

Extended Producer Responsibility

A Prescription for Clean Production, Pollution Prevention and Zero Waste

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After decades of unsuccessful efforts to remedy hazardous waste dumps, poor worker health practices, depletion of raw materials and deterioration of human and ecological health, there is a need for a fundamental policy change. Rather than seeking remedies at the end of a product's life, we need a new political and economic infrastructure to support the development of products that are safe and sustainable throughout their life cycle. This policy must prevent pollution and waste rather than just controlling it. Just controlling waste, which has been the approach society has relied on since the Industrial Revolution, is no longer adequate or acceptable.

Extended Producer Responsibility (EPR) is a policy tool that extends manufacturer's responsibilities beyond their current accountabilities -- for worker health & safety, consumer safety, and production costs -- to also include responsibility for life cycle costs of their products and associated packaging. Essential to EPR is its mandate for producers to 'take back' their end-of-life products and create closed looped systems that prevent pollution and the inefficient use of resources. By promoting a 'cradle to cradle' responsibility, EPR enforces a design strategy that takes into account the upstream environmental impacts inherent in the selection, mining and extraction of materials, the health and environmental impacts to workers and surrounding communities during the production process itself, and downstream impacts during use, recycling and disposal of the products. The ultimate goal of EPR is to encourage cleaner, safer materials and production processes, as well as to eliminate waste at each stage of the product's life cycle.

EPR is a policy tool to:

- Enable producers to contribute to a more ecologically sustainable society by designing and supplying products that provide the greatest functionality and longest life with inherently safe materials and the least use of resources and with safe chemicals.
- Reduce public costs by shifting costs of end-of-life product management from taxpayers to manufacturers;
- Prevent the disposal of used products in landfills and incinerators, their recycling under sub-standard conditions, or their export to developing countries.

Why EPR?

EPR is a tool to ensure responsibility is placed on the party with the greatest ability to reduce the environmental and human health impacts of products: the brand owner. During the design stage, brand owners are in the position to select safe materials, minimize

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toxic waste throughout the life cycle, increase the useful life of the product and facilitate disassembly and reuse of the product at the end of its life.

EPR is a tool to engage producers in eradicating social injustice. Many products used today are either disposed in landfills and incinerators that tend to reside in or near low-income communities and communities of color, or they are exported to developing countries with inadequate health and labor standards. As a result, people in developed and developing countries are exposed to toxic materials that cause cancer, reproductive problems and other irreversible diseases. EPR can reverse this trend by ensuring that producers make safe products, take them back and recycle them responsibly.

EPR is a tool to moderate resource consumption. Consumer products are typically designed for one time use, to be thrown out by consumers at the end of life and disposed of in landfills and incinerators. This has led to unsustainable consumption patterns that are depleting the world's stock of raw materials at a rate faster than nature can sustain. EPR encourages producers to create products that last longer and manage materials so they are continually reused and recycled in a closed loop system.

EPR is a tool to achieve better product design. Many of the materials used in products are harmful to human health. As a result, harmful pollutants are dispersed from products during production, use and disposal. Society as a whole pays for the added costs of these impacts, whether it be in higher health care bills or increased waste management expenses. When producers pay for managing product waste at end of life, they have an incentive to design products that are less toxic, less over-packaged, longer lasting and designed for reuse and recycling.

EPR is a tool to achieve a vibrant economy. EPR will lead to product innovation, cost savings, reduced environmental liabilities and increased customer satisfaction. It will also increase competitiveness in a global marketplace where European and Japanese companies are already adapting to legally binding EPR requirements.

EPR is a tool to create safer work places and more jobs. EPR sets a standard for cleaner raw materials that are safer to handle in workplace facilities. Up the supply chain, brand owners hold their suppliers to a higher standard of environmental performance and workplace safety. EPR also creates new, meaningful jobs in redesign, repair, reuse and recycling, while recognizing the need for a Just Transition towards clean production. Workers must not bear the costs of a transition towards clean production.

Extended Producer Responsibility has many look-alikes -- accept no substitutes! For instance, "Product Stewardship,"¹ as used by the United States Environmental Protection Agency, attempts to allocate responsibility among all the different parties involved with a product -- brand-owners, distributors, retailers, and even local governments which have

¹ However, note that in British Columbia, Canada, the term "Product Stewardship" is used to describe true EPR programs that meet most of the criteria described in this document. U.S. EPA previously coined the phrase "Extended *Product* Responsibility" to describe voluntary, shared responsibility programs.

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traditionally borne responsibility for managing waste. This blurring of responsibility weakens the incentive to redesign products to minimize environmental impacts, whereas EPR intentionally places responsibility on the brand owner who, unlike the other stakeholders, has control over product design. Moreover, U.S. EPA's "Product Stewardship" is normally confined to initiatives taken by industry voluntarily. Experience has shown that mandatory programs, enforced by regulation, are more effective than voluntary programs at making meaningful change.² Government-enforced targets and deadlines for the phase out of hazardous materials and the collection, reuse and recycling of designated products are achieving positive changes in the way products are currently designed with minimal impact on the profitability of affected industries.

To guide in the creation of effective EPR programs we have developed the following checklist of essential elements.

Essential Elements of an Effective EPR Program

- **Mandatory.** Programs are encoded in law so that all competing producers within a product category have to participate and meet the same high standards (level playing field and no free riders).
- **Focus on products.** Each program is focused on a specific product category or priority waste material to encourage competition (or collaboration) within the industry sector to develop more sustainable product design and material management systems.
- **Assignment of responsibility.** Responsibility for the product belongs to the brand-owner. Individual brand-owner responsibility creates a direct feedback loop encouraging better product design and rewarding progressive companies. However, collective industry responsibility is needed for 'orphan' products, whose producers are no longer in business.
- **Physical and/or financial responsibility.** Producers are legally responsible for ensuring that their products are managed responsibly and must bear physical or financial responsibility for their management at their end of life.
 - Physical responsibility means that producers operate a take-back program themselves.
 - Financial responsibility means the producers contract with others to operate the program.
- **Performance standards and deadlines.** Rules establish clear outcomes reflecting the goal of minimizing product environmental life cycle impact, including measurable rates and deadlines. Performance standards should advance product reduction (dematerialization) and reuse before recycling. Likewise, leasing systems should be encouraged.

² *EPR Programme Implementation: Institutional and Structural Factors*, by Naoko Tojo, Thomas Lindhqvist and Gary A. Davis, OECD, December 2001.

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- **Mandated phase-out of hazardous materials.** Rules clearly define harmful materials that need to be phased out by a set deadline. Phase-out should take priority over product take-back.
- **Ban waste disposal and exports.** Recovered products must not be landfilled or incinerated and must be managed in accordance with international laws and conventions (hazardous or unsanitary used products must not be exported from developed to developing countries either for disposal or for recycling).
- **Flexibility and accountability.** Producers have the flexibility to design their own clean production and product take-back plans to meet performance standards and deadlines. Regulations establish clear and effective mechanisms for transparency and public accountability, including:
 - Clear labeling of products.
 - Public participation in the development of EPR programs.
 - Regular monitoring and reporting of progress.
 - Strict and prompt enforcement of performance standards by government, to protect both the public interest and duly acknowledge progressive companies who act proactively.
- **Historical waste.** Rules establish responsibility for historical waste -- products sold prior to the effective date of the program and orphan products -- products whose manufacturers are no longer in business.
- **Complementary measures.** EPR programs may be supported by complementary measures such as minimum recycled content and detailed procurement policies.
- **Social justice.** EPR programs ensure that people in industrialized and developing countries are not exposed to toxic materials in their workplaces or their communities. Workers receive a living wage and do not bear the costs of a transition to cleaner production.