

Mailers Hub
*Bringing Commercial Mailing,
Resources, and Solutions Together*

Mailers Hub is the only national organization exclusively serving commercial mail producers, including printers who mail and mailers who print, as well as in-house mail operations and advisors to the trade.

Our sole purpose is to provide information, training, and support on mailing, postal, and related issues to all companies, regardless of the class or category of hard copy mail they produce.

For more information, please visit us at MailersHub.com or contact us at info@mailershub.com or 703-831-3151.

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EXTENDED PRODUCER RESPONSIBILITY

SHIFTING UPSTREAM THE
COST OF CONSUMER WASTE
MANAGEMENT


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WHAT IS EPR?

- ❑ Extended Producer Responsibility (EPR) is a regulatory approach to address the costs of recycling and waste disposition
- ❑ EPR shifts responsibility for recycling and the post-use cost of packaging (and other goods) onto producers by requiring producers to pay for such costs based on the amount of packaging materials brought into a state
- ❑ Currently, seven states have EPR laws: Maine, Oregon, Colorado, California, Washington, New Jersey, and Minnesota

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WHY?

The main goal of EPR laws is to reduce packaging and packaging waste by increasing the costs for producers to use packaging materials.


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PRODUCER DEFINED

- **BRANDS**
 - Owns or licenses the product or packaging brand
- **MANUFACTURERS**
 - Manufactures or produced the product or packaging, including assembly or modification
- **IMPORTERS**
 - Imports product into a state for sale or distribution
- **RETAILERS**
 - If no identifiable brand owner, manufacturer, or importer, the retailer who sells the product directly to consumers
- **ONLINE SELLERS**
 - In some jurisdictions, online sellers within and without the state may be considered producers

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SOME EXAMPLES

- Company X is a US company that manufactures its own packaging materials for goods sold under its own brand/trademark. Company X would be a producer in the states into which it sells those goods.
- Company Y is a US company sells goods under its own brand or trademark using covered materials manufactured by an entity not located in the United States. Company Y would be a producer in the states into which it sells those goods.
- Company Z is a US company that sells the goods of an entity located outside the United States and the relevant covered materials are manufactured by an entity outside the United States. Company Z would be a producer in the states into which it sells those goods.


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EXCEPTIONS

- Certain charities and social welfare organizations
- Government agencies/political subdivisions
- Certain food businesses
- Certain small businesses

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THE SMALL PRODUCER EXCEPTION

- CA: gross sales of less than \$1 million (in CA) in most recent calendar year
- ME: less than \$2 million in total gross revenue during the prior calendar year; sell/distribute less than 1 ton of packaging material total into ME in the prior calendar year
- CO: less than \$5 million in realized gross revenue during the prior calendar year; used less than 1 ton of covered materials for products sold in/into CO during prior calendar year
- OR: gross revenue below \$5 million in most recent fiscal year; sold less than 1 metric ton of covered products in or into OR in the most recent year
- NJ: no de minimis or small producer exemption
- MN: earned global revenue of less than \$2 million in the most recent fiscal year; introduced less than 1 ton of covered material into MN in the most recent fiscal year
- WA: less than 1 ton of a single category of covered materials each year or a single category of a covered product that in aggregate generates less than \$1 million each year in revenue


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COVERED MATERIALS

- ❑ Single use plastic packaging
- ❑ Plastic single use food service ware
- ❑ Paper products (only in CO, MN, and OR)
- ❑ Rigid plastic containers
- ❑ Paper/plastic carryout bags
- ❑ Plastic trash bags
- ❑ Plastic beverage containers
- ❑ Plastic household cleaning/personal care product containers


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Producer Responsibility Organizations

- ❑ States require that producers join a producer responsibility organization (PRO)
- ❑ PRO then files annual reports and collects annual fees from producers
- ❑ Some states allow producers to participate on an individual basis, or as part of an “alternative compliance program”
- ❑ Many states have chosen Circular Action Alliance (CAA) as the (or one of the) PROs


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ENFORCEMENT

- ❑ No Private Right of Action
- ❑ Enforced by various state environmental departments
- ❑ Possibly substantial penalties
 - ❑ Civil penalties range from \$5,000 for first day of violation/\$1,500 per day in Colorado up to \$50,000 per day of violation in California


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TIMING

- ❑ Varying effective dates and deadlines
 - ❑ Plan deadlines range from submission by 2/1/25 (CO) to implementation by 7/1/25 (OR)
 - ❑ Annual registration and reporting generally doesn't begin until mid-2025
 - ❑ Some states prevent producers from distributing products if out of compliance; this starts on 7/1/25 in CO and 1/1/29 in MN

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QUESTIONS?

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 - www.brannlaw.com
- Other Resources:
 - <https://www.sustainable-markets.com/2024/10/29/u-s-packaging-laws-epr-programs-and-reporting-requirements-by-state/>