

Section by Section: Model Pollution Prevention and Producer Responsibility Act



October 2024

Section 1. Definitions

- Defines relevant terms including “producer,” “source reduction,” “recycling,” and “reuse.” Also includes definitions for “covered materials” and “covered entities” which define packaging, paper products and beverage containers within the scope of the Act and residential and other entities to receive reuse, collection, recycling, composting and redemption services (“end of life services”) through the Act.

Section 2. Producer Responsibility Advisory Board

- Establishes a Producer Responsibility Advisory Board to review producer responsibility organization (PRO) programs and advise both the Department and the PROs on implementation.
- The Advisory Board consists of 12 voting members including representatives of local governments and environmental justice areas and members with expertise in end-of-life services, the environment and reuse. Advisory Board members are appointed by the Department for four-year terms. Representatives of PROs and the Department may be appointed as non-voting members.
- The Department provides staff to support the Advisory Board, either directly or through a contracted third-party facilitator. The PROs reimburse the Department for these costs through their annual fee.

Section 3. Needs Assessment

- Directs the Department to oversee a statewide needs assessment by an independent third party to gather information needed for the establishment of the producer responsibility program for packaging and paper products. The needs assessment will evaluate current conditions as well as improvements necessary to meet the goals of the Act.
- Needs assessment must be updated every five years and the Department has authority to adjust the scope of future needs assessments.

Section 4. Producer Registration

- Directs the Department to approve a single Packaging PRO for packaging and paper products and a single Beverage PRO for beverage containers within nine months of the effective date of the Act. A single PRO may apply to fulfill the responsibilities of both the Packaging and Beverage PROs.
- The Department will establish an application process for PROs, but at a minimum, a PRO must be an independent 501(c)(3) non-profit organization with a board that represents the covered materials and producers of those materials.
- All producers of covered materials in the state must register with the appropriate PRO within one year of the effective date of the Act as a condition of selling covered materials in the state.
- A producer of packaging or paper products may elect to fulfill its obligations under the Act independently of a PRO if it meets high recycling, reuse, or composting standards as outlined in the Act.
- PROs will pay the Department a pre-registration fee for the costs of the needs assessment and of program administration until the initial registration of the PROs with the Department.
- Starting July 1 the year after a PRO is selected, the PRO will register with the Department and pay an annual fee, which will include the costs for the Department to implement the Act and conduct future statewide needs assessments.

Section 5. Producer Responsibility Programs

- Each PRO must submit a producer responsibility plan to the Department for approval outlining the PRO's program operations for the next five years. The plan must describe how the PRO will fulfill the Act's requirements, including performance standards under Section 7 and set the PRO's budget and producer fees.
- Producer fees paid to the PRO must be sufficient to pay the annual registration fee to the Department, fund the PRO's contribution to the Plastic Pollution Mitigation Fund under Section 15 (for plastic producers) and implement the producer responsibility plan.
- Producer fees must be based on the amount of covered materials sold by the producer in the state.
- Fees will be eco-modulated to prioritize reuse and other preferred covered material design and attributes such as elimination of toxic substances, source reduction, and recyclability.
- PROs must support education and outreach to covered entities on implementation of the program and how they can access end of life services for covered materials.
- Requirements for Packaging PRO agreements with service providers for end-of-life services are outlined in the Act, including priority for existing service providers during the first packaging producer responsibility plans and minimum standards for service providers and convenience for entities receiving services under the plan.

Section 6. Beverage Container Deposit Return System

- Requires a 10-cent applicable refund value be applied to beverage containers sold in the state. All beverage containers made of 90% or more aluminum, steel, glass, HDPE, PP, or PET and sold in the state must have the applicable refund value no later than two years after the effective date of the Act. All beverage containers sold in the state must have the applicable refund value no later than three years after the effective date of this Act.
- Provides for an increase in the applicable refund value if performance standards are not met, as determined by the Department.
- The Beverage PRO must provide, at a minimum, access to bag drop programs and individual container redemption, including high-volume individual container redemption, and ensure consumer convenience standards for beverage container redemption are met.
- Unredeemed deposits must be reinvested into the system.

Section 7. Performance Standards

- Establishes binding performance standards that PROs and producers must meet to accomplish the environmental and waste reduction objectives of the Act. Performance standards include design for reuse, recycling, and composting; minimum reuse rates; minimum postconsumer recycled content; and source reduction.
- Packaging and paper products performance standards:

Time after enactment	Reuse, Recycling, Compost	Single Use Plastic Packaging Reduction	Minimum Postconsumer Recycled Content (PCR) Requirements
8 years <i>or end of first producer responsibility plan, whichever is sooner</i>	65% reused, recycled or composted, with minimum 10% reusable	15% source reduction	<ul style="list-style-type: none"> Glass: 35% PCR Kraft paper, corrugated cardboard, boxboard: 25% PCR PET packaging, except thermoforms: 45% PCR PET thermoforms: 30% PCR HDPE bottles: 25% PCR PP packaging: 25% PCR
13 years <i>or end of second producer responsibility plan, whichever is sooner</i>	75% reused, recycled or composted, with minimum 20% reusable 100% designed to be reusable, recyclable or compostable	25% source reduction	

- Beverage container performance standards:

Time after enactment	Reuse / Recycling	Redemption	Minimum Postconsumer Recycled Content (PCR) Requirements
2 years + 1 month	100% of redeemed beverage containers are reused or recycled		
5 years		70% redemption	
7 years <i>or end of first beverage producer responsibility plan, whichever is sooner</i>	15% reusable	75% redemption	<ul style="list-style-type: none"> Glass: 35% PCR PET: 45% PCR HDPE: 25% PCR PP: 25% PCR Aluminum: 50% PCR
9 years		85% redemption	
11 years		90% redemption	
12 years <i>or end of second beverage producer responsibility plan, whichever is sooner</i>	25% reusable		

Section 8. Single-Use Plastic Packaging Source Reduction Requirements

- Requires 15% source reduction in single-use plastic packaging by the end of the first producer responsibility plan (or 8 years after the effective date of the Act) and 25% reduction by the end of the second producer responsibility plan (or 13 years after the effective date of the Act).
- Source reduction will be measured from a baseline of the amount of single-use plastic packaging sold, offered for sale, or distributed in the state in the calendar year following the effective date of the Act, as determined by the statewide needs assessment.

Section 9. Reporting Requirements

- Starting 4 years after the effective date of the Act, each PRO will submit an annual report to the Department on implementation of the Act.

- Each material recovery facility, compost facility, redemption facility or similar facility operating under an agreement with a PRO will submit annual reports to the PROs and the Department on materials processed through that facility.
- Annual reports on program implementation are also required by service providers.

Section 10. Coordination Plan

- The Packaging and Beverage PROs are required to establish a coordinating body and coordination plan that includes fair distribution of end-of-life service costs, a method for compensating each other for handling covered materials and cross-program infrastructure.

Section 11. Third-party Certification

- Directs the Department to adopt rules to review and create a publicly available list of approved-third party certifications for postconsumer recycled content; responsible end markets; reusable covered materials; and recycling, composting and reuse rates.

Section 12. Alternative Collection Programs

- Allows a PRO or individual producer to propose alternative collection programs for covered materials that are not on the recyclable covered materials list developed under Section 13 or the compostable covered materials list developed under Section 14.
- To be approved, the alternative collection program must at a minimum, be accessible to at least 60% of the state's population and recycling and composting of the covered material must meet or exceed the relevant performance standards in Section 7 and send covered materials to responsible end markets.

Section 13. Recyclable Covered Materials List and Approved Recycling Processes

- Directs the Department to develop and publish a list of approved processes determined to be recycling based on the definition in Section 1 and taking into consideration hazardous waste generation, greenhouse gas emissions, environmental impacts, environmental justice impacts, and public health impacts.
- Directs the Department to develop and maintain list of recyclable covered materials in the state based on design and acceptance in curbside recycling.

Section 14. Compostable Covered Materials List

- Directs the Department to develop and maintain list of compostable covered materials in the state based on standardized test methods, design and acceptance at composting facilities.

Section 15. Plastic Pollution Mitigation Fund

- Establishes a Plastic Pollution Mitigation Fund and requires the PROs to collectively pay \$250M per year into the Fund from producers of plastic covered materials. The Department may reevaluate the amount needed to be paid into the funds after the expiration of the second producer responsibility plan (or 13 years after the effective date of the Act).
- The Plastic Pollution Mitigation Fund will be used to monitor and reduce environmental justice, public health and environmental impacts of plastic and to prevent and mitigate the impacts of microplastics in the environment. At least 60% of the annual funds must provide benefits to residents of environmental justice areas.

Section 16. Reducing Toxics in Covered Materials

- Within 4 years of the effective date of the Act, prohibits the sale of covered materials with intentionally added additives of high concern including lead, mercury, phthalates, PFAS and other additives as determined by the Department.
- Directs the Department to periodically review and revise the list of additives of high concern based on credible scientific evidence that the additives are reproductive or developmental toxicants, endocrine disruptors, carcinogens or persistent, bioaccumulative and toxic.

Section 17. Annual Report to the Legislature

- Requires an annual report from the Department to the legislature on implementation of the Act, starting no later than 5 years after the effective date of the Act.

Section 18. Enforcement

- Directs the Department to enforce the Act and for a corrective order to be the first step in enforcement before pursuing other enforcement actions.
- Administrative civil penalties may not exceed \$50,000 per day of violation for any entity not in compliance with the Act or its implementing regulations.
- The Department is directed to revoke the approval of a PRO if it no longer meets the requirements of the Act or fails to implement its producer responsibility plan.
- Directs the Department to adopt regulations to achieve performance standards if a PRO or producer does not achieve performance standards.

Section 19. Rulemaking Authorized

- Authorizes the Department to adopt rules to implement the Act.

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