

Extended Producer Responsibility – And the Impact on the Printing Industry

Extended producer responsibility, commonly referred to as EPR, is not a new concept. These programs, adopted by legislation and followed up by regulation, are being implemented on a variety of products at the state level. One of the earliest EPR programs implemented were the “bottle bills” that placed container deposits on beverage containers. Other state adopted EPR programs have focused on paint, mattresses, and electronics. The shift to a focus on paper and packaging materials has been recent and can be tied to the monumental changes in recycling that occurred due to restrictions on imported materials destined for recycling implemented by the Chinese government in 2018.

EPR is a monumental switch in which producers are given a significant responsibility, both financial and/or physical, for the end-of-life management of post-consumer products. This policy shift places the financial burden on the producers of packaging and printed paper products, rather than local municipalities. This new financial model involves imposition of “user fees” or a tax for the ability to sell or distribute products within a given jurisdiction such as a state. Proponents of EPR view this “fee” as a tool to support residential recycling by providing financial relief to the municipalities that are collecting materials for recycling by reallocating the cost burden to the companies producing the product.

There are a variety of reasons why the costs of recycling programs are increasing. Lower commodity prices for recovered paper and plastics, expansion of mandated products, stagnant recovery rate for materials, and lack of infrastructure to process recovered materials all contribute to the rising costs of recycling programs. While there continues to be a large demand for recovered paper, it is often included in EPR programs because it enjoys an increasing commodity price and higher demand. The revenue received from recovered paper is used to offset or subsidize the cost of other materials, which do not have the same positive market forces.

EPR Legislation for Printed Paper and Packaging

The combination of economic pressures and environmental awareness of waste plastics has triggered legislative activity at the federal and state level. The past several years have marked a crescendo in EPR legislative activity at the state level. State legislatures in over 12 states have introduced some form of EPR legislative proposal that addresses either packaging or both printed paper and packaging. Maine and Oregon have passed EPR legislation impacting either packaging or printed paper and packaging followed by both Colorado and California. It is expected that within the next few years, more states will follow suit and pass similar legislative proposals.

While all the enacted state laws are similar in nature, there are differences in both products covered as well as specific implementation actions. For example, the legislation enacted in Maine focuses on packaging, both paper and plastics based, while the legislation in Oregon, Colorado, and California includes both printed paper and packaging. In addition to the differences in products covered, Implementation time lines also differ. PRINTING United Alliance is following all state activities to keep the industry informed as states make progress towards implementation.

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While there are differences in state approaches, there are also similarities. The laws define consumer packaging as those for food, home, or personal care products. They exclude packaging intended for long-term storage (over five years), beverage containers, paint cans, and packaging for drugs and medical devices. The laws set target recycling goals and gives producers an incentive to use more sustainable packaging. Oregon's law has a few unique features as it creates a "Truth in Labeling" task force to assess whether producers are making misleading claims about the recyclability of their products. It also will create a uniform statewide collection list and expand recycling access to multifamily housing and those living in rural and remote communities. California's law includes an additional incentive that allows materials that achieve a high recycling rate to drop out of the program. Materials that are recycled at a rate of 65 percent for three consecutive years prior to January 1, 2027, after that date at a rate of at least 70 percent annually are excluded as being a "covered material".

Each state will require producers to register with a producer responsibility organization (PRO) or a packaging stewardship organization (PSO). Oregon is allowing multiple PROs to operate within the state. The primary responsibility of the PRO or PSO will be to provide governance and oversight on the implementation of the program. The tasks include gathering data, identifying the volume of materials that are placed into commerce in each state, assessing the fee that each packaging type will pay, reimbursing municipalities, state government, and others, and issuing progress and other reports.

Impact on the Printing Industry

The backbone of any EPR program is the imposition of fees or taxes on all covered products. The fee is assessed on the producer typically defined as:

Person having legal ownership of the brand of a product sold, offered for sale or distributed for sale in the state; the person who manufactures the covered material or product under such person's own name or brand and who sells or offers for sale the covered material or product in the state; or the person who imports the covered material or product as the owner or licensee of a trademark or brand under which the covered material or product is sold or distributed in the state.

While the fees will have the greatest impact on the printing operation's customer, however, it can also impact the printing operation directly depending upon what lines of products they produce or offer for sale. For example, currently printed paper, other than paper-based packaging, being processed in British Columbia has an assessed fee of \$311.35 USD/ton for 2022, which represents an increase of 22% based on fees assessed in 2021. The fee for old corrugated has been set at \$268.89 USD/ ton.

A likely outcome involves print customers choosing alternative mean to communicate their messages rather than using printed media. Imposition of a producer pays program can also cause the print customer to demand that the printing operation absorb the increased cost of producing the product, thereby absorbing the imposed fee/tax. In either scenario, the impact can be significant.

Research conducted by York University in Ontario , Canada has concluded that the current EPR programs operating in the provinces of Ontario and British Columbia are not effective at achieving their stated goals of 100% and are experiencing escalating costs. They have also shown that the cost of the EPR program is borne not only by the producer, but the consumer as well. The research concluded found that depending on locality and product category type, basket of goods costs for consumers can increase by anywhere from 5% to 12%.

¹ Lakhan, C. (2021). "Executive Summary of the University's research into EPR in both Ontario and British Columbia" York University, Accessed From: <https://drive.google.com/file/d/1UFuVXAxArsGNgLEqSgQ5fww46Lk8kGC/view?usp=sharing>

York University just recently completed a study on the proposed printed paper and packaging EPR program in New York State and its conclusions were equally concerning. The total impact on “basket of good” pricing (packaged goods) ranges from 4.01% on the low end, to 6.35% on the high end. Stated alternatively, this translates into an additional \$36 to \$57 per month in grocery costs for the average family of four in New York State. This study found that the decision to adopt producer responsibility legislation for packaging waste has an unintended effect that disproportionately affects low income families.

PRINTING United Alliance Response

Over the past several years, most of the EPR legislative activity for printed paper, packaging, and plastics has occurred at the state level. Federal legislation has been introduced but failed to gain any traction. However, as more state’s pass legislation, there may be a push to get something passed that would provide uniformity and consistency as each state so far has created its own independent program.

EPR is getting significant traction at the state level, and legislative initiatives focused on establishing EPR programs for both printed paper and packaging or only packaging have now passed in four states and more states are expected to pass legislation in the future. A shift in approach by both prominent business coalitions, and a continued push by NGO organizations have resulted in a different landscape thus allowing bills to be passed.

Further complications arise as no two state bills are the same. PRINTING United Alliance continues to monitor the progress of relevant federal and state legislation and participate in the industry coalitions. We continue to take an active role in opposing legislation on a federal and state level that would have a detrimental impact on the industry through our Advocacy platform that allows us to reach and engage the industry as needed.

The momentum for passing Extended Producer Responsibility legislation, at both the state and federal level, continues to build. Continued engagement and outreach on this critical issue allows us to both understand the impact on the printing industry and work hard to stop the legislation or minimize its impact.

For More Information

PRINTING United Alliance seeks to keep the printing industry updated on workplace requirements related to environmental compliance. For more information, or if you have questions on this or any other state regulatory issue, please contact Marci Kinter at mkinter@printing.org or Gary Jones at gjones@printing.org.

² Lakhan, C. (2021). “Examining the Economic Impacts of EPR Legislation for Packaging Waste in New York State”, York University, Accessed From: <https://wastewiki.info.yorku.ca/files/2021/06/New-York-State-EPR-Modeling-Revised-1.pdf?x63676>