

Packaging Extended Producer Responsibility (EPR) Implementation and Retailer Responsibilities

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Maine

On July 12, 2021, Maine became the first state to sign legislation (LD 1541) creating EPR for packaging and printed paper in the state. This new law places financial responsibility on producers to fund the management and recycling of their products.

[Maine's Department of Environmental Protection \(DEP\)](#) has until December 31, 2023, to initiate a multi-year rulemaking process that will determine how the program will operate and be implemented, including the creation of a packaging stewardship organization (PSO). Under the implementation timeline, the first EPR fees will not be collected until sometime in 2026. Information on the current material coverage and expected retailer responsibilities under this legislation is covered below.

Implementation Timeline

JULY 2022	Funding for program administration available
JULY 2022 - DECEMBER 2023	Stakeholder outreach for rule development
DECEMBER 31, 2023	Deadline to initiate rulemaking with Board of Environmental Protection
SUMMER 2024	Anticipated adoption of technical rules and provisional adoption of major substantive rules
FEBRUARY 15, 2025	First program update report due to legislature
JANUARY 2025	Submittal of major/substantive rules to the legislature for approval
SPRING/SUMMER 2025	Final adoption of substantive rules
FALL 2025	Issue RFP for stewardship organization
2026	Selection of stewardship organization. First producer payments – Payments due no more than 180 days after effective date of Stewardship organization contract.
2027	First payments to municipalities
FEBRUARY 15, 2028	Program report to legislature requiring comprehensive review of the rules and outlining any proposed changes to rules and law
JULY 2035	Reissue bid for stewardship organization

What material is covered?

Covered products include packaging and printed paper. LD 1541 defines packaging material as a “discrete type of material, or a category of material that includes multiple discrete types of material with similar management requirements and similar commodity values, used for the containment, protection, delivery, presentation or distribution of a product, including a product sold over the



Internet, at the time that the product leaves a point of sale with or is received by the consumer of the product.” The bill excludes some packaging applications, including beverage containers (Maine has a [beverage container deposit program](#)), long-term storage materials, paint containers, and other assorted materials.

What are the retailer responsibilities and fees?

Beginning in 2026, the law requires producers of packaging (brand-owners) sold in the state to pay annual fees for the operation of municipal recycling programs. Producers will fund a PSO to manage the recycling program based on the amount and type of packaging they sell into Maine.

Fees will be determined by the DEP and will be based on weight or volume and adjusted to incentivize more environmentally friendly characteristics. These may include aspects such as the increased use of recycled content recyclability of a packaging material, the decreased toxicity in a packaging material, a decreased amount of packaging material used, and the increased reuse of packaging material.

How can my company stay up to date on developments with Maine’s packaging EPR program?

- Engage with [Maine’s State Retail Association](#) – let [Townsend Brown](#) (RILA Coordinator of State Government Affairs) know if you would like an introduction.
- Visit Maine’s DEP [website](#) for stakeholder updates, meetings, and education.
- To be added to Maine’s DEP distribution list for updates on their EPR process, please email MainePackagingEPR@Maine.org.gov.

Oregon

Oregon enacted the Plastic Pollution and Recycling Modernization Act on August 6, 2021. Covered products include packaging, printing and writing paper, and food service ware. The bill is a shared responsibility measure that seeks to expand and improve recycling across the state. Under the legislation, [Oregon’s Department of Environmental Quality \(DEQ\)](#) will establish a standardized list of items that can be recycled. Funding generated from fees levied on producers under the program will be directed toward upgrading facilities to meet new performance standards.

Implementation Timeline

2021	DEQ Implementation Planning
2022	Law effective January 1 Oregon Recycling System Advisory Council begins meeting Truth in Labeling Task Force submits report by June
2023	Needs assessment for collection expansion due July 1 Pilot projects for contamination reduction Studies for processor fees



RETAIL INDUSTRY LEADERS ASSOCIATION

2024	First PRO program plans assessment due May 15 Public procurement assessment due May 15 First equity study due Sept. 15 First needs assessment for multifamily services due Sept. 15
2025	Producers join a PRO PROs begin implementation Local governments implement program changes, including statewide collection list Processors obtain permit or certification

What material is covered?

Covered products include packaging, printing and writing paper, and food service ware. Beverage containers would be excluded due to Oregon's current beverage container deposit program.

What are the retailer responsibilities and fees?

SB 582 requires producers to join producer responsibility organizations (PROs) and pay annual fees based on the environmental impact of their products.

The base fee paid by each producer will be calculated by multiplying the material-specific base fee rate by the total amount of covered products of each material sold or distributed by the producer in or into the state. Fees will be eco-modulated based on a number of factors including the "environmental impact" as measured by LCA, post-consumer recycled content, product-to-package ratio, and recyclability.

How does my company stay up to date on developments with Oregon's packaging EPR program?

- Engage with [Associated Oregon Industries Retail Council](#) let [Townsend Brown](#) (RILA Coordinator of State Government Affairs) know if you would like an introduction.
- Visit Oregon's DEP [website](#) for stakeholder updates, meetings, and education.
- To be added to Oregon's DEP distribution list, please sign up [here](#).

Colorado

Colorado became the third state to pass an EPR law ([HB22-1355](#)) for packaging and printed paper on June 3, 2022. Unlike the EPR laws in Oregon and Maine, producers of packaging and printed paper will fund and operate the program, and funds will be used to finance a statewide recycling program.

On or before June 1, 2023, the [Colorado Department of Public Health and Environment](#) (CDPHE) must designate a nonprofit organization to implement and manage a statewide program that provides recycling services to covered entities in the state. The program is funded by annual dues paid by producers of products that use packaging materials and paper products.



The bill creates the producer responsibility program for statewide recycling advisory board that consists of members who have expertise in recycling programs and are knowledgeable about recycling services in the different geographic regions of the state.

Implementation Timeline

JUNE 1, 2023	Designation of nonprofit organization to implement and manage a statewide program
SEPTEMBER 1, 2023	Organization must hire third party to conduct a needs assessment
APRIL 1, 2024	Results of needs assessment reported to advisory board and CDPHE. Legislature approves recycling goals and cost estimate.
FEBRUARY 1, 2025	Organization submits a plan proposal to the advisory board and CDPHE.
JULY 1, 2025	A producer may not sell or distribute any products that use covered materials in the state unless the producer is participating in the program or, after January 1, 2029, as set forth in the final plan or another plan approved by CDPHE.
2027	Annual report due.

What material is covered?

Covered products include packaging material and paper products. Packaging materials excluded are those intended to be used for long-term storage or protection of a durable product and that are intended to transport, protect, or store the product for at least five years.

What are the retailer responsibilities and fees?

HB22-1355 requires producers to join a PRO and pay annual fees based on the use of covered materials. Producers are allowed to submit an individual program plan as an alternative to joining the PRO. The individual plan must comply with the same requirements and describe how the producer will contribute to the costs of the department in overseeing the program and how it will reimburse service providers that provide recycling services for the covered materials.

How does my company stay up to date on developments with Colorado's packaging EPR program?

- Engage with Colorado's Retail Council. Let [Townsend Brown](#) (RILA Coordinator of State Government Affairs) know if you would like an introduction.
- Visit CDPHE's [website](#) for stakeholder updates, meetings, and education.
 - For updates on this program, please sign up by sending an email to email darla.arians@state.co.us, subject line "producer responsibility contact list."



California

California signed into law SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act. The Act obligates single-use and disposable packaging producers to form a PRO to manage industry efforts to comply with the law's requirements. It requires all covered material sold in or imported into California to be recyclable or compostable by 2032. The Act also requires a 25% reduction in the use of plastic packaging by 2032 and a 65% recycling rate of the remaining single-use plastic packaging by the same year.

Implementation Timeline

JULY 1, 2023	Advisory Board (appointed by CalRecycle) composed of 13 voting and 3 nonvoting members.
JANUARY 1, 2024	Producers must form a PRO. CalRecycle to publish list of materials considered recyclable and compostable.
JULY 1, 2024	CalRecycle to publish list of materials considered recyclable and compostable.
JANUARY 1, 2025	CalRecycle to publish implementation and enforcement regulations.
JANUARY 1, 2026	CalRecycle to publish current recycling rates for each covered material category
JANUARY 1, 2027	Producers cannot sell covered materials into the state without being part of a producer responsibility plan (or sooner, if plan is approved before this date).

What material is covered?

Covered products include single-use packaging that is “routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer; and plastic single-use food service ware, including, but not limited to, plastic-coated paper or plastic-coated paperboard, paper or paperboard with plastic intentionally added during the manufacturing process, and multilayer flexible material.”

What are the retailer responsibilities and fees?

SB 54 requires all producers of covered material to form and join a PRO by January 1, 2024. Once the PRO plan is approved, or no later than January 1, 2027, producers will be prohibited from selling, offering for sale, importing, or distributing covered materials in California unless the producer is approved to participate in a PRO's plan. Producers may be exempt from participating in a PRO's plan if they assume individual responsibility and liability for compliance with the Act and demonstrate a recycling rate of 65% for three consecutive years before 2027 and 70% thereafter. SB 54 to reduce the overall amount of plastic covered material, including the number of products packaged in covered material by 10% by January 1, 2027, 20% by January 1, 2030, and 25% by January 1, 2032. All covered material is recyclable or compostable within the state by January 1, 2032. Plastic covered material offered for sale, distributed, or imported in or into California meets specified recycling rates of 30% by January 1, 2028, 40% by January 1, 2030, and 65% by January 1, 2032.



PROs will collect fees from member producers based on a fee schedule to be developed by the PRO, but it must be sufficient to ensure the \$500 million remittance are met and that the PRO budget is fully funded.

How does my company stay up to date on developments with California's packaging EPR program?

- Engage with [California Retailers Association](#). Let [Townsend Brown](#) (RILA Coordinator of State Government Affairs) know if you would like an introduction.
- Visit CalRecycle's [website](#) for stakeholder updates, meetings, and education.
- To be added to CalRecycle's distribution list for updates on their EPR process, please sign up [here](#).

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Disclaimer: The information above is meant to be a reference tool and is not an exhaustive list of all packaging EPR legislative activity in the U.S. The information provides a summary and does not convey all aspects of legislated requirements. Links to legislation are accurate as of the date of this publication. Retailers should reference official agency resources and/or the appropriate legislative documents for comprehensive guidance.