



## Plastic and Packaging EPR Laws – Key Considerations and Impending Compliance Deadlines

MAY 28, 2026

By [Dana Stotsky](#), [Ben Schultz](#), and [Britt Speyer Fleming](#)

The regulatory paradigm for plastics and packaging has drastically shifted. Currently, seven states—California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington—have enacted sweeping extended producer responsibility (EPR) laws. These programs shift the physical and financial burdens of waste management and recycling from municipalities directly onto the private sector. Because each state’s EPR law imposes different obligations and deadlines, understanding the nuances of each program and staying on top of those deadlines is critical.

Before engaging a consultant to meet program reporting requirements, companies should first conduct a detailed analysis of each state’s EPR law and regulations to determine whether any obligations actually apply. For businesses operating in complex supply chains, this determination often requires an intricate, state-by-state legal analysis.

With California imposing near term deadlines on June 1, 2026, and August 1, 2026, along with the threat of aggressive enforcement mechanisms, including \$50,000 daily fines and “stop-sale” orders, compliance is no longer a long-term goal; it is an immediate operational imperative. Other states are not far behind, with Maryland imposing a July 1, 2026, deadline for producers to register with the state and Washington imposing a July 1, 2026, for producers to join a producer responsibility organization (PRO) (an entity selected by each state that administers the EPR program).

### The Core Question: Are You a “Producer” of a “Covered Material”?

#### *What is a Covered Material?*

The first question that companies must answer to determine whether they are subject to EPR laws is critical: do they sell or distribute a “covered material” in states with active EPR programs? Generally, the EPR states’ definitions of “covered material” focus on (1) packaging, (2) paper products, or (3) food service ware. Each state, however, has adopted its own definitions of these “covered materials,” which ultimately affects the scope of regulated items.

Depending on the state, certain categories of items are excluded entirely from the definition of “covered material.” For example, the states commonly exempt packaging for medical products, prescription drugs, hazardous materials, and pesticides; materials used in business-to-business (B2B) transactions; paper products that may be unsanitary or unsafe after use; and packaging used for products that are sold or distributed *outside* the state.

Because definitions and exemptions vary across states, companies must understand the nuances of each state’s EPR framework. Properly identifying “covered materials” is critical because it drives both the determination of “producer” status and the scope of resulting registration and reporting obligations.

### **What is a Producer?**

Once a company determines that it handles a “covered material,” it must next assess whether it is the “producer” of that material. Companies identified as producers are subject to a range of compliance obligations, including registration with a PRO, along with associated reporting and fee requirements.

The EPR states generally apply a tiered framework to identify the responsible producer, though the framework varies by state. The analysis often turns on the type of covered material and, in some states, the method of distribution. For example, Maryland and Minnesota distinguish between items sold or distributed in packaging at physical retail locations and those sold or distributed via e-commerce, remote sale, or online distribution. Depending on the state and underlying facts, the producer may be the manufacturer, brand owner, licensee, importer, or first distributor of the item into the state. While the EPR laws typically prioritize imposing obligations on manufacturers and brand owners, the applicable definitions and tiered framework differ across states, requiring a careful, state-specific analysis to determine whether a company is subject to EPR obligations.

As with the definition of covered materials, the EPR states also provide exemptions from “producer” status. Most notably, all EPR states include a *de minimis* exemption. In many EPR states, like Colorado and Maryland, a company qualifies as a *de minimis* producer if it introduced less than one ton of covered materials into the state during the prior calendar year. A company may also qualify as a *de minimis* producer based on its gross sales or revenue, though the applicable threshold, and whether it is measured globally or at the state level, varies by state.

### **Potential Risks and Next Steps**

#### **Enforcement Risk and Potential Operational Disruption**

Noncompliance can quickly become an operational issue, extending beyond standard penalties for reporting failures. These laws provide regulators and the PRO with enforcement tools that can disrupt sales, distribution, and broader business operations. For example, California’s EPR law authorizes administrative civil penalties of up to \$50,000 per day, per violation, with violations deemed to occur *each day* that noncompliant products are offered for sale or distributed in the state. State regulators also have stop-sale authority, meaning that companies that fail to register, report, or pay required fees may be prohibited from selling or distributing covered products. This risk can create immediate operational and cash-flow disruption. In addition, the PRO may enforce strict requirements on member-producers, including compounding monthly interest and late fees for untimely reporting or payment of eco-modulated fees.

### **Enforcement Risk and Potential Operational Disruption**

Given these risks, companies that may fall within the scope of active EPR programs should act promptly to confirm applicability and gather relevant data. Prompt action can reduce the risk of missed deadlines, avoidable fees, and business disruption. Key steps include, but are not limited to:

1. **Audit supply chains and contracts now:** Map all packaging, paper products, and food service ware introduced into the seven EPR states. Review vendor, manufacturing, and licensing agreements to determine who controls manufacturing operations or holds licenses for branded items.
2. **Evaluate *de minimis* thresholds:** Calculate the weight of covered materials introduced into each EPR state, and calculate gross sales or revenues as defined by each state.
3. **Develop source reduction strategies:** Begin packaging redesign and planning efforts now. For example, California's August 1, 2026, deadline requires producers to forecast how they will reduce plastic components and shift toward reusable or refillable packaging.
4. **Plan for registration and PRO engagement:** For EPR states with upcoming registration deadlines, determine whether there is an obligation to join the PRO as the producer of covered materials.

### **For More Information**

Van Ness Feldman closely monitors and counsels clients on extended producer responsibility laws. For additional information or assistance determining your compliance obligations, please contact [Britt Speyer Fleming](#), [Dana Stotsky](#), [Ben Schultz](#), or any member of Van Ness Feldman's Environmental Practice Group.

© 2026 Van Ness Feldman, LLP. All Rights Reserved. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.