

# Year packed with packaging regulations

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This year has brought about a flurry of legislative activity related to sustainability and packaging, with many states announcing plastic bag bans; plastic straw and foam bans; and extended producer responsibility (EPR) bills.

The following are just some regulations that occurred in 2019:

- In April, New York banned plastic bags and put a fee on paper bags.
- In May, Maine became the first state to ban polystyrene foam containers; Maryland followed suit, also banning polystyrene (PS) foam containers.
- In June, Maine and Vermont banned plastic bags. Also, Vermont banned plastic straws, stirrers and expanded polystyrene (EPS) foam.
- In July, Oregon and Delaware banned plastic bags; Connecticut put a fee on plastic bags with eventual plans of banning plastic bags.

Additionally, Maine passed an EPR bill with proposed legislation due on Dec. 16 and Vermont passed an EPR bill with a working group report due Dec. 1. California legislators are currently working to get Senate Bill (SB) 54 passed, which would require single-use

plastic packaging manufacturers to source reduce products into reusable products and ensure all single-use packaging is recyclable or compostable by 2030.

At the federal level, U.S. Sen. Tom Udall, D-New Mexico, and U.S. Rep. Alan Lowenthal, D-California, have drafted [EPR legislation](#) aimed at reducing plastic waste that they hope will go into effect this fall.

These are just some of the regulations that have emerged in the past year, according to information shared in a webinar titled “US Regulatory Approaches for Packaging,” hosted by the [Northeast Recycling Council \(NERC\)](#), Brattleboro, Vermont, on Sept. 11. Mary Ann Remolador, assistant director of NERC, organized the webinar and presenters included Cole Rosengren, senior editor of *Waste Dive* magazine; Heidi Sanborn, executive director of the National Stewardship Action Council, Sacramento, California; and Sarah Lakeman, Sustainable Maine director at the Natural Resources Council of Maine.

“It’s worth watching where official positions are for companies and if positions shift,” Rosengren said in the webinar.

He said many consumer packaged goods (CPG) companies are averse to EPR policy proposals. He added that some large recycling trade organizations, including Washington-based [Institute of Scrap Recycling Industries \(ISRI\)](#) and the Arlington, Virginia-based [National Waste & Recycling Association \(Nwra\)](#), are opposed to additional regulations, but that these associations and members want to pay close attention to proposed EPR legislation.

### **California packaging legislation**

The term “circular economy” has been thrown around a lot with more states and legislators looking to solve packaging problems. Sanborn said it’s important to define this term, though, adding that she likes the U.K.-based [Ellen MacArthur Foundation’s](#) definition best: A circular economy is a multifaceted approach with a focus on producers embracing sustainable design, using regenerative materials and collecting end-of-life products and materials for continuous use in the economy. She said a circular economy has three principles: design out waste and pollution; keep products and materials in use; and regenerate natural systems.

States, including New York, Maine, Vermont, Delaware and Oregon announced plastic bag bans in 2019.

In California, Sanborn said legislators in the state have been working to pass companion bills [SB 54](#) and [Assembly Bill \(AB\) 1080](#), which aim to address



the state's circular economy and plastic pollution. She said these companion bills have been successful because there are a lot of authors involved in putting it together, adding that even some larger haulers have supported this. The companion bills have many components, including:

- **General requirements:** Impose comprehensive regulatory scheme on producers, retailers and wholesalers of single-use packaging and priority single-use products to be administered by the California Department of Resources Recycling and Recovery (CalRecycle). It also requires producers to source reduce single-use packaging and priority single-use products; all such products must be recyclable or compostable by 2030; and producers must achieve statewide 75 percent reduction of waste by 2030. It also authorizes CalRecycle to determine which actions to take to achieve this general requirement.

- **CalRecycle requirements:** CalRecycle must establish a circular economy and waste pollution reduction panel; develop criteria to determine whether packaging or priority single-use products are reusable, recyclable or compostable; develop implementation plan by 2023; establish and post a list of packaging categories before regulations are done; promulgate regulations by 2024; publish a list of recycling rates by category by Jan. 1, 2025, and update that every two years; develop criteria for exempting small businesses; set regulatory fees paid by producers; and report to legislature every three years on progress.

- **Retailer requirements:** Prohibits a retailer or wholesaler from offering for sale single-use packaging or priority single-use products if the producer of the single-use a packaging or single-use product is listed as noncompliant on CalRecycle's website.

- **Producer requirements:** Meet recycling rates based on the date of manufacture and increase over time—up to 30 percent by 2026, 40 percent by 2028 and 75 percent by 2030.

Sanborn added that the bill, if passed, would feature stricter enforcement to ensure targets are met. She said if this legislation passes, CalRecycle could impose \$50,000 per day fines for violations on any entity that is not in compliance with the act.

“Opposition is limited,” Sanborn added. “This has a lot of traction. I’m giving this a good probably 60 percent chance this will go right now and get signed by the governor. Also, CalRecycle testified they can implement this bill.”

## **EPR proposals in Maine**

In Maine, Lakeman said EPR legislation for packaging has been on her “long-term policy wish list” for a while. “It makes more sense than how we approach recycling,” she said.

During NERC’s webinar, Lakeman said Maine has some existing EPR programs for rechargeable batteries, mercury auto switches, electronic waste, mercury thermostats and cellphones to name a few programs.

This year, Lakeman said Legislative Document (LD) 1431, titled “Resolve, To Support Municipal Recycling Programs,” passed and was signed by the governor in May. She said this resolve bill directs the state’s Department of Environmental Protection to deliver statutory language for an EPR for packaging bill by Dec. 16.

“The state of Maine is serious about EPR law as outlined by the resolve,” Lakeman said. “Our Department of Environmental Protection is tasked with the job of writing the bill and have framework law to guide them.”

Under LD 1431, she said EPR legislation exempts bottle bill materials—it can’t include restrictions on beverage containers recycled through the state’s bottle bill. “Our program is successful here and yields high return rates, and many businesses throughout the state rely on this program,” Lakeman said. “Beverage containers must remain separate, as they have for years.”

Also, LD 1431 mandates an eco-modulated fee structure where there are financial incentives for producers in the state that use recycled content, operate a takeback program, put recycling instructions on packaging and use materials that have a positive net market value for municipalities. However, Lakeman said there are financial disincentives for producers in the state that use material that is not readily recyclable, choose to use excessive or multimaterial packaging, create single-use plastics and create packaging identified as a high source of litter or contamination in recycling.

Additionally, LD 1431 requires transparent data and reporting when the state initiates its EPR legislation for packaging. This includes waste characterization studies for trash and recycling that would be paid for by producer responsibility organizations.