

Canadian Extended Producer Responsibility Programs

The Shift from Program Roll Out to Program Performance

Duncan Bury

Canada's first extended producer responsibility (EPR) program was launched in the Province of British Columbia in 1994 with a regulation mandating producer responsibility for the take-back of waste paint and paint containers. From that beginning almost 20 years ago, EPR has matured into a pollution prevention and environmental life cycle management policy of choice across the country. The provincial, territorial and federal governments have all embraced EPR and this commitment was formalized with the October 2009 signing of the Canada-wide action plan for EPR under the auspices of the Canadian Council of Ministers of the Environment (CCME 2009).

Support for EPR in Canada has been driven by municipalities that want to shift the financial responsibilities for problematic and hazardous wastes away from municipal property tax and rate payers, by pressure from environmental advocates, and by a broadly based belief in "polluter pays" as a central element of environmental protection legislation.

There are currently more than 80 product-specific EPR programs operating in Canada, the majority of which are regulated at the provincial level with some operating on a voluntary basis nationally.¹ With products such as electronics and household hazardous wastes grouped together, there are around 50 producer responsibility EPR plans in operation. To varying degrees all of these programs operate on the basic EPR principles and program design tenets set out by the Organisation of Economic Cooperation and Development (OECD) in its guidance to governments on EPR published in 2001 (OECD 2001). Similar principles and tenets were endorsed by the CCME in its EPR action plan.

The designation, regulation, and implementation of EPR programs for a wide array of end-of-life wastes, including electronics, packaging, printed paper, tires, crankcase oil and containers, solvents, batteries, pesticides and containers, phar-

maceuticals, household hazardous wastes, mercury-containing products, and paint, has consumed the majority of the EPR efforts over the past several years. The CCME EPR action plan put additional focus on program rollout by setting out timelines for two phases of EPR program implementation by product categories for 2015 and 2017.

With this continuing rollout of EPR policies and programs there is no longer much discussion about whether EPR is the right policy instrument for end-of-life product wastes in Canada. While there have been program implementation challenges, delayed EPR decision making by some jurisdictions and continuing pushback and reluctance from some industry sectors, the debate about whether EPR is appropriate and effective is largely over. Political and legal challenges have gained little or no traction. The EPR train has left the station.

What has replaced the debate on the merits of adopting EPR is an increasingly engaging discussion about what producer responsibility should truly mean, how to structure EPR programs to enhance environmental performance, and what the roles and oversight responsibilities are of government regulators. There is also a nascent discussion about how EPR should be supported by other environmental policies and programs and how it fits into broader sustainability strategies.

The Extended Producer Responsibility Canada Report Card

A measure of this change in debate is evidenced by a recently released evaluation of EPR policy, its implementation, and the jurisdictions' commitments to EPR program development by a newly formed not-for-profit organization, EPR Canada. EPR Canada is a partnership of Canadian EPR experts, including this author, who have come together to monitor and work to enhance EPR policies and programs.

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EPR Canada has undertaken the first national report card on EPR in the country. It set out to benchmark, score, and monitor what the federal, provincial, and territorial governments are doing to develop policies, programs, and practices that further the objectives and implementation of EPR. It is the group's expectation that preparing an annual report card will encourage leadership, innovation, and best practices and encourage further evolution toward full EPR of government-run product stewardship programs and partial EPR programs run with shared producer and public sector responsibilities.

The EPR Canada report card, which was released in July 2012, awarded British Columbia the highest mark of A–, with Manitoba, Quebec, and Nova Scotia also scoring well. The scores for each jurisdiction were as follows:²

British Columbia	A–
Alberta	C
Saskatchewan	C–
Manitoba	B–
Ontario	C+
Quebec	B–
New Brunswick	C–
Prince Edward Island	C+
Nova Scotia	B–
Newfoundland and Labrador	C–
Canada (federal government)	F

The federal government, which received the only failing grade, has the authority to use EPR instruments for toxic substances or products containing toxic substances but has so far deferred from using the authority for products such as those containing mercury. Although the governments of the Northwest Territories and the Yukon both made submissions as part of the EPR Canada evaluation, none of the three northern territories were scored, in recognition of their unique circumstances, which were also noted in the CCME action plan.

The report card identified the leading jurisdictions and also served to highlight areas where work on EPR is currently focusing, where all jurisdictions need to improve, and some emerging trends.

The Trend Toward Enhancing Performance

Program auditing and performance measurement is a common requirement of EPR regulations, but standards and transparency are not consistent and in many cases targets for collection and recycling are weak, unclear, or nonexistent. In the case of programs where there are visible point-of-purchase fees, many of the annual reports required of producer responsibility organizations concentrate more on general program descriptions and financial results than on environmental performance and meeting measurable targets. As programs mature in both scope and financial scale, pressures are growing from both governments and the public to better document environmental benefits, including waste diversion, and to set more rigorous targets. All

jurisdictions are looking more carefully at program performance and targets and British Columbia, for example, is considering a new strengthened set of program auditing guidelines.

Oversight by government agencies is an emerging challenge with the growing number of programs and in the current climate of budgetary constraint. One of the biggest issues is the need to guarantee and enforce a level playing field for regulated programs and program stewards. In some program areas where the number of producers is relatively small, the issue is manageable. In the area of packaging and printed paper the number of obligated producers can number in the thousands. In the electronics field, the number can be in the hundreds. Self-regulation by producers can achieve high levels of compliance, but ultimately government needs to have sufficient resources to ensure that all obligated stewards play by the same rules and that programs meet their stewardship plan commitments and established performance requirements and standards.

There are a number of nationally operating and provincial programs in Canada, including those for pesticide containers, cell phones, batteries, and paint where the costs of the EPR program are internalized in the posted and cash register prices charged to consumers. However, the majority of programs operate using a visible environmental handling fee (EHF) added at the point of purchase. Questions are being raised about whether programs that use EHF's are in fact truly EPR. If there is an explicit EHF, this is paid by consumers and remitted to the producer responsibility organization, but producers, while managing the funds and the program, do not directly contribute. Quebec has addressed the issue proactively by mandating cost internalization and banning the addition of visible EHF's at the point of purchase in all of its EPR programs. The advertised, posted, and cash register prices must be the same and must include the fee. However, producers may inform consumers that the price of a product includes an EHF, but they may not explicitly add it as a separate line item on an invoice or receipt. Most other jurisdictions are silent on the issue but are undoubtedly watching Quebec's experience with interest.

Increasingly programs are starting to be managed nationally and to share common communications with the public. The used oil and container programs have for some time shared administrative responsibilities and have operated a national one-stop Web site for consumer information on where to recycle used oil and containers.³ A similar transition to a national program is occurring with the electronics and electrical equipment programs through the creation of the Electronic Products Recycling Association (EPRA).⁴ In the maritime provinces of Prince Edward Island and Nova Scotia, the electronics programs are run by the same producer responsibility organization, Atlantic Canada Electronics Stewardship (ACES), with similar product lists, fee structures, communication, and administration.⁵

Harmonizing EPR programs nationally, and in particular between adjoining jurisdictions, was cited in the CCME action plan, and the lack of harmonization remains a common

complaint among producers. While EPR regulations in Canada will largely remain grounded in provincial legislation for most products, producers are starting to show that they can play a leading harmonization role and build efficiencies and infrastructure that are increasingly national in scope.

In conclusion, the number, scope, and sophistication of EPR instruments in Canada will continue to grow as jurisdictions address their obligations under the CCME action plan and in response to continuing pressures to shift costs from taxpayers, to enhance waste diversion, and to enhance program efficiency and effectiveness. However, increasing program maturity will mean that more is expected of both governments and producers to ensure that EPR delivers, not just on cost shifting, but also on clearer and more rigorously measured environmental objectives in an increasingly national context.

Notes

1. See the Environment Canada inventory of programs; www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=9FB94989-1.
2. See www.eprcanada.ca/.
3. See <http://usedoilrecycling.com/en>.
4. www.eprassociation.ca.
5. See www.acestewardship.ca/.

References

- CCME (Canadian Council of Ministers). 2009. *Canada-wide action plan for extended producer responsibility*. Ottawa, Ontario, Canada: CCME.
- OECD (Organisation for Economic Co-operation and Development). 2001. *Extended producer responsibility: A guidance manual for governments*. Paris, France: OECD.

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