

EPR WEBINAR 2025

RESPONSES TO AUDIENCE Q&A

Question: Do you expect a federal law to replace the state EPR laws?

The state laws differ and the fact that there is no harmonization is problematic but I don't foresee federal law for a couple reasons. First, it seems unlikely that this Congress would be able to pass any legislation, and second and maybe more importantly, the needs assessment, covered materials and use of the fees are all very state specific. The EPR laws are designed to use the fees to improve the recycling programs in each state and each state has a different area of focus. That said, the EPA could play an important role in developing standard definitions and standard program elements that could support more consistency across states and reduce the burden on producers.

Question: In the States, what kind of harmonization is even possible? Different states have different recycling technologies/capabilities and my understanding is that that is what drives the list of materials and whether those packaging materials could be included in eco-modulation.

You are correct that the requirements are different in part because the needs of each state differ. However, states could harmonize the key definitions and exemptions. For example, the business-to-business exemptions vary widely among the states, the producer definitions also differ and it seems unnecessarily complicated to determine whether the same packaging qualifies or is exempt under each of the state laws.

Question: Clarifying on Oregon EPR, has the overseeing authority released a public list of companies they've determined to be "non-compliant," or are they reaching out directly to these companies to notify them?

The list of non-compliant companies may not be posted but is available publicly through a records request to the state agency. CAA has submitted this list to Oregon DEQ and both ODEQ and CAA have notified some companies that they are not in compliance.

Question: Is [NJ State Bill 2515](#) for Recycled Content currently not considered to fall under the scope of an EPR or subsequently a PRO?

No, the NJ State Bill 2515 for Recycled Content doesn't fall under the scope of an EPR law and there is no PRO that administers the SB 2515 program. New Jersey has introduced but not passed, an EPR packaging law. NJ SB 2515 mandates minimum PCR in certain packaging, but does not include producer fees. It does, however, bear some similarities with the EPR laws in the sense that it requires active engagement with the regulatory agency rather than simply requiring compliance with minimum PCR content standard. Regulated parties must register with the New Jersey Department of Environmental Protection, pay a \$1,000 annual registration fee, and file annual reports with certifications of the PCR content.

Question: As companies increase the use of PCR content in personal care packaging, what concerns exist around potential contamination—particularly with chemicals of concern like PFAS—and how are these being addressed within EPR frameworks?

The issue of potential contamination of PCR in the context of personal care products and packaging is a serious and complex issue, particularly as to PFAS. PCR, by its nature and the recycling process, may itself contain contaminants (e.g., residues present in the original recycled product). Among other things, there is a concern/risk of migration of contamination from the PCR content in the packaging to the product itself, which may implicate other state and federal laws and safety concerns independent of the EPR programs. For example, in California, under the [California PFAS-Free Cosmetic Act](#), effective 2025, certain specified PFAS are banned from use in cosmetics.

In the EPR programs, however, the focus is on the packaging itself. For the most part, the presence of toxics in packaging as well as PCR content arise in the context of the eco-modulated fee factors, which adjust base fees – by, among other things, providing credits for the presence of PCR and/or maluses for the presence of toxic materials (according to each state’s definition of what constitutes a toxic material). Because eco-modulated fee schedules have not yet been adopted in any state it is not entirely clear how the potential presence of contaminated materials in the PCR content will be handled. In none of the programs, however, is the malus fee for the presence of certain toxics in the packaging limited to the non-PCR content of such packaging.

One of the more challenging issues will be how the states will implement the eco-modulated fee factors (particularly where a single packaging component includes features that are subject to both a credit and a malus, including the potential presence of contamination in PCR content) – and what certifications, testing, or proof may be required to claim a credit or avoid a malus fee. Eco-modulation is still in the early stages; as the programs mature, we expect more guidance on these issues. See generally, [What We’ve Learned about EPR Producer Fees: 2025 Update](#), for more information about the development of eco-modulated fees.

Question: Is EPR relevant for only manufacturers of consumer products or the entire supply chain?

EPR can impact the entire supply chain. In most state programs, the brand owners, exclusive licensees, and/or entities setting manufacturing specifications of the consumer products associated with the packaging are the “producers,” responsible for fees and compliance, but under certain circumstances others in the supply chain can be responsible as producers. This is a particularly complicated question where private labels, distribution chains with multiple changes of custody, or multiple distribution pathways are involved. Moreover, because producers can be responsible for packaging associated with products sold to a distributor and then subsequently sold into a state with an EPR law, it gets even more complicated; the PRO expects producers to take affirmative steps to collect information from third-party distributors about their sales into states with an EPR program. Many companies are sending out or receiving inquiries from others in their supply chain seeking information about sales so they can comply

with the EPR requirements. So depending on the facts, others in the supply chain beyond the manufacturers of the consumer product may be involved.

Question: Do you feel that companies would move their manufacturing to states that don't require reporting to minimize the fees?

Response: No, it makes little difference where the manufacturing occurs because the fees for producers of consumer goods associated with the regulated materials are based on the covered materials sold into the state. Short of deciding not to conduct business in a state with an EPR program (which also reduces profits), companies can minimize fees by evaluating how to leverage eco-modulated fee factors and otherwise reduce packaging fees based on each state's fee schedule. In addition, in some cases, there may be opportunities to shift the costs of compliance to others in the supply chain through private-party agreements.

Question: What are examples of data storage or IT services that can easily provide reports that can be used industry wide?

For EPR supply data reports, one can utilize almost any data platform. Most producers I work with use a master data sheet, typically created on Excel or another spreadsheet program. Fields typically include item description, material type, branded/unbranded, layer (primary, secondary, tertiary), weight, units sold. The important piece is documenting the methodology, what assumptions or estimates are being used, what are the sources of data, and what was your process in determining the calculations. A final step, of course, is matching the material type with the specific state covered materials category.

Service providers such as RLG and Lorax provide very credible platforms and will support data and reporting. For some, this outside support is helpful. My firm indeed supports compliance as well with a focus on building long-term organizational processes to simplify collection, monitoring, reporting, budgeting, and socialization across the enterprise. EPR is a team sport and not simply a data exercise.

Question: As a global company, we're working to align with various recyclability and eco-modulation standards—like RAM and the EU's framework—and anticipate similar requirements emerging in the US and Canada. Do you think it's realistic to manage these internally (e.g., using Excel-based tracking)?

Yes. Many producers internalize this with support from an outside consultant or trade associations to track how policy is evolving. The most important piece is internal accountability. Who is owning it, how is it done, can we transfer the knowledge if someone leaves the organization? Having a documented standard operating procedure in place that is known across the organization or group will prevent having to reinvent the wheel down the road.

Question: What is the recommended best practice to confidently determine who is considered the obligated Producer when a company's products are sold through a 3rd party ecommerce (e.g., Amazon)?

For any determination of obligation, the process starts with the state-specific statute. This is where you will first find the producer hierarchy. Then a careful review of the regulation and the CAA guidance is necessary to find nuanced considerations that may affect what is in scope for the manufacturer, brand owner, 3PL, or others in the value chain.

Question: Outside of California, are there other states or countries you'd recommend using as a benchmark for recyclability and eco-modulation standards? I've seen France and Spain lead the way in the EU in recent years and wonder if they might serve as strong reference points.

For global organizations, I recommend careful study of the emerging Packaging and Packaging Waste Regulation (PPWR) now being implemented EU-wide. This will include bans on non-recyclable materials as well as minimum PCR requirements. Be sure as you prepare for California you don't miss something in the EU that might conflict or allow you to leverage more resources internally to make a change across your global packaging portfolio.

Question: Regarding Canada, does the Federal Court of Appeal delay FPR and PCR reporting requirements? Or, are manufactures still required to report while the challenge is under way?

It is our understanding that the legal complaint was brought by industry to challenge Canada's single-use plastics ban. This remains unresolved at this time but has no obvious direct connection to the Federal Plastics Registry reporting timeline. While indeed the court case may result in a determination of a more narrow authority for the federal government to regulate plastics, the collection of data under the FPR may or may not ultimately be affected. September 29 remains the reporting deadline.

Companies should review the FPR guidelines carefully to determine if they are obligated. Keep in mind "residency" is a key element of who assumes the obligation. This first round is pertaining only to materials that may land in the residential recycling programs across Canada. See [here](#) for more information.

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