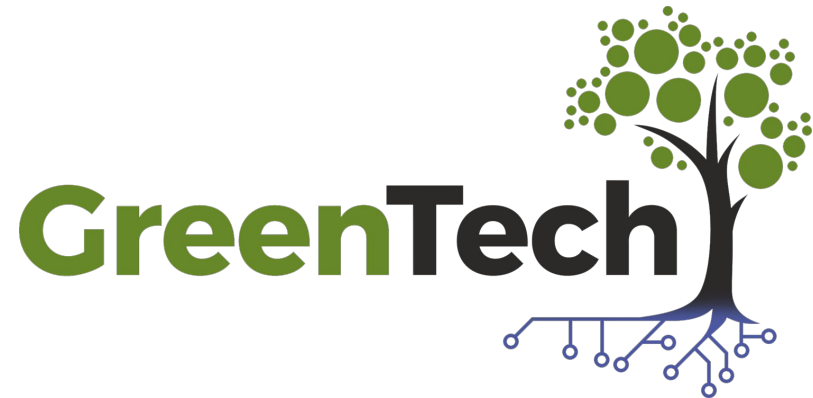


ENVIRONMENTAL LAW INSTITUTE®

AN INDEPENDENT, NON-PARTISAN ENVIRONMENTAL EDUCATION AND POLICY RESEARCH CENTER.



Basics of **Extended Producer Responsibility**

November 10, 2025

The webinar will begin shortly.



Speakers



Juge Gregg

Partner, Crowell & Moring



Stacey Halliday

Partner, Arnold & Porter



Agenda




01. What is EPR? Background, Key, Definitions & Global Context
02. U.S. EPR Landscape Overview & Trends
03. Regulatory Specifics: Producers, Products, PROs & Penalties
04. Challenges & Considerations
05. What's Next for EPR?




What is Extended Producer Responsibility?


Extended Producer Responsibility (EPR) is a policy approach that assigns producers responsibility for the end-of-life management of products, including both financial responsibility and operational responsibility.



Producers required to provide funding/services for product end-of-life



Encourages sustainable product design, source reduction targets, and waste reduction



Creates dedicated funding and resources for recycling infrastructure



EPR History



1990

EPR Emerges in Europe

The term “EPR” was coined in Sweden by Thomas Lindhqvist



1990 - 2000

EPR in the US

States and EPA began to introduce battery and e-waste EPR



2005-2015

Expansion of US EPR Across Products

Growth in state support for EPR, incl. for new product categories

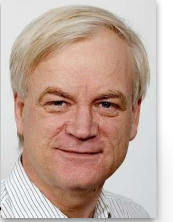


2025

EPR Focus on Packaging

EPR laws targeting packaging proliferate with leading activity in U.S. states and EU

“



EPR is “an environmental protection strategy to reach an environmental objective of a decreased total environmental impact of a product, by making the manufacturer of the product responsible for the entire life-cycle of the product and especially for the take-back, recycling and final disposal.”

Thomas Lindhqvist

“Towards an Extended Producer Responsibility Analysis of Experiences and Proposals” (1992).



International EPR

- ★ Many countries worldwide have long had laws requiring recycling or reuse of consumer goods, including:
 - Canada
 - China
 - European Union & Member Countries
 - India
 - Mexico
- ★ Recent voluntary initiatives focused on plastic packaging also embrace EPR mechanisms, including Global Plastics Pact.
- ★ International treaties, such as the Basel and Stockholm Conventions, also intersect with EPR laws by limiting movement of used goods and prohibiting crossboundary transport of certain substances.



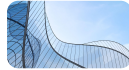
EPR Landscape in the United States

COVERED PRODUCT CATEGORIES

Batteries



Electronics



Mattresses

Packaging



Pharmaceuticals



Textiles

★ EPR laws in 35 states and District of Columbia via 130+ laws and 15+ product categories

★ EPR gained momentum in the U.S. in the 1990s and 2000s, with electronics and batteries at the helm.



How do EPR frameworks work in the U.S.?



PRO Registration

EPR laws generally require producers to register with and join a Producer Responsibility Organization (PRO).



Reporting Obligations

Producers are required to report details of the covered materials they produce or sell within specified reporting periods, including material types, weights and recyclability characteristics.



Producer Fees

Producers typically pay fees to the PRO to cover the costs required by program legislation based on the amount/type of material producers introduce into the state.



Cost Coverage

Many laws require fees to cover outreach and education, infrastructure improvements, and end-market development for recycled materials



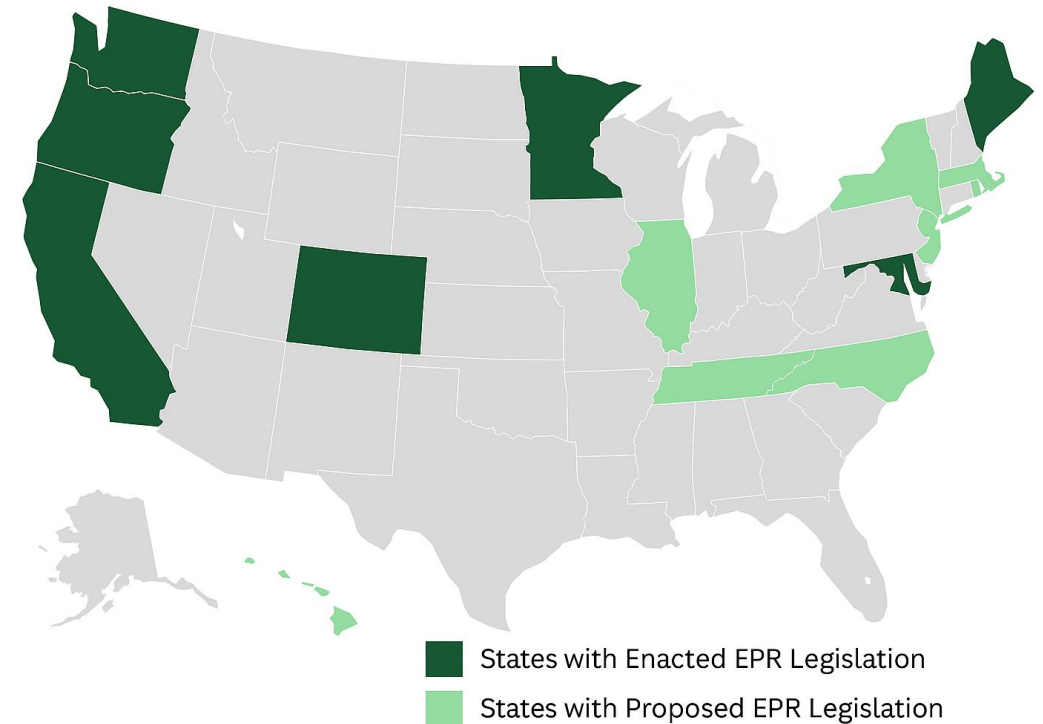
U.S. EPR Landscape: Packaging

★ As of 2025, seven states have enacted packaging EPR laws:

- Maryland (May 2025)
- Washington (May 2025)
- Minnesota (May 2024)
- Colorado (June 2022)
- California (June 2022)
- Oregon (August 2021)
- Maine (July 2021)

★ Several states are developing and soliciting comment on proposed implementing regulations. Sales restrictions have already gone into effect in OR and CO.

★ Requirements vary, but include: PRO registration, recyclable and compostable determinations, labeling, source reductions, eco-modulated fees, and life-cycle assessments



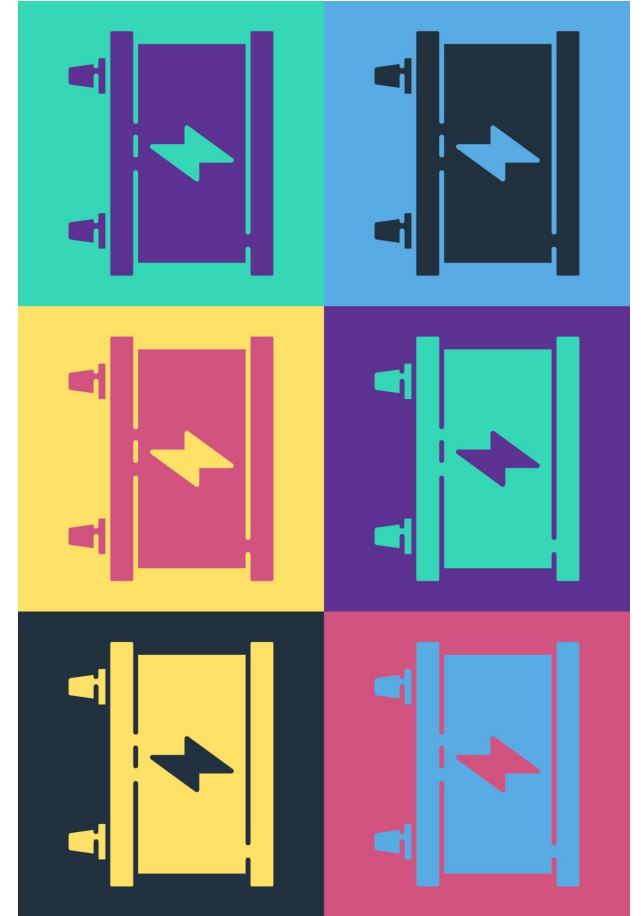
Proposed EPR bills in several states suggests continued expansion of EPR laws across the country.



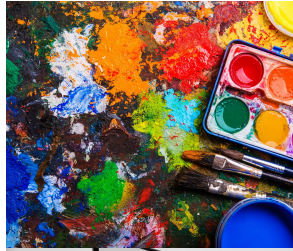
U.S. EPR Landscape: Batteries

- ★ Several states have battery EPR laws applicable to small, medium, and large format batteries, including:
 - VT(2014) - First single-use household battery EPR law
 - DC (2021) - single-use, rechargeable, and battery-containing products
 - CA(2022) - Single-use, rechargeable, and embedded batteries
 - WA (2023)and NJ (2024) - includes e-mobility, EV, and hybrid vehicle batteries
 - Illinois (2024) - Portable and Medium-Format Battery Stewardship Act

- ★ US EPA is also exploring federal EPR requirements and guidance for large, medium, and small format batteries, as well as modifications to RCRA's universal waste designation for Li-Ion batteries to make them easier to recycle.



U.S. EPR Landscape: Other Covered Products



Paint



Electronics



Textiles



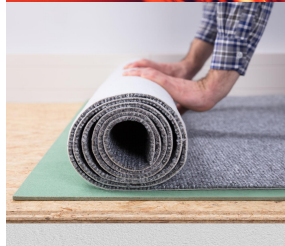
Pharmaceuticals



Mattresses



Lighting



Carpet



Pesticides



Refrigerants



Solar Panels



Mercury-Containing Products



Medical Sharps



What is a “Producer?”

Covered producers typically include manufacturers and retailers of covered products, as well as companies that pack products to ship (distributors, importers).

California SB54: “(1) “Producer” means a person who manufactures a product that uses covered material and who owns or is the licensee of the brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in the state. (2) If there is no person in the state who is the producer for purposes of paragraph (1), the producer of the covered material is the owner or, if the owner is not in the state, the exclusive licensee of a brand or trademark under which the covered product using the covered material is used in a commercial enterprise, sold, offered for sale, or distributed in the state. . . (3) If there is no person in the state who is the producer for purposes of paragraph (1) or (2), the producer of the covered material is the person who sells, offers for sale, or distributes the product that uses the covered material in or into the state.



How is responsibility typically allocated across “Producers”?

Varies by State

PRIMARY RESPONSIBILITY

Brand Owner or Product
Manufacturer

SECONDARY RESPONSIBILITY

Licensee or Importer/Distributor

TERTIARY RESPONSIBILITY

If neither of above, state may have
catch-alls for retailer, distributor, first
sale into the state, e-commerce site, etc.

State Residency
Can Matter



Who *isn't* a Producer?

- Each state identifies exceptions for certain producers, with common approaches including annual revenue or material weight thresholds.
- Non-profit organizations are typically excluded.
- For packaging, several states exclude low-volume producers:
 - Maine exempts producers that realized less than \$2,000,000 in total gross revenue, used less than one ton of packaging material, or sold perishable food using less than 15 tons of packaging material



What products are covered?

- ★ The definition of products varies widely by state and product category. For example, for packaging:
 - **Maine:** Most types of consumer packaging material, regardless of material (plastic, paper, glass, metal, cardboard)
 - **Colorado:** Most consumer packaging and paper products, including printed paper, newspapers, magazines, flyers and brochures.
 - **Maryland, Washington, and Minnesota:** Cover consumer packaging and paper products, with exclusions varying by state
 - **Oregon:** Packaging, printing and writing paper, and food service ware
 - **California:** Focus on single-use packaging regardless of material and single-use plastic food service ware



What products are not covered?

Common exceptions include products already heavily regulated under independent frameworks.

Depending on the product category, such exceptions may include:

- Medical products and devices;
- Agricultural products and devices;
- Hazardous chemicals



What are PROs and how are they selected?



PROs manage producer registration and reporting, develop and implement program plans, collect fees and distribute funds, and coordinate with state regulators.



Requirements vary by jurisdiction, but PROs usually must be non-profit organizations and are selected by the state.



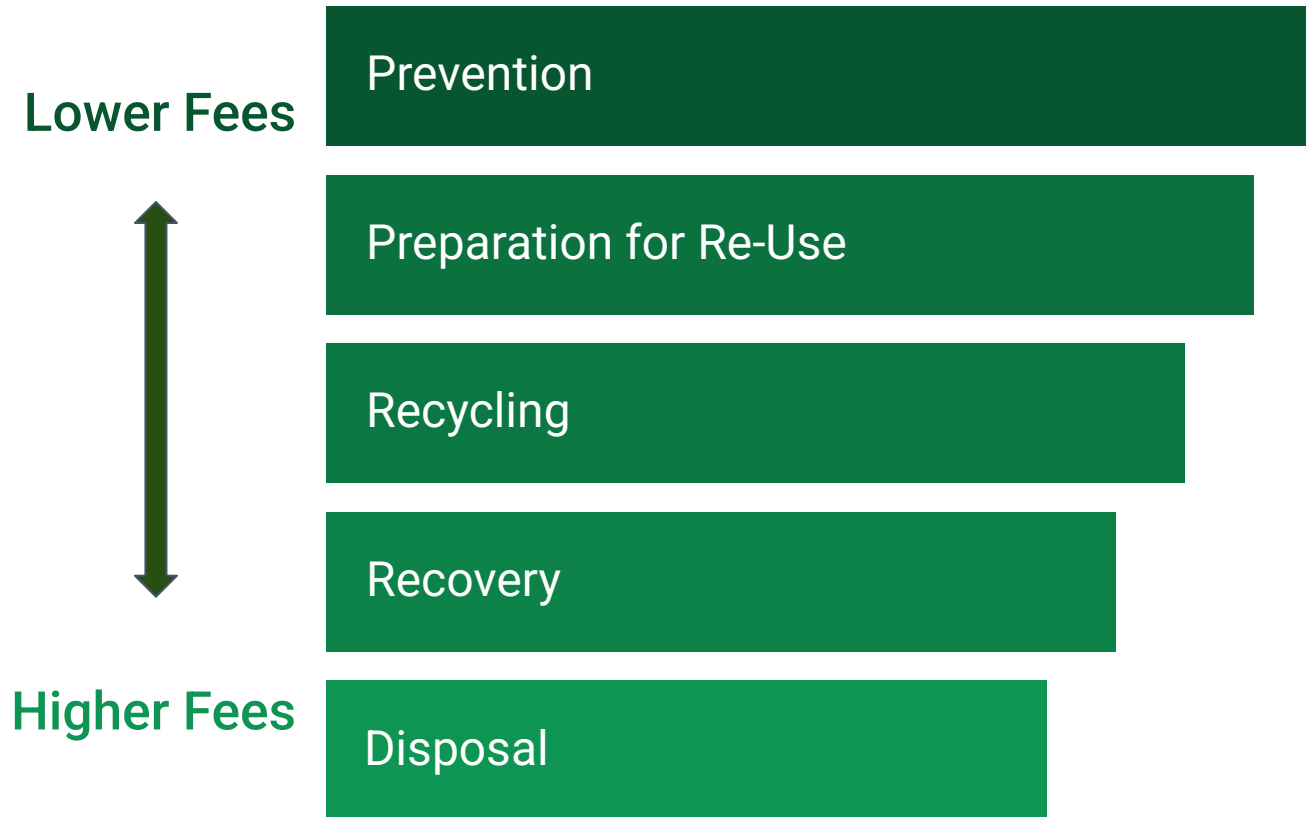
The Circular Action Alliance is the PRO for several state packaging EPR programs, including CA, CO, MN, MD and OR.



Other EPR programs have similarly specialized PROs



Fee Variations & Eco-Modulation



The objective of eco-modulation is to incentivize businesses to reduce the environmental impacts of their packaging. Fee adjustments result in lower fees for packaging with a lower environmental impact and higher fees for packaging with a higher environmental impact.



Performance Targets

Some states have set specific recycling targets for covered products through their EPR laws.

25%	California: By 2032 - 25% reduction in plastic packaging, with 65% recycled, and 100% of it recyclable/compostable
75%	Oregon: 25% reduction in plastic packaging by 2028; 70% by 2050
Set by PRO	Colorado: Reduction target to set by PRO
Set by State	Maine/Minnesota: Reduction target be set by state agency



EPR Penalties & Costs of Noncompliance

- ★ Civil, criminal and administrative penalties for violations of EPR laws vary, including:
 - Monetary Fines: Monetary penalties for noncompliance are common.
 - For recent U.S. packaging laws, these penalties range from \$5,000 to \$100,000 (per day or per violation), with escalating penalties for repeat violations.
 - *Market Access Restrictions*: Failure to meet requirements can result in sales bans, public notices, and take-back orders
 - *Reputational Harm*: Enforcement actions may be published by state regulators and otherwise used to drive market pressure against noncompliance producers.



Compliance Challenges for Producers



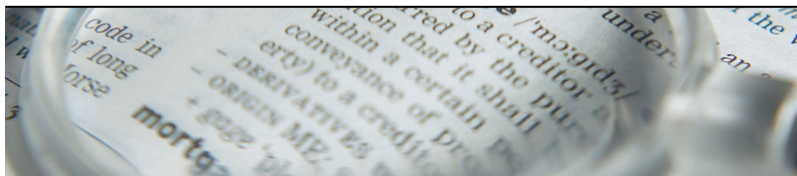
Lack of harmonization of multi-jurisdictional EPR requirements, - including varying targets, fee structures, and timelines



Coordination and allocation across stakeholders, including online retailers, distributors, etc.



Traceability, data collection and logistics to meet reporting, labeling and other requirements

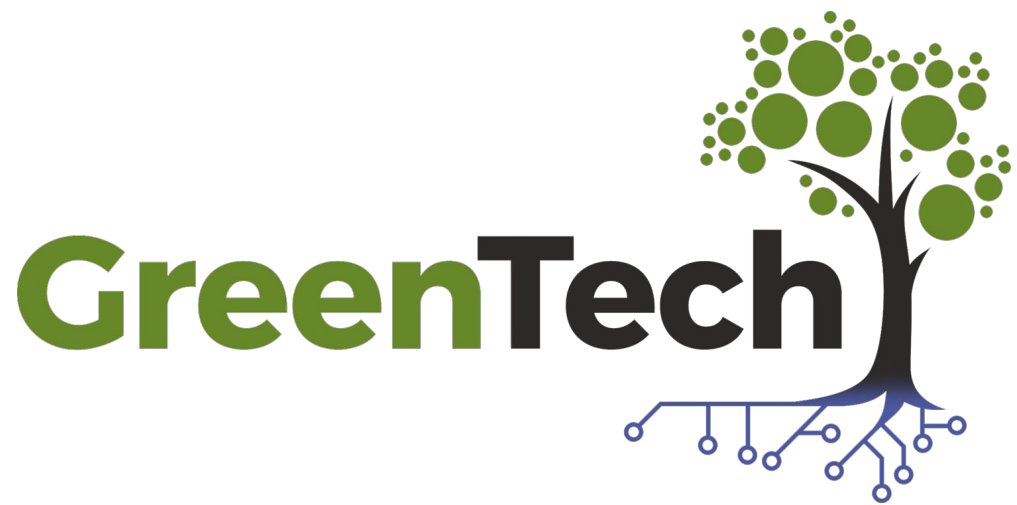


Alignment of terminology across product-related laws, including recycled content requirements and material restrictions



What's Ahead for EPR?





Thank you!

Join us for Part 2 of ELI's
GreenTech series on EPR:
Extended Producer Responsibility
Across Industries on November
17th from 12-1pm ET



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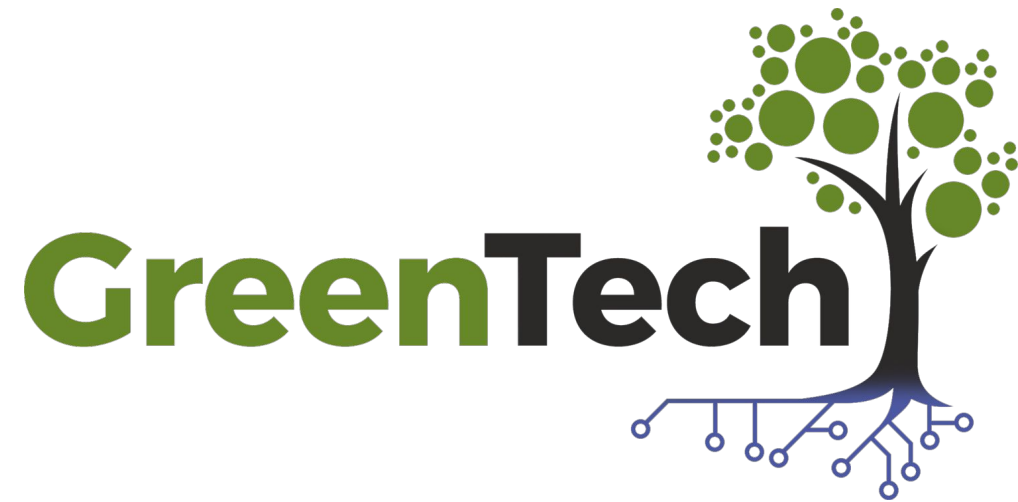


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BACKUP SLIDES

