



***FORWARD
IN FOCUS***

Extended Producer Responsibility (EPR) Update

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Agenda

- Key Elements of EPR Laws
- EPR+: California and Minnesota
- EPR Laws by State
- Key Compliance Questions

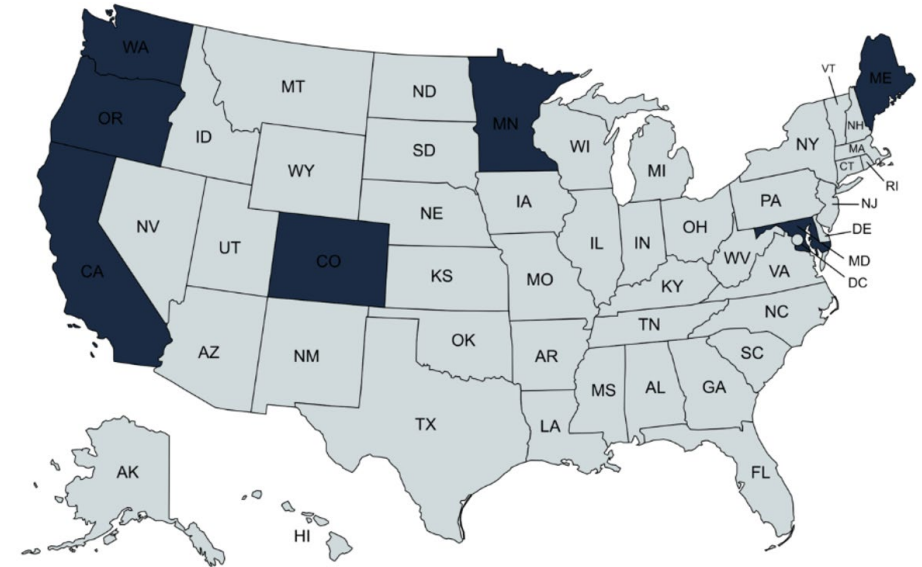
Key Elements of EPR Laws

- Covered Products
 - Focus on [single-use packaging and in some cases food-service ware](#)
 - Almost all consumer products are covered
 - Most states cover B2B sales (Colorado differs on this point)
- Covered Producers
 - Manufacturers, brand owners/licensees, importers/distributors
- Producer Responsibility Organization
- Fees and Reporting
- EPR+ Targets

Overview of State EPR for Packaging Legislation

- **Seven states** have enacted EPR for packaging laws:

1. California
2. Colorado
3. Maine
4. Maryland
5. Minnesota
6. Oregon
7. Washington



- Additional states have introduced legislation in 2025 & 2026 to establish an EPR program (e.g., MA, NJ, NC, IL, among others...)
- Some states have enacted EPR “study bills” that require statewide needs assessments (e.g., Rhode Island due Dec 2026; Hawaii due Dec 2027)
- **Note: New York did not enact EPR legislation this year!**

EPR+: California and Minnesota

California

1. Use less plastic:

- January 1, 2027: PRO must meet specified “**source reduction**” targets for packaging, based on total weight of plastic and number of plastic components. Additional targets are set for 2030 and 2032
- Source reporting required annually; source reduction plan was due Aug. 3
- Enforceable commitments for producer source reduction, but not necessarily through the individual source reduction plans. Not conducting source reduction could mean higher fees

2. Meet recycling “rates and dates”:

- Starting January 1, 2028: Producers must ensure **plastic** covered materials meet specific **recycling rates**

3. Switch to recyclable/ compostable materials:

- January 1, 2032: All covered materials in the state must be either recyclable or compostable (as defined by state)
- Recyclable is defined very narrowly by California SB343

Minnesota

- All covered packaging must be **recyclable, compostable, reusable, or refillable** by 2032



EPR Laws by State

June 1, 2026: Supply reports were due in OR, CO, CA; simplified (“pre-program”) reports due in MN, MD, WA

Note: deadlines that fall on weekends get pushed to following business day

State Law	Initial Obligations
Oregon SB 582	Producers had to join and pay into PRO (CAA) by July 1, 2025 ; and provide reports to PRO by March 31, 2025 (CAA requested producers register by October 2024). Invoices issued in June 2025. For 2026, reports were due May 31, 2026 , and invoices issued in January & July 2026 (two 50% installments).
Colorado HB 22-1355	Producers had to join PRO (CAA) by October 1, 2024 ; and begin paying fees by January 1, 2026 . PRO’s reporting deadline was July 31, 2025 . For 2026, reports were due May 31, 2026 , and invoices issued in January & July 2026 (two 50% installments). PRO (not individual companies) must meet minimum PCR content targets for certain materials, including paper, glass, metal, and plastic, by 2030 and 2035.
California SB54	Producers must join and pay into PRO (CAA) by Jan. 2027 (though CAA’s registration deadline was September 5, 2025). PRO’s reporting deadline was November 15, 2025 . For 2026, supply reports and annual source reduction reports were due May 31, 2026 ; and Individual Source Reduction Reports were due Aug 3, 2026 . PRO must meet initial source reduction targets in 2027; meet certain recycling rates for expanded polystyrene starting in 2025 and for plastic starting in 2028; and ensure all materials are recyclable or compostable (as defined by state) by 2032.
Minnesota HF 3911	Producers had to join PRO (CAA) by July 1, 2025 ; PRO to submit stewardship plan by October 1, 2028, which producers must comply with. For 2026, (“pre-program”) simplified reports were due May 31, 2026 .

EPR Laws by State

June 1, 2026: Supply reports were due in OR, CO, CA; simplified (“pre-program”) reports due in MN, MD, WA

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State Law	Initial Obligations
Maine LD 1541	TBD. On August 20, 2026, Maine DEP announced that it received no submissions in response to its Request for Proposals (RFP) for the Stewardship Organization (i.e., Maine’s version of a PRO). Maine published the RFP on June 15, 2026, and the submission deadline was August 18. Maine has stated that it is assessing all options at this time and further information will be forthcoming.
Maryland SB 901	Producers had to register with PRO (CAA) and submit 2026 (“pre-program”) simplified reports by May 31, 2026 ; statute requires PRO to provide Maryland Department of the Environment with a list of producers, brands, and covered materials by July 1, 2026 . PRO must submit a producer responsibility plan by July 1, 2028 . PRO will reimburse municipalities for recycling costs and work with the Department to establish recycling targets, sustainable packaging goals, and a statewide list of covered recyclable materials.
Washington SB 5284*	Producers had to register with PRO (CAA) and submit 2026 (“pre-program”) simplified reports by May 31, 2026 (statutory registration deadline was July 1, 2026). Beginning March 1, 2029 , producers not registered with a PRO may not introduce covered materials into the state.

*In WA, plastic film packaging that is in direct contact with raw meat, poultry, fish, or seafood is exempt

Small Volume Exemptions – by Weight or Sales

Small Business Exemptions

	California*	Colorado	Oregon	Maine	Minnesota	Maryland	Washington
Covered Material Weight	N/A	<1 ton	<1 metric ton	<1 ton	<1 ton	<1 ton	<1 ton
Revenue/Sales	<\$1,000,000 gross sales in the state in the most recent calendar year	<\$5,632,843 gross total revenue, not including on-premises alcohol sales in prior calendar year (revenue figure adjusted annually)	<\$5,000,000 gross global revenue in most recent fiscal year	<\$2,000,000 in total gross revenue during the prior calendar year	<\$2,000,000 gross global revenue in most recent fiscal year	< \$2M gross global revenue in most recent fiscal year	<\$5,000,000 gross global revenue, not including on-premises alcohol sales in prior fiscal year (until January 1, 2031)

- Each company's sales and covered material volume is considered in **aggregate** with parent/subsidiaries and other associated producers.

*Producers who expect to file a small producer exemption pursuant to Section 18980.5.2 of Draft Regulations with CalRecycle will be required to do so directly as CAA will not file a small producer exemption application on behalf of the producer



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SB 54 “Direct Conflict” Exclusion

Exclusion where EPR requirement poses a “direct conflict” with federal law, regulation, guidance, or requirement (such as FDA or USDA)

- Excluded materials are fully outside the scope of EPR, meaning not subject to reporting, fees, or substantive packaging requirements
- Must submit notice to CalRecycle with justification that it is not “reasonably possible” to use alternative packaging, which requires showing:
 - No alternative that satisfies the federal standards and is lawful to use in CA
 - Not possible to avoid the conflict by eliminating or replacing the component
 - Not possible to avoid the conflict by redesigning or replacing the packaging
- CalRecycle will notify within 90 days if notice is incomplete and requires resubmission
- Material is considered excluded unless CalRecycle rules otherwise, in which case material is considered covered material within 180 days

SB 54 Exemptions

- Exemptions
 - “Health and safety”
 - “Unique circumstances”
- Materials may be exempted from substantive packaging requirements, though still subject to reporting/fees
- Must apply to the PRO, which will then submit to CalRecycle
- Typically only valid for two years; phase-in plan is required for unique challenges exemption

How do I determine who is the covered producer?

For packaging, the covered producer generally defaults to the brand owner & manufacturer, or the brand owner in a private label situation

If there is no applicable brand owner, the licensee, importer, or distributor may be covered

Generally, packaging added by a third party (e.g., Amazon) for distribution to consumers is covered by that third party

For food service ware, the covered producer is determined in some states using a different hierarchy

FAQ: What if I don't distribute directly into the state?

If the company meets the definition of a covered producer, and products are ultimately sold or distributed into the state, the producer is still obligated.

Covered Materials	
CALIFORNIA	• Packaging • Plastic foodservice ware
OREGON	• Packaging • Printing and writing paper • Foodservice ware
COLORADO	• Packaging • Paper products • Foodservice ware
MINNESOTA	• Packaging • Paper products • Foodservice ware
MARYLAND	• Packaging • Paper products • Foodservice ware
MAINE	• Packaging • Some foodservice ware
WASHINGTON	• Packaging • Paper products • Foodservice ware

When is a distributor the covered producer?

California's producer hierarchy:

- (1) person that is both the brand owner (or licensee) & manufacturer
- (2) brand owner "in the state", or if the owner is not in the state, the exclusive licensee
- (3) **seller / distributor**

Other EPR states generally apply the following hierarchy:

- (1) manufacturer & brand owner (or manufacturer of a product using unbranded packaging)
- (2) licensee
- (3) brand owner (some states)
- (4) importer
- (5) **first distributor**

Food service ware:

Oregon: The producer is the person that **first sells** the food service ware in/into the state

What materials are covered?



- Covered materials include consumer product packaging and, in most states, B2B materials
- CO covers consumer-facing packaging supplied to residential consumers. Beginning in 2028, the program is expected to expand to include non-residential entities (public places, small businesses, hospitality locations, schools, etc.)
- Rigid pallets are exempt in some states (not all); but some states cover pallet wraps, secondary and tertiary packaging, shipping stickers, etc.

Are B2B Sales and Food Service Ware Covered?

State	Covers B2B Sales?	Covered Food Service Ware
CA	Yes	• “<u>Plastic</u> single-use food service ware”
CO	Partial – consumer-facing only; materials used in non-residential settings exempt until 2028	• “Unfilled food and beverage packaging material” (e.g., package of cups sold to consumers) • “Service packaging” added at point of sale (e.g., plates, cups)
ME	Partial – covers B2B packaging for products “used” by food service establishments (e.g., bulk food packaging); excludes non-consumer facing packaging for products sold at retail	• Items used to contain/present food at point of sale (e.g., single-use cups, take-out containers)
MD	Partial – likely covers consumer-facing packaging provided by food service establishments (e.g., ketchup packets)	• “Service packaging” filled at point of sale (e.g., take-out containers) • Prepackaged “beverage containers”
MN	Partial – consumer-facing only; excludes packaging for products used for the production for another product	• “Food packaging” (e.g., cups, plates bowls)
OR	Yes	• <u>Paper</u> and <u>plastic</u> “food service ware” (e.g., plates, cutlery; excludes napkins, paper towels) • “Wraps” sold to consumers (e.g., aluminum foil)
WA	No – B2B and “nonresidential” packaging exempt	• Items used to contain/serve food for personal use (e.g., single-use cups, take-out containers)



Industry Tools

Liz Sertl, Sr. Director – Supply Chain Visibility

Who is GS1 US?

We bring communities together.

GS1 is...

- Neutral and not-for-profit
- User-driven and user-governed
- Global and local
- Inclusive and collaborative



GS1 Standards in the Supply Chain



IDENTIFY: GS1 Identification Numbers

GLN Global Location Number **GTIN**® Global Trade Item Number® **SSCC** Serial Shipping Container Code **EPC**®/**SGTIN** Serialized Global Trade Item Number **GSIN** Global Shipment Identification Number



CAPTURE: GS1 Data Carriers

Barcodes



EPC-Enabled RFID Tags



GS1 Digital Link



SHARE: GS1 Data Exchange

Master Data Global Data Synchronization Network™ (GDSN®) and GS1 US Data Hub | Location **Transactional Data** Electronic Data Interchange (EDI) **Physical Event Data** EPC Information Services (EPCIS)



What is GS1 Standards Role in EPR?

GS1 US has an important role in the complex EPR landscape.



GS1's identification standards (e.g. GTIN, GLN, etc.) can help ensure that every product and its packaging can be **uniquely identified** and **consistently described** across stakeholders



Standardized attributes for packaging materials, product composition, and sustainability indicators **streamline reporting across jurisdictions and PROs**

- Improves **data accuracy, interoperability, and audit-readiness**, especially when reporting across multiple EPR states with divergent requirements



2D with Digital Link and RFID/NFC tags can **carry extended attributes** about recyclability, disposal instructions, and EPR-relevant metadata

- Empower consumers with accurate "how to recycle" info tailored by location or product

GS1 US EPR Guidance and Data Model Objective

- Create a technology-agnostic U.S. Data Model with attributes and code lists to support compliance
- Establish a common language for cross-industry collaboration in the circular packaging value chain
- Enable future-proof packaging documentation
- Support interoperability among data sharing technologies



Supporting Stakeholders



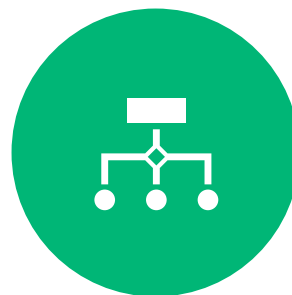
Identify brand owners via GTINs who may align with possible EPR producers.



Breaks down trade items and their corresponding packaging into components for each sellable GTIN hierarchy.



It aligns GLNs with different manufacturing facilities and promotes best practices on how different components by plant can be shared.



It standardizes attributes and code lists for sharing material information, weights, state classifications, and ecomodulated characteristics to help producers collect the data needed for reporting.

Data Model Example



BMS ID	Attribute/Code List	Bottle
2186	packagingTypeCode	BOTTLE
2178	packagingWeight	1.21 GRM
2168	packagingLevel	1
2206	packagingMaterialType	POLYMER_HDPE
2214	packagingMaterialCompositionQuantity	1 GRM
NEW	EPR Covered Material Class	PLASTIC
NEW	EPR Covered Material Class	PLASTIC_RIGID
NEW	EPR Covered Material Group	BOTTLES, JUGS, JARS (PIGMENTED/COLOR)

BMS ID	Attribute/Code List	Blister Protection
2186	packagingTypeCode	BLISTER_PACK
2178	packagingWeight	0.5GRM
2168	packagingLevel	1
2206	packagingMaterialType	POLYMER_LDPE
2214	packagingMaterialCompositionQuantity	0.5GRM
NEW	EPR Covered Material Class	PLASTIC
NEW	EPR Covered Material Class	PLASTIC_FLEXIBLE
NEW	EPR Covered Material Group	OTHER FLEXIBLE AND FILM ITEMS

BMS ID	Attribute/Code List	Card Backing
2186	packagingTypeCode	CM
2178	packagingWeight	0.4GRM
2168	packagingLevel	1
2206	packagingMaterialType	PAPER_PAPERBOARD
2214	packagingMaterialCompositionQuantity	0.4GRM
NEW	EPR Covered Material Class	PAPER_AND_FIBER
NEW	EPR Covered Material Group	PAPER_PAPERBOARD_POLYCOATED
NEW	EPR Covered Material Group	ALL FORMS W/O PLASTIC

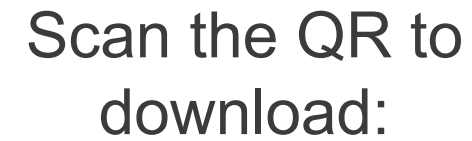


The Global Language of Business

GS1 US Guidance for Extended Producer Responsibility (EPR) Packaging Requirements

Recommendations for Leveraging GS1 Standards for U.S. State-level Reporting

Release 1.0, May 30, 2026





EPR Litigation Update

Karen Harned, Director of Litigation and Legal Policy, National Association of Wholesaler-Distributors

The Three Cases

OREGON

NAW v. Feldon (D. Or.)

Filed July 2025

Claims: dormant Commerce Clause; procedural due process over the delegation of fee-setting to CAA; unconstitutional conditions; equal protection; state nondelegation

Feb. 6, 2026: unconstitutional conditions, equal protection, and state nondelegation claims dismissed; preliminary injunction granted

Decided Aug. 27, 2026

CALIFORNIA

Nebraska v. Heller (E.D. Cal.)

Filed June 22, 2026 — NAW as sole business plaintiff with 17 state attorneys general

Claims: dormant Commerce Clause; Import-Export Clause; private delegation; ultra vires extraterritorial regulation (due process and separation of powers); First Amendment; state First Amendment and nondelegation claims

Aug. 19: preliminary injunction motion and amended complaint adding a vagueness claim

PI motion pending

COLORADO

NAW v. Ryan (D. Colo.)

Filed July 30, 2026 — NAW as sole plaintiff, represented by NCLA

Claims: private delegation of fee-setting and unconstitutional conditions (Fourteenth Amendment); dormant Commerce Clause; three First Amendment claims — compelled membership and funding of CAA, the bar on disclosing fees to customers, and dues spent on advocacy

Preliminary injunction motion filed Aug. 5

Briefing underway

Different statutes, the same structural defects: producers made to fund a state system, fee-setting handed to a private organization, and limits on what businesses may tell their customers.

Oregon: NAW v. Feldon

- On August 27, Judge Michael Simon ruled for the state after the five-day trial in July.
- The court held the RMA violates neither the dormant Commerce Clause nor the Due Process Clause.
- The court found few material facts truly disputed — the issues are, for the most part, questions of law.

A disappointing result

The opinion does not reflect the tone and tenor of the trial or the weight of the evidence we put on.

California: Nebraska v. Heller

- On August 19, NAW and our 17 state partners filed a motion for preliminary injunction and an amended complaint.
- The motion asks the court to enjoin CalRecycle and the Circular Action Alliance from enforcing SB 54 until it has ruled on the constitutionality of the law.
- The amended complaint elaborates on our constitutional claims and adds a new one: SB 54 is unconstitutionally vague, imposing sweeping obligations without telling businesses how to meet them.
- Terms as basic as “covered material” and “recyclable” are never defined in a way a company can apply.

The 2032 mandate

It incorporates standards a federal court has already preliminarily enjoined as unconstitutionally vague, in the challenge to California's “chasing arrows” labeling law, SB 343.

Cal. League of Food Prods. v. Bonta (S.D. Cal. July 14, 2026)

Colorado: NAW v. Ryan

Where the case stands

- Our motion for a preliminary injunction asks the court to bar enforcement of the Colorado Act and defer the EPR payment obligations of NAW and its members.
- The court has set an expedited briefing schedule running through late October.

Key dates

Sept. 16

Colorado response to PI motion

Sept. 28

NAW reply in support of PI

Oct. 5

Colorado answer or motion to dismiss

Oct. 14

Joint proposed scheduling order

Oct. 21

Scheduling conference, 11:30 a.m.,
Denver

Oct. 26

NAW response to motion to dismiss

What This Means for Distributors

Obligations keep running

Registration, reporting, and fees continue in every state with a program while these cases proceed. Nothing filed or decided so far pauses a deadline.

The defects are structural

Fee-setting delegated to a private organization, restrictions on what a business may tell its customers, and burdens on interstate distribution — the same design runs through each state program.

Three state programs, three federal courts, and the same constitutional questions in each.