Department of Environmental Protection
- Courtney Rainey, Deputy Chief of Staff and Director of Government Affairs, Massachusetts Department of Environmental Protection
- Jennifer Haugh, Vice President of Planning, GreenerU

### **Special guests present**

- Mallory Anderson, Minnesota Pollution Control Agency
- Peter Hargreave, Circular Action Alliance

### **Agenda and minutes**

#### **1. Welcome and roll call**

Commission Chair John Beling welcomed the group and started the meeting at 9:32 a.m. He took roll call and noted a quorum.

## **2. Review of goals and agenda**

Beling shared the meeting goals and agenda on slide 5. The meeting goals were as follows:

- Roll call, approve agenda, and minutes
- Vote on battery recommendation
- Discuss electronics EPR recommendation / take a straw poll
- Level set on past and present plastics and packaging EPR efforts
- Hear ideas, concerns, support
- Identify and discuss support for proposed electronics EPR recommendations

## **3. Housekeeping: approval of October 29 agenda and September 17 meeting minutes**

**Sam Larson for Commission Magda Garncarz moved to approve the agenda of October 29, 2025. Commissioner Kishida seconded. The motion carried unanimously.**

**Commissioner Trabert moved to approve the minutes of September 17, 2025. Commissioner Kishida seconded. The motion carried unanimously.**

## **4. Battery EPR recommendation**

Current recommendation language for discussion on battery EPR is as follows:

The Commission recommends that the Massachusetts Legislature enact legislation to establish an extended producer responsibility program for batteries. The Commission recommends the development and implementation of a program that aligns with PRBA—The Rechargeable Battery Association model EPR legislation to the greatest extent possible.

The Commission acknowledges proposed battery EPR legislation under consideration before the Massachusetts legislature at the time of this recommendation—H.968 and S.556—but does not endorse any specific bill.

The Commission recommends consideration of the following:

- As movement on EPR for batteries in other states is rapidly evolving to address various issues such as management of damaged, defective, recalled (DDR) batteries, embedded batteries in products, and proper collection and management solutions, harmonization of state programs will serve states and industry.
- Impacts of any restriction on parties outside the EPR program from collecting batteries through existing infrastructures should be considered.

Commissioner Kishida: How are any of these bills prepared for the next wave? Is this focused on specific batteries? What's the next greatest type of packaging? How forward-looking are any of these?

Chair Beling: In terms of how specific the legislation is going to be?

Commissioner Kishida: Will it exclude future innovations?

Commissioner Trabert: For batteries specifically, there are definitions by size and MWh, so even if battery chemistry were to evolve, it would still likely be captured under that definition. It gets more difficult for other material types, but I'm confident this will work for batteries.

Commissioner Kishida: There is bill language for all chemistries.

Commissioner Webb: Another topic we discussed was performance metrics. The need to care for batteries tends to focus on access. From the perspective of recyclers and haulers, we want to see recovery rates. If we have great access, but we're only getting a recovery rate of 20 or 30%, that doesn't protect our people. I don't know if it belongs in this list but specifying that there should be recovery-based performance standards, I think that would be smart.

Chair Beling: My sense is that if we get legislation such as this, we would have sufficient flexibility in our regulations to cover those kinds of details.

**Dubuque moved to approve the recommendation as prepared above. Webb seconded the motion. The motion carried unanimously with the vote count indicated as follows.**

Commissioner	Vote
Chair John Beling, Deputy Commissioner, Massachusetts Department of Environmental Protection	yea
Senator Mike Barrett, Senate Chair, Joint Committee on Telecommunications, Energy, and Utilities	n/a
Rep. Christine Barber, House Chair, Joint Committee on Environment and Natural Resources Appointee, Massachusetts House of Representatives	n/a
Sharon Byrne Kishida, Nominee, Senate Minority Leader	yea
Kris Callahan, Director of Policy and Regulatory Affairs, Bureau of Climate and Environmental Health, Massachusetts Department of Public Health	yea
Leigh-Anne Cole, Executive Director, Community Action Works	n/a
Jose Delgado, Councilor, City of Springfield, Arise for Social Justice	yea
Janet Domenitz, Executive Director, MassPIRG	yea
Lew Dubuque, Vice President, Northeast Chapter, National Waste and Recycling Association	yea
Sam Larson for Magda Garncarz, Vice President of Government Affairs, Associated Industries of Massachusetts	yea
Sarah Kalish, Executive Office of Economic Development	yea
David Melly, Legislative Director, Environmental League of Massachusetts	yea
Conor O'Shaughnessy, Budget Director and Environmental Policy Analyst, Office of Representative Bradley Jones, House Minority Leader	yea
Andrew Potter, Chair, Select Board, Town of West Stockbridge	n/a
Catherine Ratte, Director, Land Use and Environment Department, Pioneer Valley Planning Commission	yea
Bill Rennie, Senior Vice President, Retailers Association of Massachusetts	yea
Neil Rhein, Executive Director, Keep Massachusetts Beautiful	yea
Waneta Trabert, Vice President, MassRecycle	yea

Tracy Triplett, Senior Enforcement Counsel, Office of Attorney General Andrea Joy Campbell	yea
Abbie Webb, Vice President of Sustainability, Casella Waste Management	yea

## 5. Discussion on electronics EPR recommendation

Chair Beling cued up discussion on the following recommendation for electronics EPR:

The Commission endorses enactment of legislation to establish an extended producer responsibility program for electronics. The Commission recommends the development and implementation of a program that aligns with existing programs in other states to the greatest extent possible.

The Commission acknowledges proposed electronics EPR legislation under consideration before the Massachusetts legislature at the time of this recommendation—H.1015 and S.653—but does not endorse any specific bill.

Specific recommendations on elements to include in electronic EPR legislation are as follows:

Covered products	Computers, laptops, tablets, monitors, televisions, printers, computer peripherals; in 2026 to include fax machines, DVD players, VCRs, portable music players, game consoles, digital converter boxes, cable/satellite receivers, scanners, small-scale servers, routers, modems
Covered entities	Households, schools, government, small business
Performance goal	Convenience standard and target reduction of electronics in the waste stream
Collection/recycling service	Must include municipal electronics collection points
Financial structure	No fee to covered entity. Funding covered by producer based on market share of total cost, including orphaned electronics.
Recycling standards	Entities processing electronics on behalf of producers must have E-stewards, R2 certification or equivalent
Outreach and education	Comprehensive outreach and education plan by producers

Commissioner Rhein: I had two comments or questions. Under covered products, I saw something in the public comments about vaping devices, and I don't see that included here. I'm not sure where we landed on that or if we even discussed it.

Chair Beling: I don't know if there's a jurisdictional issue there. I'm not sure.

Commissioner Kishida: Embedded batteries were also something not covered.

John Fischer: I think vapes are discussed more in the batteries context.

Commissioner Rhein: That makes sense. Under the financial structure, there no fee to covered entity. Can you just explain what that means?

Fischer: What that means is that if you look up three rows above that, covered entity says households, schools, government, small business; that those entities would not have to pay a fee for recycling their electronics.

Commissioner Rhein: That was my key thing, was that there'd be no fee for households, so that's good. Thank you.

**Chair Beling took a temperature check on the above electronics EPR recommendation using the scale of agreement. The vote breakdown is as follows:**

<b>Commissioner</b>	<b>Vote</b>
Chair John Beling, Deputy Commissioner, Massachusetts Department of Environmental Protection	1
Senator Mike Barrett, Senate Chair, Joint Committee on Telecommunications, Energy, and Utilities	n/a
Rep. Christine Barber, House Chair, Joint Committee on Environment and Natural Resources Appointee, Massachusetts House of Representatives	n/a
Sharon Byrne Kishida, Nominee, Senate Minority Leader	3
Kris Callahan, Director of Policy and Regulatory Affairs, Bureau of Climate and Environmental Health, Massachusetts Department of Public Health	2
Leigh-Anne Cole, Executive Director, Community Action Works	n/a
Jose Delgado, Councilor, City of Springfield, Arise for Social Justice	2
Janet Domenitz, Executive Director, MassPIRG	3
Lew Dubuque, Vice President, Northeast Chapter, National Waste and Recycling Association	2
Sam Larson for Magda Garncarz, Vice President of Government Affairs, Associated Industries of Massachusetts	4
Sarah Kalish, Executive Office of Economic Development	3
David Melly, Legislative Director, Environmental League of Massachusetts	2
Conor O'Shaughnessy, Budget Director and Environmental Policy Analyst, Office of Representative Bradley Jones, House Minority Leader	3
Andrew Potter, Chair, Select Board, Town of West Stockbridge	n/a
Catherine Ratte, Director, Land Use and Environment Department, Pioneer Valley Planning Commission	2
Bill Rennie, Senior Vice President, Retailers Association of Massachusetts	5
Neil Rhein, Executive Director, Keep Massachusetts Beautiful	2
Waneta Trabert, Vice President, MassRecycle	2
Tracy Triplett, Senior Enforcement Counsel, Office of Attorney General Andrea Joy Campbell	2

Jennifer Haugh recommended that Commissioners share their concerns for votes 3, 4, and 5 via email to her and DEP staff. Beling suggested that if there are specific changes to language to please send those along as well. Commissioner Domenitz said that she had already submitted her comments that informed her vote.

## **6. Presentations: plastics and packaging**

Peter Hargreave of the Circular Action Alliance presented slides 28 through 50. Mallory Anderson of the Minnesota Pollution Control Agency something presented slides 16 through 27.

## **7. Clarifying questions**

Commissioner Melly: Two questions. One, when EPR for packaging is implemented in jurisdictions with robust curbside recycling, what does that look like? Does that by definition require a lot of consumer education behavior change, or is there a way to retain the convenience of curbside single-stream recycling with also an EPR?

Hargreave: When CAA operates and implements in different states, we're going to have jurisdictions and local governments that are at different points. We might have some local governments that have no programs currently in place. Colorado, for example, has large rural areas that will not have any systems in place, so we will be looking to work with service providers to make sure that there is the development of those collection and processing systems. We will also work with large governments that have those systems in place and build off of those systems that are already there. There are different things that we can do on that side, such as providing additional promotional materials. We can look to invest in their recycling systems. There is no doubt that MRFs are always needing to keep up to date with new packaging materials that might be coming through and making sure that equipment is updated. So helping to support infrastructure in place. Along with the education side, I think that there is that standardization side where often recycling programs are complicated for residents. They may move from one municipality to another, they may work in another jurisdiction, and it becomes confusing for them as to what can be recycled where. And so these types of programs allow for a standardized approach to be developed within the state and to improve the infrastructure that's in place.

Commissioner Melly: My second question is I was kind of surprised by your assertion is that commercial EPR is much more difficult than residential, because to my mind you've got millions of people who all love their single-stream recycling bin and you're trying to change their behaviors and help them understand what categories are which versus a commercial system where you have better control over your supply chain, you have systems in place already for waste disposal. Why do you see that as your bigger challenge than widespread residential adoption?

Hargreave: There's a number of angles on commercial materials. You're potentially dealing with a whole bunch of new types of producers. Not your typical brands. These are companies that are selling in bulk. I often use the example right now of even in a number of these legislations, government buildings are included. And I make the argument to say "government buildings" is pretty wide—you've got everything from public works to wastewater treatment facilities to potentially labs, and all of those types of facilities generate very specific types of packaging that isn't similar to what you put at the curb. It's larger format, it's potentially quite unique, it may have hazardous properties to it, so it's much different in that way. It's different types of producers potentially supplying just B2B materials. There are different recycling systems in place. When you start to get into larger entities, retailers specifically are quite good at this when it comes to back-office recycling or back-of-house recycling. They generate large amounts of OCC. And so they generally make money off of those materials, so they're systems that are already functioning within the commercial, industrial, industrial sectors, and that makes it more difficult. That's not the typical residential servicing construct that we're getting involved with.

Commissioner Domenitz: Two questions. I feel like the original EPR program for packaging is the container deposit system, the bottle bill, and we have ten states with it already. I'm just wondering—so it's statewide, there's no confusion, it doesn't matter what municipality you're in, you know how to return your beverage containers. I'm wondering if you can speak to that, as in where that falls into the policies that are already in play. Number two, there

was a slide talking about keeping the PRO independent. Who is the PRO? Who seats them? Not the individual humans, but what's the composition of a PRO, if there is such a template?

Hargreave: Starting with deposit, EPR programs for packaging often will work side by side with deposit programs that are in place. I'm actually situated in Canada, so we have wide-ranging deposit repair programs across the country, and EPR programs for packaging that work beside them. So deposit manages deposit materials. And the packaging program manages curbside recycling. Those programs work independently and that is quite common. In U.S. legislation that's moving forward, typically that will treat deposit materials separately, so they will exempt the materials that are being managed by that deposit program. Similarly, we'll see similar requirements in place if your state has another EPR program that may be managing packaging materials. Let's say, for example, a paint recycling program. They'll treat those paint cans as part of that paint recycling program. As to your second question about the composition of the PRO, I can speak specifically. In California specifically, the PRO is a not-for-profit. It has a board that represents the various different parties that are supplying materials into the marketplace, and we're very specific as to creating that sort of broader template. We do have state boards that are in place. For example, in Colorado, we have a separate board that includes some in-state representation as well. So that PRO then has the opportunity to seek feedback. Typically, there is always feedback provided by the PROs throughout the process, around what the methodology is and how the programs are set up. There are agreements that are signed by each of those PROs with the PRO itself, which establishes how different issues are dealt with potentially, if conflicts or issues may occur as the program is being operated.

Commissioner Webb: We spoke a lot in our working group sessions about what is and is not working in the U.S. compared to Canada. Could you talk a little bit about how the programs that have passed so far in the U.S. differ from the Canadian programs?

Hargreaves: I can. It's a broad question, I guess, if we're talking about packaging EPR programs in Canada, I'll just start with the definition of producer and covered materials. I would say we have moved to an almost harmonized perspective right across the country, that we have a similar definition of producer that's accepted in almost every jurisdiction, maybe with some slight differences, but almost consistent across the country. The programs when it comes to covered materials, are, with two exceptions, I think Quebec has included some commercial materials, as has Yukon. But all the other programs are focused on residential materials that are being generated, and they do have similar exemptions that are in place. Those exemptions usually are typically sort of the de minimis type of thing where businesses that are under a certain gross revenue threshold and also that are supplying under a certain amount of weight of packaging into, into the jurisdiction are exempted. And then we have also generally exempted, household hazardous, related packaging. And we typically have separate programs that are associated with, those materials. When it comes to the actual, establishment of the pro and the program plan, there is relative consistency across the country on that side. It's similar to the legislation in the U.S. I would say to you, what is being asked of the PRO when it comes to consultation in the U.S. is a significant higher bar, and what's being asked as part of the program plan is a significantly higher bar than what's being put in place in the U.S. I think our typical program plans are about 60 pages. In Colorado, I think we're closing in on 250 pages of plan details. So there's some, difference on that side. We do have one, province that is outcomes-based, so they don't have program plans, and they allow for multiple PROs to be in place. That's Ontario. So that is a far different type of program than anywhere that's been implemented in the U.S. I would also say one of the differences, I think, is that the U.S. policies are pushing for change at a much quicker rate than what has happened in Canada. So, when we talk about eco-modulation factors, we've had EPR programs in place for decades in Canada, and we are just starting to put in place eco-modulation factors. And in Colorado, as the example, we had to implement eco-modulation factors at the start of the program.

Commissioner Webb: Is there any difference in the relationship between the PRO and service providers in Canada? Or does that vary as well?

Hargreave: There has been some variation, I think, on the relationship. And this is sort of evolving. If I take where I am in Ontario, typically the relationship in the past has been that the PRO has worked through the municipality and funding is provided to the municipality, and it delivers or contracts out the servicing, and we have moved to a system where it's more of a direct relationship between PRO and service provider. That's not necessarily the same across the country, but that's what we're seeing in Ontario and British Columbia.

Commissioner Dubuque: Earlier in your presentation, you mentioned that one of your goals is to reduce consumer costs by at least 90%. How do you anticipate accomplishing that and what are consumer costs?

Anderson: The Minnesota program has a phasing in of the PRO covering collection and processing costs. In the initial program year, 50%; then 75%; then 90% of collection and processing costs. That 90% is that cost coverage. Again, it's a little complicated because it's not fully 90% because not 100% of what's going into the recycling cart will be covered items. Mostly it's paper that isn't a covered material.

Commissioner Dubuque: So you're anticipating that consumer monthly bills in waste and recycling will go down by 90%?

Anderson: Yes, so there's some ability for a hauler to make up a difference if that coverage isn't making up the costs, but it will be close.

Commissioner Melly: I know you haven't gotten to the point of reviewing a PRO draft plan, but one of the things we're thinking about in terms of legislation is the relationship between state agency and PRO in terms of you get a plan and the state basically says, this is not up to snuff—go back and do a better job. In the statute or in your implementation, how do you envision that relationship playing out between regulator and PRO?

Anderson: If the plan meets the statutory list of what's included in it, our main tool would be to argue that we don't think it will meet the statewide requirements. If we don't think the plan is ambitious enough to meet those requirements, that's where we can ask for improvements, and then there is a process where if the PRO doesn't meet their performance targets, they have to make amendments to help achieve those program performance requirements. When it comes to actually approving the plan, we take the collaborative approach in Minnesota in working with CAA and Eunomia and the state's assessment process to make sure we are getting robust and valuable data that will inform a plan, and then we have an intense process of review by advisory board which has a first chance to give comment and then CAA takes feedback and make improvements before submitting to state. The intent is to create a shared process and as collaborative as possible.

Commissioner Melly: What is the frequency of this assessment? Is it on an annual basis? Is there a lag between when you have the data and when an amendment would be triggered?

Anderson: There would potentially be a year or two lag. A report would come in, that report would identify that there are missing performance standards, and then an amendment process would have to start. So it would potentially be probably two years to get that plan amended and back on track.

Commissioner Trabert: In the discussions for development of your law, was there discussion around spacing your goal around product life cycle analysis, basically trying to reduce carbon emissions versus increasing circularity? And what did that conversation or evolution of that process look like?

Anderson: In Minnesota, there is an emphasis on circularity that is intended to be with the consideration of other environmental impacts. Considering the use of toxic substances as best we can, is this decreasing recyclability with additives that are considered chemicals of concern? We want it to be a both/and to increase system overall to reduce impacts. I think time will tell as we move forward how we can do that, but how can we keep materials in use for as long as possible and also consider transportation costs and consider greenhouse gas emissions with manufacture and movement of these materials.

Commissioner Trabert: About staffing, you had mentioned that Minnesota has a pretty lean staff of 2.5 people. How is that structured and what recommendation would you have for a different state to have more adequate staffing to accomplish what's required? I know Oregon's team is huge.

Anderson: We still have another full-time employee position we're hoping to fill, another programmatic staff member, and that would bring us up to another person. And then we do have long-term planning for adding compliance and program support. But it's also structured on how our agency is structured: for support, rule-making, communications, compliance, and enforcement. A lot of that is just kind of baked into the costs that we're charging CAA and we're not actually adding FTEs. We're just kind of charging based on the staff time estimates that we have



already generated. Minnesota has a fiscal note process. We did intend to have probably double the team that we have now, but I think there are just real-life constraints on hiring and CAA has maybe experienced that too. There's a lot of work to be done and it takes time to get people in the door and get them trained, and I think thinking about that upfront is part of the reason why Minnesota has slower implementation. We did plan on having double the team at this point and it's the reality of getting positions posted and the hiring process is taking longer than we anticipated.

Commissioner Rennie: On the cost side, I know you referenced the 90% cost savings for consumers. When you analyze the costs, was there any review of the cost that would be borne by consumers in terms of all the added fees that were ultimately passed down to them?

Anderson: Yes, that's a good question, and it commonly comes up during hearings. We've looked to the European and Canadian programs, and we have a cause that doesn't allow for an upfront fee, so you can't have a fee applied to a product to cover the cost of the program. It has to be internalized, and I think we've been advised that how that will work is some folks may have to increase their costs, and some folks may save money as they shift post-consumer recycled content. If they're a brand that hasn't taken a journey down waste reduction and reduced costs, this has evened out in programs around the world, and we can't really quantify what that cost will be to consumers. I know Oregon and Washington did studies and they found the costs would be fairly minimal. When we have had studies on it, they've shown that the costs would be fairly minimal overall in the basket of consumer goods.

Commissioner Kishida: When you talk about savings to residents, could also be savings to municipalities? When we say saving residents, in Massachusetts, this may save governments money. That's just the point. Minnesota passed this bill in 2024 and here it is 2025, you have hired a PRO from CAA, and Eunomia conducting a needs assessment. Have the producers been tasked with paying for these two entities? How is that being financed?

Anderson: The registered PRO is invoiced by the Minnesota Pollution Control Agency. We have an income agreement where we account for our costs, including the needs assessment and staff, and we charge that back to CAA. The cost of implementation is intended to be borne by producers.

Commissioner Delgado: Thank you for this presentation and to get the perspective from Minnesota. I know you and Oregon and some of the other ones are very early on, and I'm curious to hopefully learn more about you guys as we go through this process. Back to the cost thing, on the slide, you mentioned by reduced costs for customers by 90%, and I just wanted to make sure that I understood exactly who customer was that you were referring to. Is the customer residents? Are the customers municipalities?

Anderson: Good question, because it is easy to kind of lose the detail here on this. There's cost reimbursement. Minnesota uses two definitions—covered entities are the folks who get reimbursed covered services: hauling, sorting, the more expensive aspects of curbside recycling. Producers are required to cover the covered programmatic costs for covered entities. Those are all residents, including multi-family. We kind of have a challenge with multi-family where residential is covered by municipalities but is only covered by up to four units. We have all residential with the intent that we're maximizing service and quality of education and outreach to multi-family folks and then we have schools, including childcare and universities. And then we have nonprofits and then public buildings and spaces. So we're not talking about when I go to the store and buy something and the cost of that item would be in any way is driven by all sorts of market factors, and all we say about that cost is that the producers or retailers can't add a tax or a charge at the time of purchase.

Commissioner Delgado: I know you said cost to consumers was minimal, at least what you found. When you say minimal, I'm trying to understand what those costs might be, because that's one of my biggest things, is some of these costs that are going to be added to the producers, in my opinion, will end up on consumers. And the difference here is some of the other things that we're studying—batteries, mattresses—those are kind of once-in-a-while purchases, whereas packaging is, especially in the age of Amazon, is an everyday occurrence for some folks, maybe multiple times a day. And so when you say minimal, is that minimal based on the individual purchase? Because to me, if I hear minimal, I hear, all right, it's minimal on this one package, but then if you multiply that by the amount of times that people buy and order stuff. Maybe you don't have the information.

Anderson: I think I would call on PSI or the folks who have completed the studies to invite someone who has more of that expertise, because I definitely shifted to implementation rather than having those answers at the top of my head.

Commissioner Domenitz: At the risk of sounding totally naïve, I just want to add a comment to the recent back and forth, but it's called EPR—not extended consumer responsibility—so I understand there is a lot of work to do to actually get the right policy in place. I just wanted to add that commentary.

Hargreave: I just read through the thread on the questions about small business and wanted to provide clarification. When I talk about residential, I meant both single- and multi-family homes, so that would include condos and apartments. I certainly understand the comments in the discussion about adding small business; I think from a collection perspective, I understand, because they're getting collected on the same routes. For producers, the difficulty is we need to provide them guidance on how to report on the amount they supply to a small business. That becomes quite difficult when you talk about, well, what do we mean by small business? How much paper, as an example, is going into those small businesses? How can the producer isolate that material? And then we get some oddities in that system, such as fountain pop containers that are not something you consume at home, but are different. You might have more industrial types of packaging, whether that be pressurized cylinders or larger-format items. Those areas become difficult to some degree for the producer responsibility organization to provide guidance and potentially for the regulator to actually enforce when you talk about adding that supply material in and guidance around that. And how you make sure that those organizations are reporting the tonnage that they're responsible for. So hopefully that's helpful, but I wanted to add that context.

## **8. Discussion: plastics and packaging EPR**

A draft recommendation on plastics and packaging EPR was shared:

The Commission endorses the concept of EPR for plastics and packaging but recognizes that the process for understanding and translating this into a meaningful recommendation to the legislature is beyond the capacity of this Commission within the timeframe allocated.

Therefore, the Commission recommends that MassDEP be instructed to advance further discussions on EPR plastics and packaging through the establishment of a subcommittee of its Solid Waste Advisory Committee.

The Commission recommends that this include identifying how to proceed with a needs assessment, which would:

- Thoroughly examine the process and program structure pursued by other states working on EPR for plastics and packaging
- Produce a roadmap for concluding what impact plastics and packaging EPR would have a meaningful impact on advancing material recovery on the Commonwealth

Commissioner Trabert: I would say that for packaging and paper EPR, which I think was the original intention but was stated as plastics and packaging—so I do think a packaging and paper EPR program for these materials that broadly make up our single-stream recycling program would work. I think it would benefit municipalities greatly from runaway costs that have been spiraling out of control for several years now. It's not too distant a memory to think about the chaos that happened when the China Sword upset the recycling markets globally. Commodity markets are flexible; municipal budgets are not. It caused a lot of problems. This would certainly protect municipal governments from issues like that. My concerns are that I want to see more analysis and understanding of impacts to all different stakeholder groups in the system. I know that there are a lot of concerns from the service-provider standpoint, haulers and processing facilities, kinds of impacts. And there's a lot of different variation. A huge spectrum of policies could impact stakeholders in different ways. I think just having a very thoughtful approach to develop a law to address those concerns from a wide breadth of stakeholders. Even in the background document, to have one paragraph referring to impacts to haulers and processors is very inadequate.

Commissioner Webb: Picking up on that point as one of the haulers and processors in the room, we support EPR for hard-to-recycle materials, and I think the thing we struggle with this is some packaging is hard to recycle—flexible packaging, small-format items, I could go on and on. There's some packaging that very much is hard to recycle, but there's a lot of packaging we have a pretty good system for. We're looking learn from this process and understand and whether there's a middle-of-the-road space to address hard-to-recycle materials without hindering the established business model and function service contracts that we have around recycling. I do think the background document was helpful, but I was disappointed. There were still references to newspaper articles where there is probably robust data to be found on recycling costs over recent decades. Some of the phrasing there: I'll submit those comments in writing, but it just feels like there's an opportunity to bring a little more focus to the underlying baseline data so that we can really have a common understanding of what we're trying to solve, and whether this will solve that.

Commissioner Dubuque: We support the concept of EPR when it comes to hard-to-manage items. We wholeheartedly support battery stewardship, mattresses, paint, those ideas. As Abby said, plastics and packaging is not a heavy lift. My concerns are well documented. I put the letter through and sent to all the Commission members. There are policy recommendations that we should be looking at—minimum content standard like what was signed into law in New Jersey, Senate Bill 633 in California, which looks to get all the funny business of recycled material coming from out of the country. These are ideas that are going to make recycling commodities more valuable and that's going to increase recycling, and everyone will benefit from that. Those are the recommendations we are pushing. And we need more research on cost, because we have people saying today that there are studies that say it's not going to increase cost, but we've got plenty of studies that show costs are going to go up, that they're going to be significant, they're going to be a regressive tax on residents of the state of Massachusetts. So we really need to do further research before we push forward with any recommendation on EPR for packaging.

Commissioner Melly: One of the things I think about a lot, specifically with this compared with other product categories, is that what an EPR program looks like, and what covered entities look like, and what the goals are. Because plastics and packaging are such a broad category with so many different applications, I think there's a really important role for the state agencies to play directing a PRO. I think with some of this lower hanging fruit, so to speak, a PRO can really be established in other jurisdictions and do its own thing. And we're reasonably confident that with other stakeholders it will do a good job, but it's going to be important when legislating a packaging EPR system to give the DEP the authority to quickly and effectively require a program. I think one of the things I'd love to see in EPR packaging legislation is not just implementation of eco-modulation and more sustainable materials, but targeting waste reduction overall. As we heard from the presenters, eco-modulation takes a long time; using more sustainable materials is still using the materials and putting them in the waste stream, you know? We can talk more about the relative costs, but you don't have to pay to disclose if anything we don't lose in the first place. And so thinking about program design and how to advance both environmental costs and sustainability goals and ensuring that part of a PRO's plan is where we are going to reduce the overall amount of packaging and plastics going into the waste stream in the first place, I think is really an assumption.

Commissioner Trabert: I want to address issue that was brought up about the system working right now. There's a lot of things to say about that, but I would say yes, things that should go into a recycling bin that reach a MRF are very likely to be recycled. We do have a highly sophisticated system out of the current scheme and structure. But we have a very low recycling rate: it's 30-40%, possibly lower, whereas these systems in other countries are reaching 70-90% rate. The current model does not work. The state is trying to reach people, there's local education to varying degrees that is trying to reach people; it's extremely ineffective on both ends. This program would invest money into a widespread campaign, have requirements, and put the onus onto the entities that are putting materials on store shelves. Right now, the current system, even with more MRFs, is always reactive to what is being put on store shelves. EPR puts the onus on producers to think about end of life before the rest of us need to deal with it. Of course it will take a long time, ten or twenty years, but if we keep going the way we are, those things are not going to change. Government or voluntary efforts have not proven to be sustainable. In California, they had a state recycling commission to evaluate their current system, two-year process. They invited all their different industry groups to talk about how to improve things with the current infrastructure. This included aluminum cans and all different components of this stream. It was a robust, public process, and in my opinion, those producers were given every opportunity to come up with a different policy recommendation or ways to collect different material, and it came to nothing. They weren't able to point to different mechanisms that would lead to different results that EPR

could accomplish. I don't think there is a better option. I also want to say that things like recycled content mandates can absolutely be part of the system, and should be, to incentivize circularity. Places that have mandates that don't specify where the content needs to come from, places like China and other countries that have much different policies that undercut the costs. Recycled content needs to be come from within a thousand miles or something. Should be part of a bigger scheme and overall reform to the system and not just think about preserving the infrastructure the way that it is.

Commissioner Kishida: I was really struck by Minnesota that passed this bill a year ago, but she said 2032 was the year they thought everything should be refillable, recyclable, compostable. That's eight years. I don't think we should wait on this legislation getting passed in the state. Many of you know this; it's not easy, but each of the bills that have passed, they all have a needs assessment component in this, so if we could get one over the finish line, get started on the needs assessment, there are lots of things to cover as all of you have stated. My concern is that any legislation on any bill being nimble enough to accommodate the latest greatest thing in packaging in particulate. In the background document, it said that the Massachusetts recycling rate is only 27%. I find that appalling. During advisory group meetings, many of you from the industry reflected on what a great job MassDEP did, particularly on responding to China Sword, and the response was to come up with RecycleSmart, which is smart. We do have this uniform list. But there are so many things that aren't on that list that this bill would force that to happen. I don't think we can delay. My hope is that somehow, some way, we can get a bill passed so we can start looking at this and putting in the time needed to get it across the finish line.

Commissioner Rennie: I just continue to be concerned about the unknown costs, understand it's projections on costs and savings to consumers, but when we're putting fees on products sole in Massachusetts, I equate that to a tariff. Tariffs, fees like this, are passed through the supply chain; consumers will pay added costs. There may be cost reductions on the municipal side—will those be passed on to consumers in lower property taxes? We don't know that. We may see a significant increase in consumer costs, and when that happens, those who are least prepared to handle that are smaller businesses. They have greater costs due to economy of scale and would lose out on price and pass those on to consumers. I equate this to a Massachusetts product tariff.

Commissioner Dubuque: This is a grocery tax. When you say something needs to be done, something is being done. Companies like Casella, Waste Management, U.S.A. Waste and Recycling, companies that have invested millions of dollars. We're concerned that something like EPR would have damaging impact upon that. That's something that really needs to be addressed.

Commissioner Triplett: When we're talking about recycling rates, are we talking about things getting to the MRF or things actually being put back into commerce because they are made into products? Because that's got to be very low in comparison to what's collected or processed, right? I think the 40%, the 27%, what does that mean? Especially with plastic.

Commissioner Webb: There are a few different ways to calculate that, and some of the numbers preparing for this session were based on participation rates, not tonnage. Similar to other category types; let's understand the rates we're talking about. I will say that we calculate the residue rate on what comes out of our marsh, so it doesn't go out as a bale and into a new product, and we can certainly provide that data. I think in general we're talking about what percentage of the material makes its way to the MRF, and then we're also interested in what percentage of that material ends up in a product. At the end of the day, that's where the benefit lies, is getting that material back into a new product and not having to extract new resources.

Commissioner Triplett: Something that goes into a bale is different from going into a product, potentially.

Commissioner Webb: Sure. So we meet specifications set by the mills, by the different folks who are using that product. We meet their spec, but usually there is an allowance for some non-target material.

Commissioner Trabert: I just want to address a couple of things, but I'll start with the recycling rate. Typically when it's stated, it's what was pulled out for recycling vs. what was in the trash. So a 27% recycling rate means that 73% went into the trash. I think going back to a recycling rate and how much recyclable material right now in our current infrastructure goes into the trash, could be a function of people not caring, and that's a different issue, kind of a cultural problem that I think could also be addressed through thoughtful reform of the entire system. But I agree

with you that looking at what makes it to the MRF and what gets taken out of the MRF as it shouldn't have been there in the first place, so it's residue, and then when it goes to a processor, there's even another portion that's skimmed off that shouldn't have gone there but met the specifications for the bale. I think that getting into that degree is a little bit of minutiae for the purpose of thinking about the system as a whole. Certainly it carries environmental benefits, but there's also all the upstream environmental benefits. The question that I had posed before to Mallory from Minnesota was about what they decided on what their goal was for the program, and she emphasized that they were focused on circularity of materials. Oregon wanted to reduce emissions of the supply chain as much as possible, and that's how British Columbia also functions. So eco-modulated fees are based on the lifecycle cost assessment, and that's a whole ball of wax itself to define that, but I know from analyses in British Columbia, things like flexible packaging—e.g., a pouch, you know little kids have these apple sauce pouches—the pouch itself is currently not recyclable in our current infrastructure. But that has the lowest carbon footprint of anything else that carries apple sauce. All of those have different things to consider like toxics and health impacts. But just from looking at transportation and material inputs, just handling that as trash, it has the lowest carbon footprint. We need to be looking at that to guide a conversation on what should and shouldn't be included and how all different stakeholders are impacted within a change like this. I want to address cost concern. It's a matter of looking at original research: there were four studies cited in our background document. I think it would be useful to dissect those further and understand the quality of each study—not all studies are created equal. The biggest point to make is that it's not just a cost increase, but also a service increase. There would be more service provided on recycling right now. It goes into a fund that provides value, covered entity. Would be covered by this program. That could be a decision about who's in and who's out but shouldn't just be looked at as a grocery tax that goes into a general fund. It is not; it's specifically set aside for a purpose that would get us a better system than we have right now.

Commissioner Melly: When we talk about costs, we are all paying for the disposal of stuff that is going into the environment. This is shifting, not adding. The disposal mechanisms for largest externalities, we are hoping we can level-set at the idea that that is the worst way to dispose of materials, especially those materials that can be reintroduced into recycling. Goals should be overall to reduce costs and reduce worst systems of disposal, we can save money by using less material in the first place and that saves consumers, residents, municipalities, producers, by using less packaging. Important to get the details right, to have a system that doesn't create more complication than it needs to, but we're not *not* paying for it; we're just paying for it in different ways.

John Fischer: On waste disposal for export, more and more of that is going by rail and it's traveling further—Ohio, Alabama, Georgia, South Carolina, Michigan.

Commissioner Dubuque: It was mentioned about costs being shifted, but those are shifting onto consumers who are already paying because of inflation going through the roof right now, so we are shifting the cost onto the consumers who can least afford it. If we're pushing legislation, legislators have to understand that cost, and they're not going to want to do that. No one wants that in an election year. No one wants to support a bill that increases costs.

Commissioner Melly: Those consumers are taxpayers of the municipality that's paying the costs currently. Again, it's where the costs show up, and they're going to show up in your grocery bill.

Commissioner Dubuque: Who does that impact more? A lot of people aren't paying property taxes, but everyone pays for groceries.

Commissioner Rennie: I think we're going to add costs, but there is no guarantee that whatever cost savings are going to happen result in lower property taxes or other taxes. There's the general disbelief that that would ever happen. We're paying for it now, and I understand municipalities don't want to pay for it. If that cost is removed from them, we have no confidence that they would reduce taxes or give that money back to residents or consumers. Consumers will pay at the point of sale because of increased product costs and still pay the same level of tax or funds to state or municipality that they do today.

Commissioner Delgado: I'm listening to the conversation and want to agree with a lot that's being said about wanting to do something. I heard 27% and that's not great, but it's probably some of the highest in the country. That's not a win, but something we need to achieve to go higher. It's something to be careful of, and cost is a thing, but I want to be careful to assume that we're going to get a better service; as was mentioned earlier, because when

I'm dealing with my residents, the costs of everything is going up. Housing, utility rates, there are folks worrying about their food. Just want to be careful to not undermine that. I know many of us can afford these increases, but a number of residents depend on us when we are making these decisions. Second question to this, sounds like there's a lot we need to learn and study, and I know that we have reports from Canada, but really want to learn more about what's going on in the U.S. before I rush. Last comment: is there anything to say that we have to pass all of these EPRs, can we pass some of these and continue with some of these others? Plastics and packaging needs a lot more dialogue and seems a bit more complicated. We don't have to pass all of them, unless I'm mistaken there.

Chair Beling: That's a very good segue. In the interest of time, sorry for the public, because we'll not have time to take live-action commentary. The answer to your question is no, our job is to make recommendations; today we voted for three. This is the hardest one.

The Commission reviewed the draft recommendation language on packaging.

Chair Beling: A needs assessment is critical. Let's give this over to John Fischer and Greg Cooper and whoever else wants to stay involved, but it will be helpful to get the needs assessment done before moving forward with further legislation.

Commissioner Trabert: I would give this on a scale probably a 2 or a 3. The biggest concern that I have with the way this is drafted is I don't think the right home for this is the SWAC. My concern is that there would be some type of need for discussing legislation, and bills and advocacy and development of a bill, and I just don't see that happening in the current culture at MassDEP. Thinking about what other states have done, e.g., California, they had this recycling commission specifically to analyze how to increase recycling rate. After two years, they came up with EPR. So it's a little in reverse the way that this Commission is tasked with looking at EPR, but no one disagrees that we cannot come up with the recommendations that we are tasked with in the allotted amount of time. It would take a full year plus for just this one material category because it's so robust and has so many different aspects to it. So that's my biggest concern. I like the framing otherwise, but I think it should be some other type of independent commission to make recommendations, and I understand that that would be a different type of ask or lift.

Commissioner Dubuque: I would give this a 5, because I don't think the Commission fully endorses this. If that's the case, a minority report should be put out as well. I put in my comments what my recommendation would be.

Commissioner Melly: I would also give a 5 but for a totally different reason. ELM supports legislation, but within the scope of this recommendation, if we need a needs assessment, let's recommend that—funding, timeline, but this recommendation is let's keep talking about this into infinity. We are not clear on what is needed and within what timeframe, and we're not going to get anything in return. If the next step, the recommendation should be specific and granular about time and money.

Commissioner Kishida: I think we all maybe agree on circularity, emissions reduction, less toxic products, better packaging, and I think the next step is a needs assessment, but I don't think it should be housed in MassDEP or SWAC. This Commission is loath to recommend on specific legislation, but there is a bill to create a needs assessment study, and I think we should be looking at it: S.570 and S.571 is the EPR bill. So, I agree with David; we need to have a robust, committed. We heard Minnesota is already working on this after a year and look at the length of time it will take to actually have an EPR bill that most everybody here would be comfortable with. Let's not waste time.

Commissioner Webb: What I hear is we're curious about EPR and have a lot of questions. As far as the idea of exploring the problem more, answering some of these questions, watching how other states proceed, I think we see value there. The phrase "needs assessment," I would say it might be worthwhile to check in with other states on their experience pursuing a needs assessment prior to the passage of legislation, prior to the selection of a PRO. I've heard through the grapevine that that has been challenging to get a good response rate. Thinking about that, what do we call the report, what are we doing, and how much do we have the ability to compel people to respond? I think it's important to make sure that we get the answers and information we need to make a smart decision.

Chair Beling: I'm going to add, if they're going to recommend a needs assessment, a cost analysis would be required as well.

Commissioner Rennie: I would be in the same bucket with others as a 5. Maybe 6 if there's a 6. I would feel uncomfortable endorsing the concept; there's a lot more work that needs to be done, whether it's at the SWAC or some other entity—I guess I need to learn more about that process. But I think I would second what Lou's language suggested, which is more starting off that the commission recommends that we would need further review.

Chair Beling: Sounds like there's consensus on further review and that the sticking point is endorsing the concept. How many people would want to endorse the concept?

Chair Beling conceded that a vote should be postponed.

## **9. Public comment**

In the interest of time, the public was encouraged to submit comments in writing on the website.

## **10. Next steps and adjourn**

**Commissioner Webb moved to adjourn. Commissioner Rennie seconded. The motion carried unanimously.**

The meeting adjourned at 12:03 p.m.

Respectfully submitted,  
*Jennifer A. Haugh*  
*GreenerU*

DRAFT