

# EPR for Packaging in the U.S.

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# JUST ZERO: A NEW NON- PROFIT ADVOCACY ORGANIZATION.

Founded in 2022, Just Zero grew from a strong desire to design and implement sensible waste policies that provide protections for all communities across the nation.



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The background of the slide features a photograph of the United States Capitol dome in Washington, D.C. The dome is a large, white, neoclassical structure with a prominent dome and a statue on top. The sky is a clear, bright blue. In the foreground, there are green trees and a yellow light fixture. The Just Zero logo is overlaid on a white rectangular box in the lower right quadrant of the image.





# EPR for Packaging

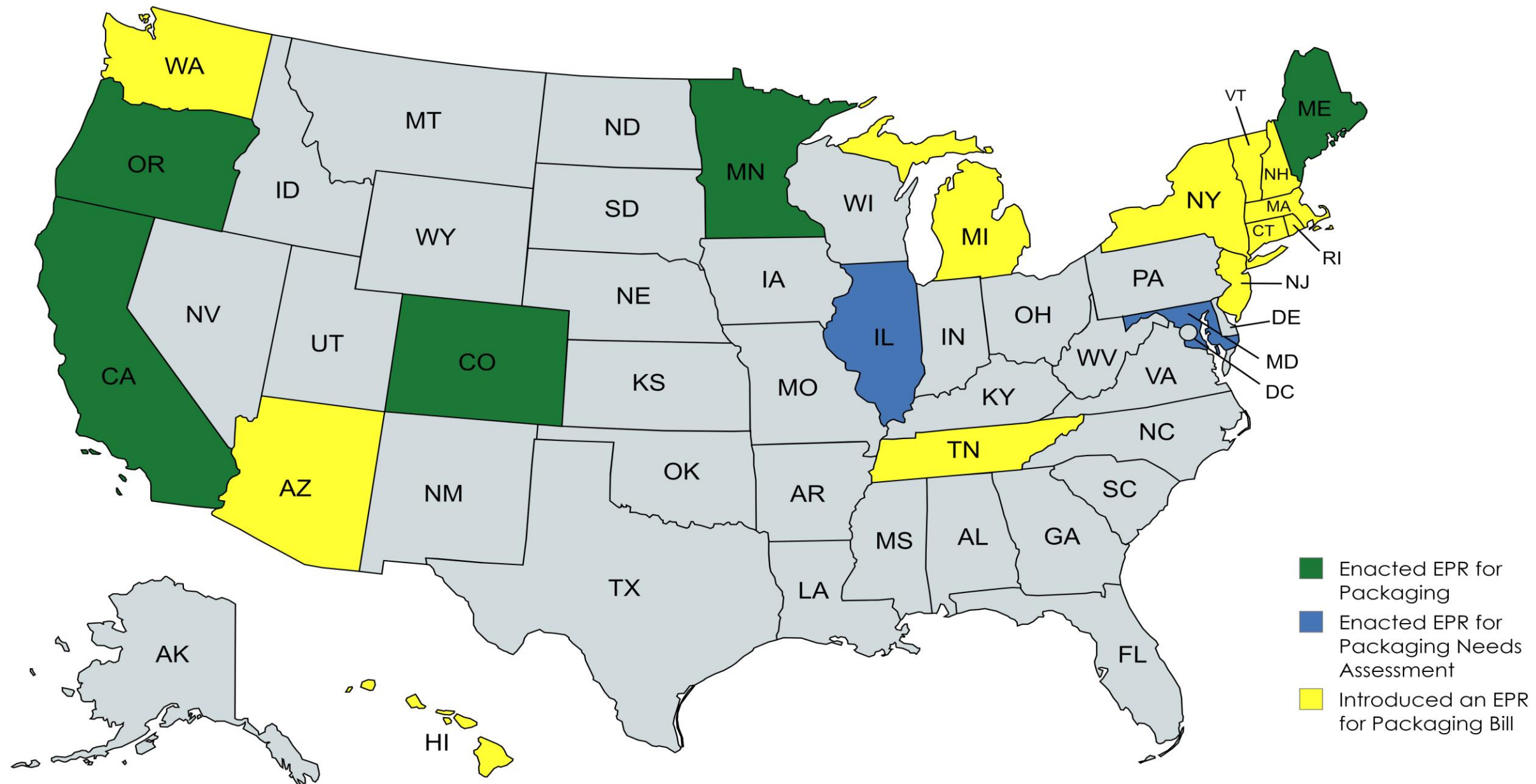
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An emerging policy solution to the packaging waste crisis.



# Legislative Landscape



Created with mapchart.net

## Enacted Laws

- Maine – July 2021.
- Oregon – July 2021.
- Colorado – May 2022.
- California – June 2022.
- Minnesota – May 2024.

## Needs Assessment Laws

- Maryland – April 2023.
- Illinois – June 2023.

## Bills Introduced Since 2021.

- Number of Bills – 26
- Number of States – 18.



# Program Design: Key Questions.

- Who is responsible for determining what materials are recyclable?
- Who is responsible for designing the fee structure?  
Are the fees eco-modulated?



# DETERMINATION OF WHAT IS RECYCLABLE?

State	Who is Responsible?	Process.
California	The Agency	CalRecycle is required to publish a list of covered material categories that are recyclable or compostable.
Colorado	The PRO	The PRO is responsible for developing a list of recyclable materials. The Colorado Department of Public Health and Environment must approve the list.
Maine	The Agency	The Department of Environmental Protection is responsible for determining what materials are recyclable. This is performed through rulemaking.
Minnesota	The Agency	The Minnesota Pollution Control Agency is responsible for determining what materials are considered recyclable or compostable.
Oregon	The Agency	The Oregon Department of Environmental Quality is responsible for developing two material lists: (1) Materials that are recyclable through curbside recyclable programs; and (2) Materials that are recyclable through programs established by the PRO.

# F E E S   S T R U C T U R E   +   E C O   M O D U L A T I O N

State	Who Sets the Fees?	Eco-Modulation Factors
California	The PRO	Fees must be eco-modulated to incentivize: (1) increased recycled content, (2) source reduction, (3) standardization of packaging to increase reuse, recycling, and composting, (4) reduction in toxics, (5) improved labeling, and (6) reuse + refill.
Colorado	The PRO	<p>The fees must be eco-modulated to incentivize: (1) reduction, (2) innovation and practices to enhance recyclability and commodity value, (3) post-consumer recycled content, and (4) designed for reuse/refill.</p> <p>The fees must also be eco-modulated to disincentivize: (1) practices that increase costs of reuse, recycling, and composting, (2) design that disrupts recycling of other materials, and (3) producers from using materials not on the minimum recyclable list.</p>
Maine	The Agency	The fees are eco-modulated to incentivize: (1) post-consumer recycled content, (2) increased recyclability, (3) reduced toxicity, (4) reduction, (5) litter reduction, (6) increased reusability, and (7) reduced confusion surrounding labeling.
Minnesota	The PRO	The fees shall be eco-modulated to incentivize: (1) minimization of environmental and human health impacts, (2) elimination of toxics, (3) reduction in packaging, (4) increased reuse + refill, and (5) increased recyclability and compostability.
Oregon	The PRO	the fees are eco-modulated to account for: (1) post-consumer content of the material, (2) product to package ratio, (3) producer's choice of material, (4) life-cycle of environmental impacts, and (4) recycling rate of the material.



### Overall Goal:

- Reduce the volume and toxicity of packaging waste, increase recycling of packaging materials, shift cost of managing packaging waste from consumers to producers.

Beverage Containers: Covered by the Bottle Bill.

Post-Consumer Recycled Content: Separate law. Addressed through eco-modulated fees.

Chemical Recycling: Excluded.

- While not explicitly excluded in the statute it is likely prohibited from the EPR program.
- The draft rules that implement the program have language that effectively blocks chemical recycling.
- Maine also passed separate legislation addressing chemical recycling. (LD 1660 – Enacted 2023).



# MAINE’S PROGRAM GOALS

Program Goals★	Description	2030 – 2034	2035–2039	2040 Onward
Participation	The number of towns/cities participating in the program.	60%	75%	100%
Reduction	Measured by total units of packaging <i>and</i> total weight of packaging reported by producers.	20%	40%	60%
Reuse	Percentage of packaging material that is reuseable and collected through reuse systems.	15%	30%	50%
Recyclable, Compostable, Reuseable	The percent of packaging material that is readily recyclable, reusable, or compostable.	50%	75%	100%
Recycling Rate	Percent of packaging material that is recycled annually.	60%	70%	75%
PCRC	Percentage of the total weight of the packaging material. Only applies to certain material types.	10%	20%	30%

★All goals are set by the DEP through rulemaking. Currently being evaluated for final approval. They are not strictly enforceable. Failure to meet the performance standards results in significant fee increases.





#### Overall Goal:

- Increase access to recycling services with specific emphasis on underserved communities. Standardization of recycling. Increased recycling with an emphasis on plastic recycling.

Beverage Containers: Covered by the Bottle Bill.

Post-Consumer Recycled Content: Addressed through eco-modulated fees.

#### Chemical Recycling: Unclear

- Chemical recycling is not expressly prohibited by the statute.
- The DEQ is responsible for developing requirements for “responsible end-markets.”
- The law explicitly defines “mechanical recycling.” Should the PRO propose the recycling of any covered material in a manner other than mechanical recycling they must demonstrate that the recycling will involve the transfer of material to responsible end-markets. The proposal must also include information regarding;
  - (1) whether the method will result in feedstock that is used to develop new products.
  - (2) whether the method can result in the recycling of plastic to food and pharmaceutical grade applications
  - (3) Environmental and public health impacts.



# OREGON’S PROGRAM GOALS

Program Goal	Description	2028-2040	2040-2050	2050 Onward
Plastic Recycling	Statewide minimum recycling rate for plastic packaging and food serviceware.	25%	50%★	75%★
Participation	No program goal. However, the law is designed to increase access to recycling services – especially in rural areas and multi-family homes. The PRO is responsible for expanding service. They will explain how they’ll accomplish this goal through the Stewardship Plan which is informed by the Needs Assessment.			
Reuse and Reduction	No program goals. However, the PRO is responsible for providing waste prevention and reuse grants. These grants cannot be used for waste recovery or recycling. They must be used for waste reduction efforts.			
Contamination Reduction	The Department of Environmental Quality is responsible for establishing statewide recycling contamination reduction goals.			

★ *Beginning 2038 the statewide plastic recycling goal can be adjusted.  
Cannot go below 35% or above 80%.*





### Overall Goal:

- Shift the burden of addressing plastic pollution from consumers to producers. The law will raise \$5 billion in funding from industry over 10 years to cut plastic pollution, and support disadvantaged, low-income, and rural communities hurt most by the plastic crisis.

### Beverage Containers: Covered by Bottle Bill.

### Post Consumer Recycled Content:

- Addressed through eco-modulated fees (all materials)
- PRO must set percent of post-consumer recycled content standards as part of the program plan.

### Chemical Recycling: Likely excluded

- Definition of recycling excludes combustion, incineration, energy generation, fuel production, or other forms of disposal. Pyrolysis is considered disposal under California Law.
- To be considered recyclable materials must be sent to a responsible end market.
- Senate Floor and Assembly Natural Resource Analysis state that the program is designed to exclude chemical recycling.



# CALIFORNIA'S PROGRAM GOALS

Program Goal	Description	Phase 1	Phase 2	Phase 3	Phase 4
Recyclability	Percentage of covered material that must be recyclable or compostable.	100% by 2032	N/A	N/A	N/A
Plastic Recycling	The law sets specific recycling rates for covered plastic materials (packaging and food service ware).	30% by 2028	40% by 2030	65% by 2032.	N/A
Polystyrene Recycling Rates	The law prohibits the sale of polystyrene food service ware unless it meets the following recycling rates.	25% by 2025	30% by 2028	50% by 2030 .	65% by 2032.
Plastic Reduction	PRO responsible for developing a plan that will achieve a 25% reduction by weight AND 25% reduction by component for covered plastics.	25% reduction by 2032	Note – 10% of the 25% reduction must be met through elimination or switching to reusable/refillable alternatives. Rest can be met through lightweighting/ right-sizing.		





### Overall Goal:

- Expand access to recycling service across the state and increase the overall recycling rate of packaging materials

Beverage Containers: Included in the program.

### Post-Consumer Recycled Content:

- Addressed through eco-modulated fees.
- PRO plan must include targets for minimum post-consumer recycled content in covered materials.

Chemical Recycling: PRO arguing for inclusion.

- Not expressly prohibited and will likely play a role in the program.
- The PRO must consider “innovative technology related to recycling” which many see as an inroad for chemical recycling.
- The PRO is currently considering allowing the mass balance method as a means of determining post-consumer recycled content. Mass balance is heavily linked to chemical recycling.



# COLORADO'S PROGRAM GOALS

Program Goal	Description
Recycling	<p>The statute does not set recycling goals, standards, or targets. Instead, the PRO is required to set recycling targets which are not strictly enforceable.</p> <p>The needs assessment evaluated three scenarios for recycling. The PRO ultimately selected the medium scenario.</p> <ul style="list-style-type: none"><li>• 40% recycling rate by 2030.</li><li>• 50% recycling rate by 2035.</li></ul>
Recyclability	<p>The law does not establish requirements for the percentage of packaging material that has to be recyclable. However, the law will create a statewide list of recyclable materials to standardize recycling. The PRO is responsible for developing the list.</p>
Post-Consumer Recycled Content	<p>The PRO is required to set targets that includes minimum post-consumer recycled content rates for certain types of covered materials that the program will strive to meet by 2030 and 2035.</p> <p>The PRO is currently suggesting 10% for plastic and 20% for paper, glass, and metal by 2030. These rates can be modified by the PRO and can be waived for specific products.</p>
Reduction / Reuse	<p>The law does not have any packaging reduction requirements. Packaging reduction is only addressed through eco-modulated fees.</p>

The image shows the Minnesota state flag, which features a blue field with a white star in the upper left corner and a red and white diagonal stripe. The flag is partially visible on the left side of the slide.

# MINNESOTA

## Overall Goal:

- Increase access to reuse, recycling, and composting services across the state. Encourage redesign to reduce the environmental and human health impacts associated with packaging waste. Reduce greenhouse gas emissions and waste through source reduction, reuse, recycling, and composting.

Beverage Containers: Included in the program. However, the law has language that will harmonize a subsequent Bottle Bill with the EPR for Packaging Program should one pass.

Post-Consumer Recycled Content: Needs Assessment must include evaluation of existing and potential post-consumer recycled content rate for each covered material type. This will form basis of post-consumer recycled content requirements.

## Chemical Recycling:

- Not expressly excluded from the program.
- Minnesota law does clarify that refuse-derived fuel – which covers a significant amount of chemical recycling practices – does not count as recycling.



# MINNESOTA'S PROGRAM GOALS

Aspect of the Program	Performance Goals
Statewide Performance Goals	<p>The Minnesota Pollution Control Agency is responsible for developing overarching statewide requirements and the dates by which they must be met. Requirements required for: (a) waste reduction, (b) recycling rate, (c) composting rate, (d) reuse and return rate, and (e) post-consumer recycled content rates.</p> <p>Statewide requirements must be reviewed every five years.</p>
The Needs Assessment	<p>The Needs Assessment must include proposals for: (a) waste reduction, (b) recycling rates, (c) composting rates, (d) reuse and return rates, and (e) post-consumer recycled content rates.</p> <p>These suggestions must be based on a five-year timeline.</p>
Producer Responsibility Organization – Program Plan.	<p>As part of the Program Plan, the Producer Responsibility Organization must propose performance standards based on the proposals generated from the Needs Assessment.</p> <p>The Program Plans are submitted every five years.</p>

*★★ NOTE – It is unclear how the program will address differences in the goals set by the State and the PRO.*



# Takeaways

- States are designing EPR for Packaging Programs to achieve specific goals (increased access to recycling, recycling standardization, source reduction, etc.)
- A constant challenge is determining what the state and the PRO are responsible for.
- Every state has performance standards to measure program effectiveness.





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