Recent changes to extended producer responsibility in Canada

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Mandatory extended producer responsibility (EPR) systems continue to roll-out in Canadian provinces, making producers responsible for the products and product packaging they supply to consumers. The rollouts include new fees, third party verification of data, significant penalties for non-compliance, and expansion of scope. Most provinces have now enacted EPR legislation, except for Prince Edward Island, Newfoundland and Labrador, Nunavut and Northwest Territories.

As we have discussed in previous articles, EPR systems make producers responsible for bearing the full financial and operational responsibility of managing waste generated from their products. Producers, as defined in each provincial legislation, must establish or participate in programs to collect and recycle their products. In every province with an EPR system, Producer Responsibility Organizations (PRO) are not-for-profit entities who assist producers by establishing the necessary collection and management systems, providing promotion and education programs, preparing the necessary annual reports on behalf of producers, and representing the producers more generally. Producers seeking to be assisted by a PRO are required to sign agreements in each province where they supply products or product packaging with a registered PRO.

EPR systems are run provincially, and while there are efforts to harmonize the approach taken between provinces, there remain key substantive and operational differences, including which products are covered by the system.

This bulletin will outline some of the most recent updates to provincial EPR systems, Paper and Product Packaging (PPP) programs, and what to watch out for in 2025.

What you need to know

Alberta

Alberta's *Extended Producer Responsibility Regulations* came into effect in November 2022, with the transition to EPR planned to begin on April 1, 2025 for registered communities with existing services as of Nov. 30, 2022. Phase 2 of the roll-out will begin on Oct. 1, 2026 for registered communities without existing services as of Nov. 30, 2022.

Producers in Alberta can expect to receive invoices from the Alberta Recycling Management Authority (ARMA) in January 2025 for the 2024 oversight fees, and April 2025 for the 2025 oversight fees. ARMA launched a public consultation on its oversight fees in September 2024, and has posted related resources on their website here.

ARMA also published a Verification Procedure for PPP in April 2024, which will require producers to verify their 2023 and 2024 supply data for their 2025 submissions. Submissions will have to be verified by an accredited third party. The third party may be a hired third-party, or an employee of the business who has one of the required designations under section 1.1(t) of the Verification Procedure.

Ontario

Ontario's transition to an EPR model began in July 2023 under the *Blue Box Regulations* and will be fully implemented by 2026. Ontario's EPR program saw several updates in 2024.

In February 2024, the Resource Productivity and Recover Authority (RPRA) announced that they are developing compliance guidelines for producers and PROs to clarify the requirements regarding sharing public collection sites and buying and selling performance credits. The guidance will be applicable to producers and PROs operating under the Batteries Regulations, Electrical and Electronic Equipment Regulation, Hazardous and Special Products Regulation, and Tires Regulation.

In June 2024, the RPRA issued its first Administrative Penalty for failing to establish and operate a collection system for Blue Box materials pursuant to s.19 of Ontario Regulation 391/21, and for failing to implement a promotion and education program pursuant to s.69 of Ontario Regulation 391/21. The penalty was for $340,457.04. The province's second administrative penalty was issued in September 2024, for $119,475.18.

Manitoba

Manitoba's transition towards an EPR system continues to develop under Manitoba's *Packaging & Paper Stewardship Program Regulations*. The program is managed by Multi-Material Stewardship Manitoba, who received an extension of its current Program Plan to allow more time for the finalization of a Transition Plan. A revised Transition Plan is expected by the end of 2024.

New Brunswick

New Brunswick is the first Atlantic province to transition to an EPR model under their *Designated Materials Regulation*.

As of Nov. 1, 2024, New Brunswick's residential recycling program will have been fully transitioned to an EPR model. In New Brunswick, 2025 will focus on the expansion of EPR services to multi-family homes and schools. The *Designated Materials Regulation* was also revised in July 2024 to change the definition of a "producer" to mean a brand-holder, importer, or retailer. The revision aligns the definition of a "producer" with that outlined in Ontario and Nova Scotia.

Nova Scotia

Nova Scotia's *Extended Producer Responsibility for Packaging, Paper Products and Packaging-Like Products Regulations* came into effect in August 2023.

Divert Nova Scotia manages the program and has set a program implementation date of December 1, 2025. Producers can expect that they will likely receive their first invoice in the fall of 2025. Divert Nova Scotia will provide further details regarding the timing of invoices at a alter date.

Saskatchewan

In May 2024, Multi-Material Stewardship Western's (MMSW) Program Plan, made pursuant to the *Household Packaging & Paper Stewardship Program Regulations*, was approved by the Saskatchewan Ministry of Environment, initiating the shift towards a full EPR model. The first phase of the transition will start on Dec. 1, 2024. The second phase will begin on Dec. 1, 2025, and the entire transition is expected to be completed by the end of 2027.

MMSW announced several additional producer-facing changes, including:

- MMSW has rebranded to SK Recycles.
- The small business exemption was reduced from $2 million to $1 million in annual revenue. Newly obligated producers will have to report by Jan. 1, 2025.
- The removal of the reporting and fee obligation on aerosol containers, effective Jan. 1, 2025.
- There is now a reporting and fee obligation for packaging-like products, effective Jan. 1, 2026.

Yukon

Yukon's *Extended Producer Responsibility Regulations* came into effect on Jan. 25, 2024. Circular Materials is the registered PRO in the Yukon, and their Stewardship Plan has been submitted. The program implementation is scheduled for approximately Oct. 1, 2025.

Implications and next steps

EPR models, and the corresponding producer responsibilities, continue to evolve and expand across Canadian provinces. Organizations should ensure they are in compliance with the appropriate provincial EPR legislation, and if necessary, ensure they are collecting the data required to comply with their annual reporting obligations.

BLG has extensive experience assisting producers in navigating the changing regulatory environment, and in preparing necessary annual data submissions.

Please reach out to any of the key contacts listed below with questions or concerns regarding your EPR obligations.

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