Insights: Alert

Printed Paper, Food Serviceware, and Packaging Producers Required to Register and Report in Oregon by March 31, 2025.

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For the past four years, multiple states have worked to pass laws (called Extended Producer Responsibility laws, or “EPR”) that reallocate the burden of dealing with end-product waste (and related recycling efforts) to the companies that first produce—or control production of—materials, instead of obligating end-users to deal with such waste. Oregon passed its EPR law, the Plastic Pollution and Recycling Modernization Act (“RMA”), in 2021. The new law became effective January 1, 2022, and updates to the state recycling program officially kick off in July 2025.

However, Oregon is among those states whose law sets up a Producer Responsibility Organization (or “PRO”), to administer these programs, and its RMA requires companies that the law defines as “producers” to register with the PRO in advance of the RMA fully going into effect in July 2025. Oregon also now has the earliest reporting deadline of any state, requiring registration and reporting by March 31, 2025. Oregon's PRO is charged with developing the fee structure and general obligations for producers, though most states allow producers to operate independently if they submit an individualized plan for otherwise meeting the state's EPR requirements.

Under Oregon's RMA, producers, manufacturers and importers of packaging, printing and writing paper, and food serviceware must register and provide additional information by March 31, 2025. While the question of *if* your company qualifies as a “producer” obligated to register can be a complex one in and of itself and applies to a broad collection of actions and covered materials (see our prior post), the PRO's reporting complexities also are likely to prove a substantial effort for many companies. This is because Oregon's RMA requires the disclosure of the volume of 60 different categories of covered materials. If the producer does not have historical per-material tracking and related information available and stored in an accessible form, extensive legwork may be necessary to discern the relevant information on a sufficiently granular basis to comply with the RMA's reporting requirements.

Failure to comply with the March 31 deadline to register with the PRO and report annual volumes of covered materials may result in various financial ramifications. Not only does the RMA provide for penalties of up to $25,000 per day for violations, but producer fees will be calculated based on the total reported volume of each covered material, making overreporting due to nonspecific material volume tracking a costly option. Timely determination of covered material volumes for low volume producers may also allow a company to opt into

Oregon's tiered flat fee structure for companies with gross revenues of $5,000,000 to less than $10,000,000 that supply less than 5 metric tons of covered materials for use in Oregon. Producers of up to 10 metric tons of covered materials may also be eligible for progressively higher flat fees. Comprehensive and proactive reporting may also result in cost savings via Oregon-specific bonuses.

Oregon law also requires the creation of a public, searchable registry disclosing all compliant registrants and the identities of any members determined to be noncompliant. Periodic audits by the PRO of its members—and of nonmembers of the PRO—will aim to identify compliance issues. To the extent such audits reveal situations where there is a dispute between producers as to which entity in the supply chain is the obligated producer with respect to a given material, Oregon's PRO – the Circular Action Alliance – may work with the Oregon Department of Environmental Quality to seek resolution. However, it remains unknown how timely and successful such efforts will be in the face of current reporting obligations and should not be a first line of defense in determining competing producer responsibilities.

If you have any questions or concerns about environmental laws and regulations, or any advertising claims, please feel free to contact us. Kilpatrick's Advertising and Marketing team.

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