



September 15, 2025

Docket Clerk Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

RE: OLP182 - RFI State Laws Having Sig. Adverse Effects on National Economy or Significant Adverse Effects on Interstate Commerce - 90 FR 39427 2025_08_15

The National Association of Electrical Distributors (NAED) is a nationwide trade association for the \$150+ billion electrical distribution industry which represents more than 600 distributors and manufacturers of electrical products with more than 5,000 locations in all 50 states. Our members are companies of all sizes - from small and mid-sized independents to large regional and national firms.

NAED warehouse and distribution members are a critical piece of the electrical equipment supply chain, linking manufacturers to electrical contractors, who are the end users of the equipment we supply.

NAED and our members are increasingly concerned about the proliferation of Extended Producer Responsibility (EPR) laws in various states. EPR laws are meant to encourage a “circular economy” to reduce environmental impact of packaging and paper for various consumer goods. The underlying framework for these EPRs is to hold the producer responsible for the lifecycle impact of these packaging materials.

While these efforts are laudable, implementation is being rushed, leaving many of our members with more questions than answers. Currently, seven¹ states have implemented these statutes - California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington. And eight states have introduced similar legislation – Connecticut, Hawaii, Illinois, Massachusetts, New Jersey, New York, Rhode Island, and Tennessee.

Although details vary by state, these laws generally require the creation of a Producer Responsibility Organization (PRO)—a non-governmental entity charged with administering the program. This PRO-led model raises several concerns for our members:

First, electrical warehouse and distribution companies are classified as “producers”. Distributors typically operate warehouses, manage inventory, and consolidate shipments, often across state lines. Legal experts caution that these activities are construed as “production,” even though distributors do not manufacture goods.

¹ California - SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act

Colorado - HB22-1355

Maine - LD 1541

Maryland - SB 901 - Environment - Packaging and Paper Products - Producer Responsibility Plans

Minnesota - HF 3911 Omnibus Environment and Natural Resources supplemental appropriations, including the Packaging Waste and Cost Reduction Act

Oregon - SB 582 Plastic Pollution and Recycling Modernization Act

Washington - SB 5284 - Improving Washington's solid waste management outcomes





Second, questions remain about the power of PROs to administer state-mandated programs without direct state oversight. For example, Oregon has designated the Circular Action Alliance (CAA)—a private nonprofit—as its PRO. CAA can require registration, impose reporting obligations, and levy fines of up to \$25,000 per day on companies deemed non-compliant. Infractions under the California program can reach up to \$50,000 per day.

Third, CAA has also been selected as the sole PRO in California, Colorado, and Maryland. In Oregon, it has broad authority to impose mandatory fees using a confidential methodology with no transparency, public oversight, or judicial review. There is no formal process for producers to appeal or challenge fee assessments, adjustments or categorizations, and are limited to binding arbitration as the only recourse after CAA's internal remedies have been exhausted, raising significant due process concerns.

Fourth, the complexity and lack of harmonization across state programs are creating confusion and compliance concerns for even the most sophisticated businesses. For our smaller businesses, fees may be so burdensome that companies may have to decide whether to continue operating in these states, or recoup costs by raising prices.

Fifth, the lack of notice regarding fee setting, which has only been finalized in Oregon, will occur retroactively on prior years' activities, meaning businesses cannot plan for the financial repercussions of compliance.

As noted in the RFI, President Trump's EO 14260 (Protecting American Energy from State Overreach) clearly applies to the electrical distribution industry which provides critical infrastructure needed to achieve Energy Dominance.

In terms of solutions, it should also be noted that a pending lawsuit in Oregon is underway, challenging state and federal constitutional issues. Therefore, the Department of Justice may wish to review the federal legal arguments presented by the Plaintiff, the National Association of Wholesaler-Distributors (NAW).

Finally, while we recognize the Administration's preference for cooperative federalism, one constructive option would be to expand resources for EPA's Solid Waste Infrastructure for Recycling (SWIFR) Grant Program. Combined with voluntary efforts by individual companies to reduce waste, this approach could strengthen environmental stewardship without undermining fairness, transparency, or due process.

Thank you for considering our comments.

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