

SB222 Advisory Council

EPR Framework Discussion



Legislative Intent?

Benefits/Impact

- Circularity
 - Environmental and Health considerations
 - End markets
2. Scope of Materials Covered (Primary/Secondary/Tertiary Packaging, Formats, etc).
 3. Operational Considerations (Access, Frequency, Compliance, Technology, other)
 4. Scope of Covered Entities
 5. Governance and Oversight
 - PRO
 - State Agency/Government Role
 - EPR Advisory Council (Advisory; They are not the PRO)
 6. Data collection and reporting
 7. Fee structure designed to increase reduction, reuse and recycling, including Eco-modulation
 8. Education and communication for all EPR system users end to end – producers, consumers, collection, processing and reuse
 9. Principles for the Analysis and refinement of the Needs Assessment – Driver of
 - Program Goals
 - f. Producer Fees and Eco-modulation

Governance and Oversight

Governance and Oversight

- PRO
 - Registration of producers (early in process),
 - developing plan with producers,
 - establishing fees, PRO raises funds and holds the account
 - set goals/performance standards with MDE approval and comment from advisory council,
 - Bring forward recommendations for review by the advisory council
 - Performance measures of service providers/producers assessed by pro
 - Invest in improving infrastructure to make recycling competitive with virgin materials
 - PRO responds to advisory board recommendations

Governance and Oversight

- State Agency/Government Role
 - Compliance arm (producers are meeting their obligations, PRO is meeting their objectives)
 - Coordinate Advisory council
 - Approval of the plan and goals
 - Potentially setting/expanding targets
 - Write regulations, can expand on targets
 - Evaluating effectiveness of the program. Do we need to adjust?
 - Staff's the advisory council
 - Vetting recommendations for council members

Governance and Oversight

- EPR Advisory Council
 - Advisory; They are not the PRO
 - Review and comment program plan, annual reports,
 - Advise government and PRO.
 - Vote and give recommendations on how to adjust the program. Make it clear that the PRO cannot vote/comment on their own plan.
 - Consider term limits, is there a process to replace members who do not participate.
 - Requirements to meet on a certain frequency
 - Must submit a report each year with recommendations

Legislative intent in SB222:

(1) Modernizing and improving waste and recycling systems in the state, including by facilitating:

a. Improvement of reuse, organics recycling, and recycling

b. Improvement of recycling markets

c. Reduction of waste

d. Increase in recycling rates, and

(2) Reimbursing local governments for costs associated with transporting, collecting, and processing packaging materials.

It is the intent of the General Assembly to:

- (1) Minimize the environmental and human health impacts of packaging;
- (2) Conserve resources;
- (3) Stimulate responsible end markets for packaging materials;
- (4) Shift the cost of managing packaging waste from consumers to producers.

By:

- • Reducing plastic packaging sold in the state
- • Redesigning packaging to be recyclable, compostable, or reusable
- • Reducing packaging waste
- • Reducing the toxicity of packaging
- • Increasing recycled content of packaging
- • Improving access to and the efficiency of recycling, composting, and reuse infrastructure, with special emphasis on underserved communities
- • Improving the labeling of packaging with respect to recyclability, compostability, and disposal
- • Making producers financially responsible for:
 - o investing in the needed infrastructure; and
 - o reimbursing local governments for costs associated with transporting, collecting, and processing packaging materials

Benefits/Impact

- Circularity (not going to landfill or some other form of disposal)
- Environmental and Health considerations
- End markets
- Life Cycle (where and how?)
- Dont restrict the markets, but have PCR goals.

Scope of Materials Covered (Primary/Secondary/Tertiary Packaging, Formats, etc).

Already in Law:

- Primary, Secondary, and Tertiary packaging intended for the consumer market
 - Residential and/or commercial?
 - reuse or refillable?
 - Define tertiary?
- Service Packaging
 - Carry out bags
 - Bulk Good Bags
 - Take out and home delivery of food service packaging
- Beverage Containers
- Does not include
 - Pesticide packaging regulated by FIFRA
 - Federally regulated drug, medical device, biologic, diagnostic, or dietary supplement
 - Medical product intended for animals
 - Liquified petroleum gas containers that are designed to be refilled

Scope of Covered Entities

Currently in law:

Producer:

1. Has legal ownership of the brand
2. Is the manufacturer of the product
3. Is the licensee of the brand
4. Is the person who imports into the state and not already included in 1-3

Exemptions

- Local Government
- Non-Profit
- An entity that manufactures drug or a device under FFDCA
- Generated less than \$5 mil
- Less than 1 metric ton sold in the state
- Operates a restaurant
- Operates a single retail store
- Licensed under alcohol beverage association and makes less than \$10mil

Data collection and reporting

- Include collection and access
- How much materials are being collected
- How these are managed
- How much materials are being supplied into the collection
- Which producers are registered in the program
- Audit and verification on what the PRO is providing, financial and performance auditing (on a periodic basis 5 yr? And coordinated with updating plans).
-

Fee structure designed to increase reduction, reuse and recycling, including
Eco-modulation

Operational Considerations (Access, Frequency, Compliance, Technology, other)

Education and communication for all EPR system users end to end – producers, consumers, collection, processing and reuse

Principles for the Analysis and refinement of the Needs Assessment – Driver of

- Program Goals
- Producer Fees and Eco-modulation

Definitions

DEFINITIONS:

"Environmental impact" means the impact of a covered material on human health and the environment, from extraction and processing of the raw materials composing the material through manufacturing, distribution, use, recovery for reuse, recycling, or composting and final disposal. (from the Minnesota bill)

"Responsible end market" means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that: (a) benefits the environment; and (b) minimizes risks to public health and worker health and safety. The Department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizing risks to public health and worker health and safety. (from the California bill, and nearly identical to Oregon's law. Minnesota's law is even stricter)

Definitions

"Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of, and returning them to, or maintaining them with, the economic mainstream in the form of recovered material for new, reused, or reconstituted products, that meet the quality standards necessary to be used in the marketplace.

(1) "Recycle " or recycling" does not include:

(I) Landfilling

(II) Combustion

(III) Incineration

(IV) Energy generation

(V) Fuel production; or

(VI) Other forms of disposal including placement within the footprint of a landfill.

(2) To be considered recycled, covered material shall be sent to a responsible end market.

(taken from the California law, with addition of "within the footprint of a landfill.")

Metrics:

- The quantity of packaging sold in the state, by material type, recyclability, composability
- The quantity of packaging waste in the state, by material type
- Post-consumer recycled content of packaging, by material type
- The recycling rate for packaging sold in the state, by material type
- The percentage of packaging sold in the state that is reusable, by material type

Other issues we could settle/agree upon:

- MDE will set enforceable targets in rule-making on recyclability, PCR content, reduction in plastic packaging, etc.
- A definition of recycling and recyclability
- Requirement in statute that all packaging be recyclable, compostable, or reusable by [DATE]
- Language from Minnesota bill that if there are separate bottle bill and EPR for packaging programs, the two programs must be harmonized.