

Packaging the Future: What EPR Laws Mean for You and What Comes Next

Association of Corporate Counsel Northeast
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Agenda



Current packaging EPR laws and frameworks



Who must comply and what is covered



Reporting requirements



Fee obligations



Upcoming deadlines and next steps

Current Packaging EPR Landscape: Enacted Laws



Four states have active programs

California
Colorado

Oregon
Minnesota



Three states plan to activate their programs in the coming years

Maine
Maryland
Washington

Pending Packaging EPR Bills

Georgia: HB
1237

New York:
S1464

New Jersey:
S673

Wisconsin:
AB 772

Tennessee:
HB 600 / SB
0269

Nebraska:
LB 607

How packaging EPR Frameworks Work

Producer

- Determine producer status
- Register / join PRO (or comply independently where allowed)
- Submit supply data (materials, weights, brands, affiliates)
- Pay fees / dues based on reported supply

Producer Responsibility Organization (PRO)

- Provide registration and reporting portal
- Aggregate producer data
- Develop plan and administer program
- Invoice and collect fees; apply eco-modulation where applicable
- Circular Action Alliance (CAA) is the PRO for states with active EPR programs

Program Outputs

- Fund collection, processing, and recycling
- Support education and outreach
- Meet state targets (recycling, reuse, source reduction)

Program Outputs - Source Reduction Targets

States set material specific targets for source reduction, reuse, and recycling



Targets increase over time and often focus heavily on plastics



Examples:

California: 25% source reduction by 2032; plastic recycling rates increase from 30% (2028) to 65% (2032)

Oregon: 25% reduction in plastic packaging by 2028, 70% reduction in plastic packaging by 2050

Maine: recycling rate increases from 60% (2030–2034) to 75% (2045+)

California's Source Reduction Report Deadlines for Producers

May 31, 2026

- Annual Supply + Source Reduction Report
- Alongside information about a company's supply of covered packaging into California, California's annual report also requires source reduction data to be included.
- CAA will be releasing a template spreadsheet so that producers can see what type of information is required.

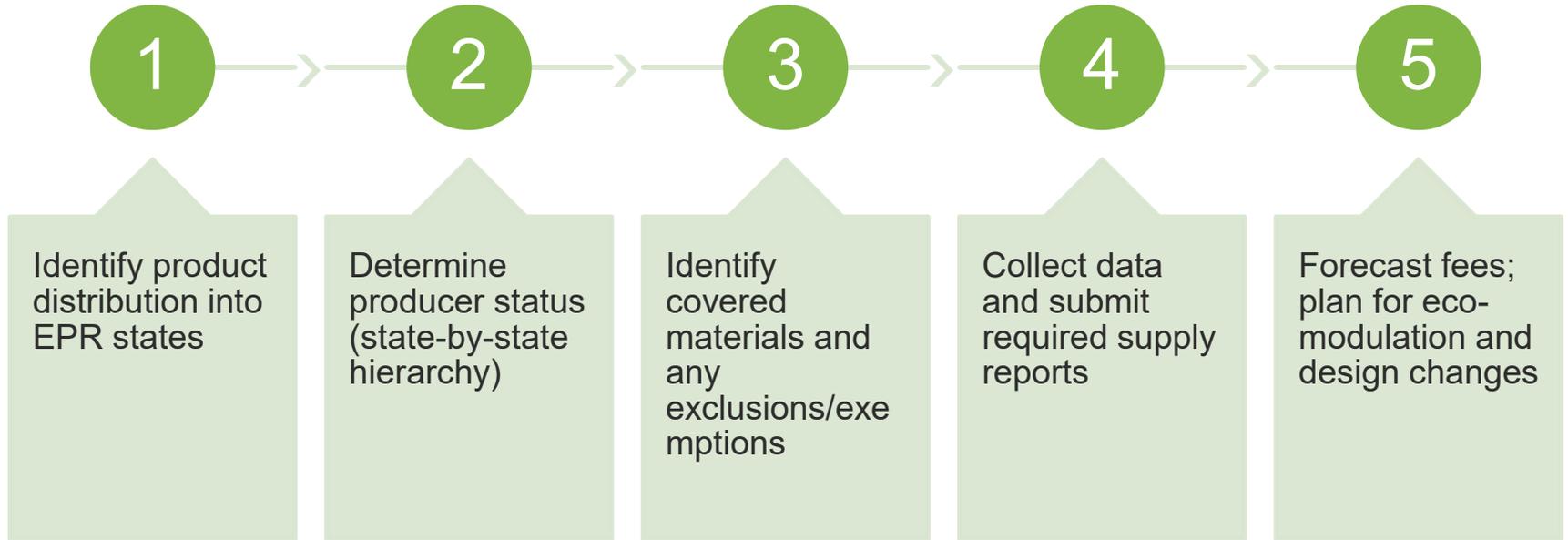
Within 30 Days of CalRecycle's Regulations Becoming Final

- Baseline Source Report
- This report will be on the company's 2023 baseline data, and will be the data against which future source reduction targets are measured.
- This report will only cover two types of packaging: (1) the weight of plastic material; and (2) the number of plastic components.

Deadline TBD

- Individual Producer Source Reduction Plan
- These individual plans will be used by CAA to evaluate CAA's progress in meeting SB54's total source reduction requirements (25% by weight and 25% by plastic component).

Compliance Best Practices: A Repeatable Roadmap





Identify Relevant Product Distribution

Identify Product Distribution

Does your product enter into a state with an active EPR packaging law?

What may count as “entering” a state:

- Sales to customers with a delivery address in the state
- E-commerce shipments delivered to an in-state address
- Retail distribution where the product is sold in state stores
- B2B distribution where packaged goods are delivered to an in-state business

Product distribution is tied to where the packaged product is supplied to the market, not where it is manufactured.



Determine Producer Status

Producer Status: Key Distinctions

- Most laws assign responsibility using a hierarchy
 - Often: brand owner → product manufacturer → licensee → importer/distributor → first to sell/retailer
- Distinctions:
 - Oregon and Colorado: include entities that “direct the manufacture”
 - California and Maine: emphasis on “brand owner”



Producer Exemptions

- Each state identifies certain entities that are exempt from the “producer” definition
- Examples:
 - California: Entities that, in the most recent calendar year, had gross sales of less than \$1,000,000 in the state will be exempt.
 - Every state has a small producer exemption (specifics vary)
 - Maine: The producer sold, offered for sale or distributed for sale in or into the State during the prior calendar year products contained, protected, delivered, presented or distributed in or using less than one ton of packaging material in total
 - Minnesota: The business is operated wholly or in part as a franchise, the producer is the franchisor if that franchisor has franchisees that have a commercial presence within the state.



Identify Covered Material

Covered Materials and Exclusions: Why the Details Matter

- Covered material definitions vary across states (packaging, paper, food service ware)
- Distinctions:
 - California: covered material is both “single-use packaging” as well as plastic single-use food service ware
 - Colorado: any material, regardless of recyclability, that is intended for single or short-term use
 - Maine: a discrete type of material...used for containment, protection, delivery, presentation or distribution of a product



Covered Material Exemptions

Common carveout categories to check:

B2B packaging (e.g., Colorado)

Reusable packaging (e.g., California)

Regulated products (e.g., Colorado)

Packaging for industrial processes (e.g., Colorado)

Rigid pallets (e.g., Oregon)

Long-term storage or production of a durable product (e.g., Maine)

B2B Distribution Scenario

- **The Producer:** Company A is a US-based manufacturer.
- **The Shipment:** Pallets of product shipped to distributors in CA, CO, OR, and ME. Company A has its branding on the product and packaging.
- **The Packaging (Covered Material):**
 - Cardboard boxes immediately surrounding the product (Primary packaging).
 - Corrugated cardboard outer boxes (Secondary packaging).
 - Pallet wrap and wooden pallets (Tertiary/transport packaging).
- **The Question:** Which jurisdictions classify Company A as the “obligated producer” for packaging sold in this business-to-business transaction?

B2B Distribution Scenario

State	Is B2B Packaging Exempt?	The Regulatory Outcome for Company A
California	No	California does not have a B2B exemption. Company A is the obligated producer for the packaging unless another exemption applies.
Colorado	Yes	Packaging used only in B2B transactions or for transportation to non-consumers is generally exempt. The primary, secondary, and tertiary packaging is exempt.
Oregon	No	<p>Oregon does not have a B2B exemption. Company A is the obligated producer for the packaging unless another exemption applies.</p> <p>For example, Oregon has an exemption for rigid pallets used as the structural foundation for transporting goods lifted by a forklift, pallet jack or similar device.</p>
Maine	No	Maine does not have a B2B exemption. Company A is the obligated producer for the packaging unless another exemption applies.



Collect Data and Submit Annual Supply Report

Producer Reporting

Prepare Data

- Collect material supply data for each state where your company is obligated.



Login to Portal

- Portal credentials will be issued to a company's identified representatives.
- Portal users will receive access and training for data reporting.



Enter Data

- Answer questions to confirm your obligation.
- Explain your methodology.
- Provide material weights and required product information.



Submit

- Only your Authorized Representative can click submit on your report.



Calculate Fees and Eco-Modulation

Fees and Eco-Modulation

Programs require producers to fund implementation through fees/dues collected by the PRO.

Fee schedules differ by state and may include flat fee options and eco-modulation (adjustments based on recyclability, toxicity, reuse, etc.).

Examples:

- Maine: A low-volume producer can pay a flat fee of \$500 per ton of packaging material produced.
- California: Producers using plastic covered materials will be assessed an additional fee based on their market share of plastic covered material in the state.
- Oregon: Producers generating between \$5-\$10 million in gross global revenue per fiscal year be charged a uniform annual fee.



Looking Ahead

**Oregon Litigation
Registration Deadlines
Reporting Deadlines
Next Steps**

Will the Packaging EPR Scheme Withstand Legal Challenge?

Challenge to constitutionality of Oregon's Plastic Pollution and Recycling Modernization Act

- **Non-delegation Doctrine:** Delegates control over program to a private party
- **Dormant Commerce Clause:** unfairly targets out of state producers and disrupts national markets
- **Unconstitutional Conditions:** mandates producers sign with PRO and waive certain rights
- **Due Process:** fee setting and other requirements without opportunity to object or appeal

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

NATIONAL ASSOCIATION OF
WHOLESALE-DISTRIBUTORS,

Plaintiff,

vs.

OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY; OREGON
ENVIRONMENTAL COMMISSION; DANIEL
A. RAYFIELD, in his official capacity, and
DOES 1 through 25,

Defendants.

Case No. 3:25-cv-1334

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

Registration Deadlines

Oregon, Colorado, California, Minnesota

- Already Passed

Upcoming Deadlines

- Maryland: Approved PRO must register with the Maryland Department of the Environment by July 1, 2026
- Washington: After July 1, 2026, producers must be a member of a PRO registered in Washington

Upcoming Reporting Deadlines

Oregon: May 2026

Colorado: May 2026

California: TBD (CAA aiming for May 2026)

Maine: TBD (CAA expects Q3 2026)

Minnesota: May 2026

Maryland: May 2026*

Washington: May 2026*

**CAA established deadlines*

Steps to Streamline Compliance



Coordinate early across legal, packaging, procurement, operations, and finance



Map supply chains and SKU-level packaging components to states where you sell



Understand the scope of products and packaging in each state



Standardize a packaging data model (materials, weights, recyclability attributes)

Join us - May 5

Annual Pickleball Networking Event

- B&D's Boston office invites all ACC-Northeast members to our annual networking event at PKL Boston.
- **Location:**
PKL Boston, 64 C St, Boston
- **Date and time:**
Tue, May 5, 2026
6:00 PM - 8:00 PM

Learn More
& Register



Questions?

Thank you!



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