

More States Consider Minimum Recycled Content Requirements

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As we reported in October 2020, California became the first state in the U.S. to require a minimum post-consumer recycled resin in plastic bottles (see [CA to Require Minimum Recycled Content in Plastics Bottles](#)). Other states may follow California's lead. Washington, New Jersey, and Oregon are three states where legislatures have introduced bills requiring the use of post-consumer recycled content in certain types of packaging.

Washington

On January 14, 2021, [SB 5219](#) was introduced in the Washington State Senate. This bill would require plastic packaging producers to meet the following minimum postconsumer recycled content for plastic packaging sold in the state: 15% by July 1, 2023; 25% by January 1, 2027; and 50% by January 1, 2031. Under SB 5219, "plastic packaging" is defined as "packaging made from plastic, whether alone or in combination with another material, including packaging that bonds plastic with other materials together, such as metal lids bonded to plastic bottles, blister packs combining plastic and paperboard, plastic-coated paper packaging, and aseptic containers..." The bill also sets forth reporting requirements. SB 5219 was referred to the Senate Environment, Energy, and Technology Committee the same day it was introduced.

Washington's [SB 5022](#) also sets forth minimum recycled contents requirements for plastic beverage bottles. SB 5022 was introduced in the Washington State legislature on December 17, 2020 and was also referred to the Senate Environment, Energy, and Technology Committee, which passed a substitute version of the bill on February 3, 2021. The substitute bill has the same minimum postconsumer recycled contents requirements as SB 5219 but requires beverage manufacturers or their third-party representatives to cover the cost incurred by the Department of Ecology to implement, administer, and enforce this law. The bill was referred to the Senate Ways & Means Committee on January 11, 2021.

New Jersey

Bills requiring the use of post-consumer recycled content in packaging have also been introduced in New Jersey. [SB 2515](#) is currently before the New Jersey legislature that would establish minimum recycled content standards for glass containers, paper carryout bags, reusable carryout bags made

of plastic film, plastic trash bags, and plastic containers. Specifically, beginning January 1, 2022, rigid plastic containers would need to contain at least 35% recycled content, unless exempt. Plastic beverage containers would need to contain at least 10% recycled content by 2022; 25% by 2026; and 50% by 2031. Glass containers would generally need to contain at least 35% recycled content by 2022. Plastic film bags would have to contain 20% recycled content by 2022 and 40% by 2025. SB 2515 would also prohibit the sale of polystyrene loose fill packaging. The bill was referred to the Senate Environment and Energy Committee in June 2020 and referred to the Senate Budget and Appropriations Committee on December 10, 2020.

Oregon

While Oregon's [HB 2065](#) does not impose specific obligations regarding recycled content in packaging, it mandates that a plastic packaging recovery rate be established (see HB 2065, section 20). The bill requires producers to join a producer responsibility organization, unless exempt. Each year, the state's Department of Environmental Quality would be required to determine whether the statewide plastic packaging recovery goal was met in the previous year and, if the goal was not met, producer responsibility organizations would be required to submit a program plan to address the failure. HB 2065 was referred to the Energy and Environment Committee on January 19, 2021.

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