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# (EPR) model approach

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Recycling is at a crossroads; some consider extended producer responsibility legislation to be the solution.



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Recycling has been the subject of many negative headlines over the past two years: “The World’s Recycling is in Chaos;” “RIP: Recycling is Dead as We Know It;” “Recycling is a Waste.” The list goes on. Of the communities surveyed in The Recycling Partnership’s 2019 “The State of Curbside Recycling” report, more than 50 have canceled their recycling programs, and 29 percent have stopped collecting certain items.

It is undeniable that the past few years have presented unprecedented challenges to recycling globally. In the United States, costs are at historic highs, and revenues are at historic lows. And yet, the public, for the most part, still wants to recycle, and many manufacturers depend on recycled feedstock.

Consumer brands are responding with increasing commitments to design for recyclability and to use more recycled materials. But these commitments are not driving increased collection of the materials needed to meet those goals. In fact, current and projected demand for recycled content far outstrips the supply of key recyclables, including plastics such as polyethylene terephthalate, high-density polyethylene and polypropylene.

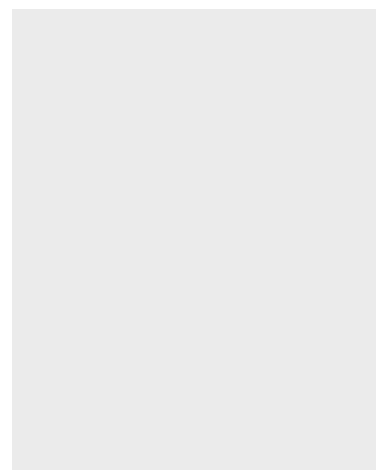
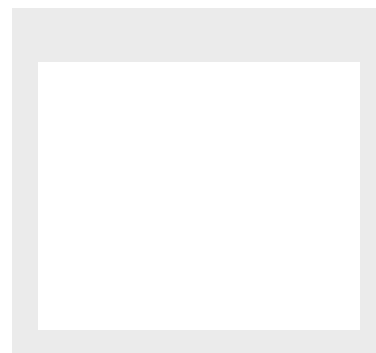
Note: RRS (Resource Recycling Systems) is agnostic regarding specific policy approaches and does not advocate for or against extended producer responsibility as the solution to recycling problems. The intent of this article is to describe different models to advance literacy on this topic.

How can these diverging trends be reconciled? A growing chorus is pointing to extended producer responsibility (EPR) legislation for printed paper and packaging (PPP) as a solution.

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## What is EPR?

EPR is a practice and a policy approach in which producers take responsibility for managing products and/or packaging they produce at the end of their useful lives. Responsibility may be fiscal, physical or a combination of the two. EPR shifts the financial burden of recycling from the ratepayer or government to the producer and consumer of the products and packaging being recycled. The theory behind this approach to materials management dates to a 1990 report by professor Thomas Lindhqvist of Lund University in Sweden that suggests the internalization of end-of-life costs would encourage more environmentally friendly design.

In these times of challenging recycling economics, EPR presents a sustainable financing model for managing materials that does not rely on local governments and/or ratepayers to make up for revenue. The stable funding provided through EPR mitigates market risk for local recycling programs as producers are obligated to cover the costs of recycling (or a designated portion thereof) regardless of the revenue generated from the recovered commodities. In down years, the added cost burden would be placed on producers, which would pay higher fees to fund the system; in up years, their fees would decrease. Through these ups and downs, recycling programs would function uninterrupted.

*A producer responsibility organization (PRO) is created by the producers (brands/retailers) for the purpose of meeting their EPR obligations. PROs develop and execute a program plan to comply with legislative/regulatory requirements and also set and collect fees from producers to finance those activities.*

EPR also appeals to circular economy advocates, and sometimes to the brands seeking to increase use of recycled materials, as it allows producers to manage the recycling

system like a supply chain by more directly connecting recycled commodities with production.

## How common is EPR?

EPR is not a new concept in the U.S., though it has typically been applied to hard-to-recycle materials. Twenty-six states have EPR policies for electronics, and several programs have been established for hard-to-recycle items, such as paint, mercury-containing thermostats, mattresses and batteries. Beverage container deposit systems are also a form of EPR that is in place in 10 states. However, EPR for PPP collected through municipal recycling programs is not currently in place in the U.S.

EPR for packaging was first implemented in Germany in 1991. It spread throughout Europe in the 1990s and is now required in all EU member states.

Implementation of EPR for packaging in Canada began in 2003 and has been adopted by most Canadian provinces.

Today, nearly all Organization for Economic Cooperation and Development countries, with the exception of the U.S., rely on EPR to finance PPP recycling. This trend combined with the perfect storm of economic conditions that challenge recycling have sparked growing interest in EPR in the U.S.

## Will states adopt EPR for PPP?

Some states could see EPR legislation garner serious consideration in either 2020 or 2021:

**Maine.** In 2019, the Maine legislature passed a resolution ([LD 1431](#)), pursuant to its framework EPR legislation, directing the Maine Department of Environmental Protection (DEP) to develop draft EPR legislation for PPP in time for the 2020 session. The DEP issued a draft packaging EPR bill to the legislature in early 2020 that outlines a municipal reimbursement program, modeled on Quebec's system. The legislation is currently being considered by the Maine Legislature.

**New York.** Chairs of the New York State Senate and Assembly Environmental Conservation Committees introduced competing EPR bills for packaging in February. The Senate bill seeks to create a comprehensive EPR program for PPP where municipalities can choose to provide service and be reimbursed by producers, or producers can provide service directly. The Assembly bill initially focuses on plastic packaging and expands to cover paper and other materials in future years.

**California.** The [California Circular Economy and Pollution](#)

**Reduction Act** (SB 54), which was considered during the 2019 legislative session, came very close to enactment during the final days of the session in September 2019. It was expected to be taken up in early in the 2020 legislative session. However, a ballot initiative that proposes several of the same provisions as those contained in SB 54 was submitted for inclusion on the 2020 election ballot. The initiative was collecting signatures (960,000 are needed) by April 21 to place this on the November ballot.

### Canadian approaches

In Canada, extended producer responsibility (EPR) programs have replaced systems typical of those seen in the United States, where municipal governments provided recycling services, either directly or through contractual agreements, funded through the tax base or user fees.

Five Canadian provinces have implemented EPR for printed paper and packaging (PPP), and a number of additional provinces are considering programs. The primary differences in provincial programs lie in the extent to which producers have financial and/or operational responsibility:

- Manitoba relies on a shared responsibility approach where producers have partial financial responsibility (80 percent of recycling costs), and local governments have operational responsibility and pay the remaining 20 percent.
- Quebec assigns full financial responsibility to the producers and operational responsibility to local governments.
- British Columbia adopted a full producer responsibility approach where producers have financial and operational responsibility; local governments can choose to continue to operate recycling programs on contract to the producers.
- Ontario has a shared responsibility program where producers are obligated to pay 50 percent of recycling costs, and municipalities retain operational control and pay 50 percent of costs. The program is being transitioned to 100 percent producer responsibility.
- Saskatchewan has a shared responsibility program with the producers responsible for 75 percent of the cost of recycling, and municipalities retaining operational control and paying the remaining 25 percent.

We'll look more closely at the programs in Manitoba, Quebec and British Columbia.

**Manitoba.** The Manitoba framework is a shared EPR model for residential recycling programs. Producers of PPP (brands and retailers) are responsible for 80 percent of the net costs of recycling programs in the province, and municipalities cover the remaining 20 percent. Municipalities have primary operational responsibility and manage their programs either directly or through contracts with service providers. The program requires municipal programs to meet certain minimum conditions, such as adopting a uniform list of accepted materials that is defined by the producer responsibility organization (PRO), to receive producer funding.

A primary PRO serves Manitoba. Multi-Material Stewardship Manitoba (MMSM) represents producers of all PPP, except for beverage containers. The [Canadian Beverage Container Recycling Association](#) (CBCRA) represents beverage producers and focuses on programs and costs related to beverage containers. MMSM takes the lead on curbside recycling programs (Ninety-four percent of Manitoba's population has access to curbside service.), while CBCRA's program provides bins and education to promote recycling collection in public spaces, at events and at other away-from-home locations. CBCRA works in conjunction with MMSM to finance beverage containers' share of the cost in municipal recycling programs. MMSM sets fees for PPP, while CBCRA is financed through a 2-cent container recovery fee (CRF), paid by consumers at point of sale.

Leaders in Manitoba have indicated that the province is moving toward a full financial responsibility model, similar to the current Quebec program.

**Quebec.** The Quebec framework places full financial responsibility on producers while relying on local governments to operate recycling programs. The framework includes residential recycling programs and any municipally operated commercial recycling programs. PPP brands and retailers are required to reimburse municipalities' net recycling program costs. Local governments maintain complete programmatic autonomy, delivering

service either directly or through contracts with service providers. The system includes a performance and efficiency factor to ensure municipal costs are in a reasonable range. This system has more local control than in the Manitoba system, as no significant conditions are imposed by producers (e.g., there is no mandatory uniform material list). The tradeoff for local control is the lack of harmonization of acceptable materials across the entire province. Harmonization is a best practice that allows for more uniform messaging, which could promote increased recycling participation and reduced contamination.

**Eco Enterprises Quebec** (EEQ) is the PRO that sets and collects fees to fund and manage the obligation on the producers' behalf in Quebec. The program provides robust residential curbside access (99 percent of the population, according to EEQ) along with some small businesses and public spaces. EEQ leads the Canadian provinces in incorporating incentives in the fee structure to reward positive packaging attributes, such as using recycled content and penalties for packaging that disrupts or contaminates the recycling stream, an approach known as eco-modulation. **Recyc-Quebec**, a public corporation under the direction of the Minister of the Environment, oversees the PPP program. Recyc-Quebec plays an important role as intermediary between municipalities and the PRO in the reimbursement process.

Initially, the Quebec program was structured as a 50/50 cost share between municipalities and producers. It shifted to a full producer financing model in 2011. Looking ahead, Quebec has announced that it is moving to assign more operational control to EEQ in an effort to improve quality, harmonization and integration of the collection and processing system components.

**British Columbia.** The British Columbia (BC) framework assigns financial and operational responsibility to producers. PPP brands and retailers are required to manage residential recycling programs. This responsibility includes planning, education and outreach, collection, processing and marketing of residential recyclables.

This EPR system was launched in 2014, and **RecycleBC**, the PRO in BC, adopted a new five-

year plan as of June 2019. Beverage containers are managed by Encorp Pacific through a deposit program established in 1971. RecycleBC sets and collects fees, manages the program on the producers' behalf, directly contracts for local recycling collection and also manages a contract to ensure transportation, processing and marketing of all collected program material. In BC, local governments can choose to participate in the program by serving as the collection service provider on contract to RecycleBC (and can subcontract service to providers of choice) or, they can delegate all operations to RecycleBC, in which case the PRO engages in contracts directly with service providers. In either case, the program has less local autonomy than in those in other Canadian EPR programs. Municipalities must adhere to contract terms set by RecycleBC, such as adopting the harmonized materials list and transporting material to a designated processing facility.

The BC program provides robust curbside recycling collection and depot access (98 percent of the population has access to curbside or depot collection, according to RecycleBC), and includes a broader list of materials than in Manitoba or Quebec. The fees in BC do not yet incorporate eco-modulation, though a working group is looking into how more environmental factors can be incorporated into the fee structure.

**Recology**, a key recycling company in California, supports the initiative, as do many environmental advocacy organizations. It had been assumed that the proposed ballot measure may encourage swift legislative action on SB 54 in 2020, but that has not occurred to date.

**Washington.** Following the consideration of legislation in 2019 that addressed single-use plastics and contained a provision for EPR, studies that included policy analysis with an emphasis on EPR were initiated by the city of Seattle and King County as well as by the Washington State Department of Ecology. Given the study timelines, it is expected that any EPR legislation for packaging will be considered in the 2021 legislative session.

**Oregon.** The Oregon Department of Environmental Quality (DEQ) is conducting an analysis of policy options (referred to as Legal and Relational Frameworks) to modernize recycling in the state. Oregon is evaluating five different options (scenarios), three of which use EPR constructs that draw from



various programs worldwide. The five options under evaluation will be narrowed through analysis and consideration by the multistakeholder advisory committee in the spring. Any legislative action that might result from the study could be seen in 2021.

**National.** In February of this year, following a year of discussions with stakeholders, Sen. Tom Udall (New Mexico) and Rep. Alan Lowenthal (California) introduced the Break Free from Plastic Pollution Act. This proposed legislation incorporates a number of provisions, including EPR for PPP, a national beverage container deposit program and bans on certain single-use plastics.

Although we are witnessing some state- and federal-level interest in EPR legislation as a method for sustainably financing PPP recycling, a majority of U.S. communities continue to try to maintain their programs within the current system. Whether EPR is the solution, serious discussions around the U.S. recovery system are taking place, and the time for significant solutions has come.

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