

Extended Producer Responsibility (EPR) Laws

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This presentation is not to be construed as legal advice. If you have company-specific questions, we advise consulting your legal counsel.

Agenda

- EPR Background
- Landscape EPR
- Overview Exemptions Implementation in States
- Lessons Learned
 - Recent legislation/ rulemaking
 - Lawsuit
- Questions

Background – How did we get here?

- State EPR laws modeled on concepts emerging from EU Directives and global models.
- Several states have EPR laws addressing electronic waste, paint or mercury-containing products.
- Preventive approach

U.S. EPR Overview

A policy approach that holds “Producers” financially responsible for end-of-life management of their packaging.

Policy Goals:

- Shift waste management burden from municipalities to producers
- Encourage sustainable product design and promote recycling

Scope:

- Packaging materials used to protect products (paper, plastic, glass, foam, metals)
- Single-use bags
- Non-durable materials used in storage, shipment (less than 5 years)
- Others: Food serviceware, printed paper (brochures, solicitations)

Current Landscape in the U.S.

State	Initial Deadlines (Registration/Reporting Dates)
Colorado	July 31, 2025
Oregon	March 31, 2025
California	November 15, 2025
Maine	May 1, 2026
Minnesota	July 1, 2025
Maryland	July 1, 2026
Washington	July 1, 2026

Recycle Rate Targets

State	
Oregon	At least 25% by calendar year 2028 and in each subsequent year; At least 50% by calendar year 2040 and in each subsequent year; and At least 70% by calendar year 2050 and in each subsequent year
Colorado	40% by 2030 and 58% by 2035 for paper 62% by 2030 and 74% by 2035 for cardboard 50% by 2030 and 61% by 2035 for glass...
California	Ensure that all plastic covered material offered for sale, distributed, or imported in or into the state achieves the following recycling rates: (1) Not less than 30 percent of covered material on and after January 1, 2028. (2) Not less than 40 percent of covered material on and after January 1, 2030. (3) Not less than 65 percent of covered material on and after January 1, 2032.

EPR Bills in the 2025 Session

Connecticut

New Jersey

New York

Hawaii

Illinois

Tennessee

Massachusetts

Overview

Key Terms



Producer/ Obligated Producer



Covered Material/ Packaging



Consumer



Professional Responsibility Organization (PRO)



Circular Action Alliance

Who is a *Producer/Obligated Producer*?

The responsibility follows a tiered hierarchy, passing liability down the supply chain until an in-state entity is found

Tier	Entity Responsible	Description
1	Brand Owner or Manufacturer	The entity that manufactures the covered product and owns or licenses the brand/trademark under which the product is sold in the state. This is the default and preferred Producer.
2	Exclusive Licensee	If the Tier 1 entities are not subject to the state's jurisdiction, the responsibility falls to the exclusive licensee of the brand.
3	Importer	If Tiers 1 and 2 do not apply, the entity that imports the covered product into the state for sale or distribution.
4	Distributor, Retailer, or Wholesaler	If no other entity is responsible, the final entity to sell or distribute the product in or into the state assumes the Producer obligation.

What is *Covered Material*?

Targets single-use materials that create high volumes of post-consumer waste and have low or inconsistent recycling rates

Material Category	Primary Focus & Examples	Key Takeaway
1. Packaging & Paper	All single-use packaging, regardless of material: Plastic, paper/cardboard, glass, and metal.	Includes shipping materials for e-commerce, such as mailers, boxes, and void fill.
2. Single-Use Food Service Ware	Plates, bowls, cups, lids, cutlery, and trays.	Often specifies plastic food service ware, including plastic-coated paper.

How are *Consumers* defined?

States vary on definition of “consumer,” which means reporting obligations will vary by state

State	Definition of 'Consumer'	Includes
Colorado	Any person who purchases or receives covered materials in the state at a 'covered entity'	Residents, small businesses, schools, hospitality venues, public spaces, government buildings
Oregon	All end-users of covered products and packaging	Households, businesses, institutions—anyone discarding packaging or paper products
California	Not explicitly defined; interpreted functionally under SB 54	Any end-user (residential or commercial) who discards covered packaging or food service ware

What is a *Producer Responsibility Organization (PRO)*?



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- A PRO is a third-party entity designated to implement and manage producer obligations
 - Key functions:
 - Registration & Reporting:
 - Collects data from producers and submits required reports to regulatory agencies
 - Fee collection & management:
 - Collects eco-modulated fees from producers based on packaging types and materials
 - Program implementation:
 - Coordinates recycling, collection, and education programs to meet state-mandated recycling targets
 - Compliance Assurance:
 - Ensures producers meet legal obligations under EPR law

What is a *PRO* Continued ?

All states
thus far,
have
selected
Circular
Action
Alliance
(CAA) as
their PRO



Circular
Action
Alliance®

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[Producer Registration](#)

Working together to create a circular economy for paper & packaging

EPR Deadlines Approaching in California and Washington!

Our California reporting portal is open and reports are due by **November 15, 2025**.

Producers can now register with us to appoint CAA as their PRO in Washington, those intending to do so must register by **February 16, 2025**.

Not sure if your company is subject to these requirements? Visit our [Producer Resource Center](#) for guidance, resources, and events.

Exemptions - Producers

- Small businesses (<~\$5 M)
- Less than 1 MT covered product sold in state
- Ag. employer <~\$5 M(Colorado, Washington)
- B2B transactions

Exemptions are not uniform across states

Exemptions - Products

- Durable products
 - Pallets, refillable totes
- Items used or sold on farm (OR)
- Pesticides
- Animal drugs
- Products posing risk of pathogen concerns

Exemptions are not uniform across states

State	Date Passed	FIFRA Exemption	Animal Health Exemption	B2B Exempt	Residential vs. Commercial	Farm Exemption
California	June '22	Yes	Yes	No	Both	No
Colorado	June '22	Yes	Yes	Yes*	Residential	No**
Maine	June '21	TBD	TBD	No	Both	No
Maryland	June '25	Yes	Yes	Yes	Residential	No
Minnesota	May '24	Yes	Yes	Yes	Residential	No
Oregon	Jan. '22	Restricted Use Pesticides Only	Yes	No	Both	Yes
Washington	May '25	Yes	Yes	Yes	Residential	No**

* Colorado will reevaluate B2B exemption after 5 years
 ** CO, WA exempt sales by farms with less than \$5 mm revenue

Implementation in States

Recent and upcoming regulatory actions

California SB Rulemaking

Oregon third rulemaking

Colorado Program Plan under Review

WA rulemaking to begin in January 2026

Maine to adopt packaging materials types list by year-end

Minnesota and Maryland

Participation Fees

State	Registration deadline	Deadline for first reporting	Expected date for initial fees	Follow-up fees to be issued	Early participation fees?
Oregon	March 31, 2025	April 30, 2025	July 1, 2025	Jan. 1, 2026 Jan. 1, 2027	N/A
Colorado	October 1, 2024	July 31, 2025	January 1, 2026	Fees announced Oct. 1 of each year	N/A
California	September 5, 2025	November 15, 2025	Jan. 1, 2027		Yes
Minnesota	July 1, 2025	Not set	Early 2029		Yes
Maine	May 31, 2026	May 31, 2026	September 2027		Yes
Washington	July 1, 2026	July 1, 2026	Likely 2027		Likely
Maryland	July 1, 2026	July 1, 2029	Likely 2028		Yes

Thoughts on Enforcement

- Generally, states want producers to register and comply; what if you report a number incorrectly?
- Examples:
 - OR and MN - Failing to register or become a member of a producer responsibility organization is a Class 1 violation that can result in fines of up to \$25,000 per day.
 - Oregon has a public, searchable registry of compliant and non-compliant members

Legal Challenge

National Association of Wholesaler-Distributors v. ODEQ (filed July 30, 2025)

- Violates Oregon Constitution because vests authority over the EPR program administration in a private entity without adequate legislative standards or procedural safeguards and as such constitutes an unlawful delegation.
- Violates the federal Dormant Commerce Clause by discriminating against out-of-state producers, burdening national markets for products and packaging, and controlling commerce occurring outside of Oregon.
- Conditions access to the Oregon market and financial incentives on contracts with a third party, which violates the federal unconstitutional conditions doctrine by requiring producers to waive economic liberty and due process rights.
- Violates federal and state due process by subjecting producers to binding fee assessments and compliance obligations without adequate procedural safeguards.

What to Watch For?

Future state legislation

Ongoing state rulemakings

Oregon litigation (and future cases)

DOJ Intervention / Congress?

Questions?

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