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Environmental Alert

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EPR compliance updates: Public comments, litigation, and invoices

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Seven states have enacted EPR packaging laws. Learn key compliance deadlines, state-specific considerations, and strategies to avoid penalties and protect market access.



What's the impact?

- EPR laws come with enforceable deadlines, invoicing based on variable fees, and potential sales bans for noncompliance.
- Producers must register with a PRO, report packaging data by material type and weight, and pay fees.
- Companies should prioritize data collection, update supply chain contracts for data-sharing, budget for EPR fees, and track deadlines closely to avoid penalties and maintain market access.

Seven states—California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington—have enacted extended producer responsibility (EPR) packaging laws. Although their requirements differ, each program attempts to shift the financial and operational burdens for the disposal of packaging from municipalities and landfills to the manufacturers of the products within that packaging. As rulemakings advance, significant invoices are issued and collected on,

and regulatory enforcement begins, companies selling packaged products into these seven states should assess compliance strategies to manage cost exposure and protect market access.

Core features of state EPR programs

State EPR packaging laws generally require companies that manufacture, brand, import, or distribute packaged products (the “producer”) to fund and participate in statewide recycling systems. While definitions of “covered materials” vary, most programs apply broadly to plastic, paper, and other common packaging formats. Obligations typically include registering (directly or through a Producer Responsibility Organization (PRO)), reporting packaging data annually—often by material type and weight—and paying program fees.

Determining applicability requires a state-specific analysis, but the framework is similar across jurisdictions. Companies must assess whether they qualify as a “producer” under tiered definitions (usually beginning with the brand owner or manufacturer and cascading to importers or distributors), whether their packaging is “covered material,” and whether any exemptions apply. Common exclusions include minimum revenue or in-state sales thresholds and limited exemptions for certain product categories or de minimis volumes.

Most states require producers to join a PRO or, in limited cases, operate under an approved individual plan. The leading PRO to date, and only PRO in some states, is the Circular Action Alliance (CAA). Although fee structures and eco-modulation incentives differ, all programs authorize meaningful penalties for noncompliance and, in some cases, prohibit the sale of covered products within the state without compliance.

Key considerations by state

Oregon: On February 6, 2026, the US District Court for the District of Oregon enjoined enforcement of Oregon’s EPR law against the National Association of Wholesale Distributors and its members.¹ CAA indicated that Oregon’s EPR program remains in effect with registration, reporting, and invoicing processes continuing unchanged. A trial on the merits of remaining constitutional claims is set for July 13, 2026. Producers invoiced for 2026 fees should evaluate litigation risk, consider extension requests where appropriate, and document payment-related decisions. In addition, some producers have reported receiving credits from CAA for over-charges in 2025 invoices, resulting in over-payments by those producers. Careful accounting and reconciliation of EPR invoices is warranted.

Colorado: Colorado’s program became operational on January 1, 2026, with producer dues payable to CAA at program launch. Producers were invoiced in mid-to-late January with payment due in February. The statute authorizes administrative penalties for failure to register or pay fees,

¹ National Association of Wholesaler-Distributors v. Feldon, Case No. 25-cv-1334-SI (D. Or.).

including per-violation and per-day assessments, with higher exposure for repeat violations. As rule implementation progresses, producers should monitor eco-modulation criteria that may affect future fee calculations.

California: Revised draft regulations were released on January 29, 2026, with public comments accepted through February 13, 2026. Producers must join a PRO or submit an individual compliance plan within 30 days after final regulations take effect and no later than January 1, 2027. Separately, California's recyclability labeling restrictions under SB 343 apply to products and packaging manufactured after October 4, 2026, limiting the use of certain recycling claims. Meeting SB 343's recyclability criteria may require changes to packaging design, material selection, and supply-chain documentation. These same design decisions feed into California's EPR reporting and fee structures, creating complex and interlinked compliance hurdles for producers in the state.

Maine: Maine's model differs structurally, relying on a stewardship organization to reimburse municipalities for eligible recycling and waste management costs; producers pay into the stewardship program but do not join it. Producers must register and submit estimated 2025 packaging data by May 2026, with startup fees expected later in the year and within six months of the state contracting with a stewardship organization (anticipated September). Detailed cost allocation methodologies continue to develop.

Maryland: PRO registration is required by July 1, 2026, and producer responsibility plans—whether through a PRO or independently—are due by July 1, 2028. Annual producer reporting is scheduled to begin July 1, 2029. Companies should monitor which PROs receive approval and assess alignment strategies early.

Minnesota: Minnesota's program will not take effect until January 1, 2029. The PRO must submit an initial stewardship plan by March 1, 2028, with five-year updates thereafter. Although implementation is several years away, early data preparation will reduce future compliance burdens.

Washington: Producers must join an approved PRO or register an individual plan by July 1, 2026. PRO plans are due October 1, 2028, with updates every five years. Beginning March 1, 2029, producers that are not registered may not introduce covered materials into the state.

Strategic compliance priorities

Despite structural differences, state EPR packaging programs create similar operational pressures. Companies that act early can better manage financial exposure and reduce enforcement risk.

- / **Build-out data collection capabilities and governance:** Fee obligations are driven primarily by reported packaging weight and material type. Companies should develop a centralized

data repository with standardized fields, defined ownership, and internal controls. Supplier attestations and audit trails are critical to avoid overpayment and respond to regulatory scrutiny. Data systems should be flexible enough to generate state-specific reports as methodologies evolve.

- / **Update supply chain contracts:** Along the lines of traceability, supply chain contracts should be updated to address packaging data-sharing obligations, notification of design changes, and allocation of EPR responsibility where permitted by law. Clear contractual allocation can mitigate disputes among brand owners, private-label manufacturers, importers, and distributors.
- / **Establish cross-functional teams:** EPR packaging compliance intersects with legal, finance, sustainability, packaging engineering, and procurement functions. Establishing a coordinated internal working group with defined roles, reporting lines, and escalation protocols will improve decision-making and ensure deadlines are met.
- / **Budget for fees:** As fee schedules are released and invoices issued, companies should incorporate EPR costs into financial planning. Scenario modeling—including potential eco-modulation incentives or design changes—can help mitigate margin impacts and inform packaging redesign decisions.
- / **Track deadlines and document compliance:** Missed registration or payment deadlines may result in penalties or restrictions on product sales in certain states. With active litigation in some jurisdictions and enforcement activity increasing, maintaining contemporaneous records of registrations, filings, communications, fee payments, and data methodologies is essential to support defensibility.

Conclusion

Packaging EPR is no longer a prospective policy trend; it is an operational reality with enforceable deadlines, issued invoices, and potential sales restrictions. Companies selling into affected states should prioritize data integrity, governance, contractual clarity, and financial planning. Those that treat EPR as a managed compliance function—rather than a reactive obligation—will be better positioned to control costs, minimize risk, and maintain uninterrupted access to key markets as additional states consider similar legislation.

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