U.S. Chamber of Commerce

Extended Producer Responsibility Shared Business Principles

Overview

The U.S. Chamber of Commerce has analyzed and cross-referenced the positions of member companies and trade associations from several key sectors on Extended Producer Responsibility (EPR) to build consensus across the business community.

EPR is an environmental policy approach that requires producers to take responsibility for the life cycle of their products, which could include design solutions, taking back products, and managing their end-of-use activities such as recycling, repurposing, remanufacturing, reproducing, and ultimately ensuring proper disposal. The aim of EPR is to encourage manufacturers to design products that are more sustainable and easier to manage at end-of-use.

Well-designed EPR is a tool to finance recycling infrastructure, access, and education; incentivize circular product design; and increase recycled material capture and use in the U.S. and globally. However, several challenges remain including a lack of harmonization at the national level, EPR's effects on material markets, and structures for determining fees and allocating output funds and materials among other factors.

EPR programs have been enacted in several states and around the world covering a wide range of covered materials and products. Five states—California, Colorado, Maine, Minnesota, and Oregon—have passed EPR for packaging and paper laws. More than 50 state EPR-related bills have been introduced in state legislatures in 2024, EPR programs for several products exist in the EU and in Canada, and the approach has been a central theme in the ongoing United Nations Plastic Pollution INC negotiations. EPR is gaining momentum and now is the time for industries to collaborate and build consensus on environmentally robust and financially supportable frameworks that are standardized across all states implementing EPR.

Shared Principles

The following principles reflect common ground among industry sectors and individual companies on EPR and provide a baseline for further engagement with public and private stakeholders:

- **Include all stakeholders at the table.** EPR requires that all stakeholders in the value chain collaborate. Material producers and suppliers, product manufacturers, brands, government, environmental organizations, and the recycling industry have unique strengths and needs and must work together to design schemes that leverage high-performing existing assets and create new investments that lead to systemic improvements. EPR must account for how it impacts the wide range of materials used in the products it is targeting by being material inclusive and incentivize consumer brands to consider end-of-use at the point of design. Additionally, public-private shared cost models for EPR encourage accountability throughout the value chain and cohesive participation across stakeholders to achieve program requirements.

- **Seek global harmonization and standardize key aspects of EPR and the circular economy.** Several aspects of circularity throughout the product life cycle (e.g., circular design, recycling, labeling) can be harmonized at the national level to provide best practices and regulatory coherence for companies in addition to clarity and confidence for consumers to participate in the system. A diverse patchwork of state EPR legislation, with significant variance in structure and scope, presents an important compliance challenge for companies. Support exists for uniformity by establishing common EPR terminology, definitions, data models, and reporting frameworks.

- **Identify practical barriers to developing a national framework.** A national EPR framework must start by prioritizing potential incremental policies (e.g., the harmonization and definition-setting efforts mentioned above), which establish a foundation for substantial infrastructure developments, and by better understanding barriers to consensus, such as specific target-setting and fee structures adopted without robust industry engagement.

- **Embrace a variety of innovative technologies and practices.** Achieving circularity will require the use of high-performing tools and emerging technologies, from new mechanical recycling technologies to molecular recycling. Definitions and standards as well as EPR fund investments should prioritize the best environmental outcomes and the circular economy. Investments in materials-specific technologies must be funded only by the producers that would benefit from use the material to reduce inefficient cross subsidies, ensuring that other material types are not subsidizing competitive packaging. Further, emerging recycling technologies that require use of a mass balance approach should only be permitted to count toward recycling when using a globally accepted, transparent, and third-party chain of custody system that is independently certified.

- **Consider industry-led Producer Responsibility Organizations (PROs) and how to direct funds to needed improvements.** PROs should be industry run and advisory boards should be established with participation from local governments, recyclers, material suppliers, and communities to advise on the program's development, management, and progress. The fees and revenues collected by PROs and paid to state and local governments should not be allocated to general-use funds. Rather, they must be reinvested directly back into materials collection, recovery, and upstream circularity efforts within the scope of the program to make EPR effective, efficient, and fair. EPR should also be complemented by a broader innovation policy agenda that leverages supplemental funding, including from grant programs like the Infrastructure Investment and Jobs Act (IIJA) and the Solid Waste Infrastructure for Recycling Act (SWIFR). In the case of consumer-packaged goods, when there is existing strong municipal waste collection and recycling infrastructure, the PRO can coordinate with, support, and enhance that capability.

- **Prioritize data collection to identify gaps and opportunities in infrastructure.** EPR must be informed by accurate data (e.g., robust needs assessments, waste characterizations, life cycle assessments, and material flow analyses). Federal guidelines can help stakeholders access and utilize comprehensive data to properly design EPR programs and set targets. Stakeholders must also realize the role of digital tools for waste reduction and circular design, including via traceability and increased understanding of the supply and value chain. Improved data and the application of digital

tracking can enable further progress.

- **Focus on reducing waste and not on banning materials.** The goal of EPR programs must remain focused on reducing the amount of waste entering landfills or otherwise entering the environment, prioritizing the circular economy, and incentivizing producers to be mindful of the materials they are using, with end-of-use in mind. Banning materials or chemicals can result in unwanted consequences such as harm to the durable goods sector and should only be considered if no circular solution has been proven to work.

- **Support common definitions.** For plastics and packaging specifically, though EPR applies to a wide range of products including durable goods, common definitions can foster mutual understanding, interoperability, greater efficiency, and improved data exchange about materials. This applies to how products are structured and categorized, and how they are packaged and sold. Additionally, there is value in a common approach for setting objectives with reasonable timelines across states and, where possible, internationally.

- **Educate consumers.** Successful EPR for consumer-packaged goods includes some funding for educating consumers to reuse and recycle more via advertising and promotion, community events and recycling center visits, educational programs, and, with the support of brands, on-pack advertising to raise awareness of reuse and recycling guidelines.

- **Maintain carbon emissions reduction as a priority.** Carbon emissions reduction is a crucial aspect of the challenges in designing and producing truly circular products. The U.S. and others cannot reach net zero without embracing circular economy principles, and around 50% of carbon emissions are embedded in the products and packaging that we produce. EPR programs can be logistically complex and require significant sorting, transporting, and processing of materials. States should not operate as “islands” for materials management for EPR and instead capture opportunities to work across state boundaries. Addressing these challenges requires a holistic and collaborative approach, integrating carbon reduction strategies at every stage of the product life cycle. Life cycle analyses (LCA) can also provide valuable insights into the materials and products. A focus on overall emissions reduction must be maintained when designing and implementing EPR programs.

Opportunities and Challenges

The following, while not exhaustive, are additional opportunities and challenges where stakeholders should continue engaging to develop solutions:

- **Explore fair fee structures and allocation for recycled material:** Fee design should account for the net costs of material handling and ensure that a fair share is determined for all members of the supply chain. Fees should be further eco-modulated to encourage key environmental metrics like recyclability and recycled content. Bonus and malus eco-modulated fees incentivize producers to prioritize circular materials and applications. Fees should be set for each material type, including reusables, to ensure that their program costs for collection and processing are covered. The PRO

should also consider how to minimize stranded assets from existing recycling systems while prioritizing the health of the system as a whole. Accurate, reliable data from brands on the materials and volumes put on the market, which can be improved with the use of technology, is key to the forecasting and fee-setting process.

- **Provide time for compliance.** Once an EPR program is established, a reasonable phase-in period for a plan-do-check-act (PDCA) cycle before compliance should be expected. Novel rules require a trial period before compliance and fee payment. EPR fees and rules should be updated on an annual cycle to allow brands to plan, prepare and adapt to new requirements.

- **Address difficulties in producing circular products and use suitable incentives:** Significant challenges remain in designing and producing products that are truly circular, including gaps in consumer guidance and necessary infrastructure. Well-designed EPR can incentivize investment to close these gaps.

- **Learn from existing examples in the U.S. and abroad**: A multitude of EPR policies have been implemented in the U.S., in many Canadian provinces, and in Europe. Stakeholders can learn from the implementation of these examples to leverage strengths and avoid obstacles.

- **Advance material supply and job growth**: Securing supply lines for recycled materials and reducing risk for producers can enhance their ability to create circular products and participation in EPR. Additionally, generating circular economy jobs for affected local communities in areas such as recycling, take-back industries, and circular design will improve the overall outcomes and benefits of EPR to a given region.