

## **EXTENDED PRODUCER RESPONSIBILITY LAW**

### **FREQUENTLY ASKED QUESTIONS**

#### **1. *What is Extended Producer Responsibility?***

Extended Producer Responsibility (EPR) refers to the environmental policy approach and practice that requires producers to be environmentally responsible throughout the life cycle of a product, especially its post-consumer or end-of-life stage.

#### **2. *What is EPR Act (Republic Act No. (RA) 11898)?***

The Extended Producer Responsibility Act (EPRA) of 2022 is the law that amends Republic Act No. 9003, otherwise known as the Ecological Solid Waste Management Act of 2000, to institutionalize the extended producer responsibility on plastic packaging waste.

The EPRA took effect on August 12, 2022. It requires obliged enterprises (OEs), by themselves or collectively, with or without a Producer Responsibility Organization (PRO) to prepare and register with the National Solid Waste Management Commission their EPR Programs to reduce and/or recover for reuse, recycling, treatment, or proper ecological disposal the plastic packaging waste that they release or released to the domestic market.

#### **3. *What is the objective of the EPR Act of 2022?***

Among the objectives of the EPR Act of 2022 is to achieve plastic neutrality which is defined as “a system or its desired outcome where, for every amount of plastic product footprint created, an equivalent amount thereof is recovered or removed from the environment by the product producers through an efficient waste management system.

#### **4. *What is product footprint?***

Product footprint shall refer to a measure of the amount of goods produced, imported, distributed, or supplied by a product producer, and deemed to cause damage to the environment.

#### **5. *What are the types of plastic packaging covered by EPR Act of 2022?***

Plastic packaging covered by the EPR Law shall refer to polymer material designed to protect a product from environmental factors, or carry goods for transportation, distribution, and sale, including service necessities and promotional materials. Plastic Packaging includes the the following:

(1) Sachets, labels, laminates, and other flexible plastic packaging products, whether single layer or multi-layered with plastics or other materials

(2) Rigid plastic packaging products, whether layered with any other materials, which include containers for beverages, food, home, personal care and cosmetic products, including their coverings, caps, or lids and other necessities or promotional items, such as cutlery, plates, drinking straws, or sticks, tarps, signage, or labels

(3) Plastic bags, which include single-use plastic bags, for carrying or transporting of goods, and provided or utilized at the point of sale; and

(4) Polystyrene.

## **6. What is plastic packaging footprint?**

It is the verifiable weight, expressed in kilograms, of the plastic packaging per type, material form, or general form, that an Obligated Enterprise brings into the domestic market within a specified period.

## **7. Who are Obligated Enterprises under the EPR Act of 2022?**

Obligated Enterprises (OEs) refer to large product producers that generate plastic packaging wastes. An enterprise is considered “large” when its *“total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are exceeding that of medium enterprises stated under Republic Act No. 9501, otherwise known as the “Magna Carta for Micro, Small, and Medium Enterprises.”*

Product producers that are obliged enterprises under the EPR Act of 2022 “shall refer to the:

- Brand Owner who sells or supplies any commodity under a brand, label or identity using a product it produced, or a material supplied to it by another manufacturer, or supplier.
- Product Manufacturer or Importer that supplies its commodities for the use of the general consumer, or distributes the same as a material product of a brand owner: Provided, that for purposes of Article 2 of Chapter III-A, RA 9003, as amended by the EPR Act of 2022, in case the commodities are manufactured, assembled, or processed by a product manufacturer for another Obligated Enterprise which affixes its own brand name, the latter shall be deemed as the manufacturer.”

**8. *Is an importer that imports consumer goods for repackaging and distribution to the general public an obliged enterprise?***

Yes. The EPR Act of 2022 defines an “Importer” as referring to a natural or juridical person engaged in bringing consumer goods into the Philippines, intended to be sold, **whether in original packaging or to be repackaged** for distribution to the general public.

**9. *Should an Obligated Enterprise include in its plastic packaging footprint declaration product necessities such as plastic spoons, forks, and knives, and promotional materials such as tarpaulins, if these are manufactured or produced by 3<sup>rd</sup> party service providers?***

Yes. Since these necessities and promotional items promote the product brand, label, or trademark of the obliged enterprise, these shall be included in the declaration and determination of plastic packaging footprint, even if these are outsourced by the product producer to third-party suppliers or service providers such as distributors, retailers, franchisees, or advertising/ marketing agencies.

**10. *Are Micro, Small, Medium Enterprises (MSMEs) covered by the EPR Act of 2022?***

As a general rule, MSMEs are not covered by the EPR Act of 2022. They are however encouraged to practice EPR voluntarily or be a part of the network of Obligated Enterprises, Collectives, or PROs practicing EPR.

As an exception to this rule, MSME’s may however be considered as obliged enterprises when the total value of assets of all enterprises carrying the same brand, label or trademark exceeds that of medium enterprises (currently at Php100 Million) as prescribed by RA 9501 or the MSME Law.

**11. *What are activities and strategies that may be included in the EPR Programs?***

- To achieve plastic neutrality, obliged enterprises may include in their EPR Program the activities and strategies enumerated in Section 44-A, RA 9003, as amended by the EPR Act of 2022. These are:
  - a. Reduction of non-environment friendly products which may include the following activities and strategies:
    - i. adoption of reusable products, or redesign of the products to improve its reusability, recyclability, or retrievability
    - ii. inclusion of recycled content or recycled materials in a product
    - iii. adoption of appropriate product refilling systems for retailers

- iv. viable reduction rates plan; information and education campaign schemes
  - v. information and education campaign schemes; and
  - vi. appropriate labeling of products, including the information thereon for the proper disposal of the waste product.
- b. Product waste recovery programs aimed at effectively preventing waste from leaking to the environment, which may include the following activities:
- i. waste recovery schemes through redemption
  - ii. buy-back, offsetting, or any method or strategy that will efficiently result in the high retrievability, high recyclability, and resource recovery of waste products
  - iii. diversion of recovered waste into value chains and value-adding useful products through recycling and other sustainable methods
  - iv. transportation of recovered waste to the appropriate composting, recycling, or other diversion or disposal site in the country;
  - v. establishment of commercial or industrial scale recycling, composting, thermal treatment, and other waste diversion or disposal facilities for waste products, when investment therein is viable; and
  - vi. partnership with LGUs, communities, and the informal waste sectors.

***12. What modes of compliance are available to obliged enterprises?***

Obliged Enterprises may formulate, register, and implement their EPR Program either individually or collectively, whether as, with, or without, a PRO. The herein defined Collective or PRO shall serve as the viable platform of the members thereof for the formulation, submission, registration, implementation, and audit of their EPR Program.

***13. How should an obliged enterprise, collective or PRO report its annual plastic packaging footprint?***

Plastic packaging footprint of an obliged enterprise shall be reported based on weight, in kilograms, and of the same type, material form, or general form -- “Flexibles” such as sachets, laminates, plastic bags, soft polystyrene or “Rigids” such as bottles, caps, coverings, -- as defined in Section 44-C, RA 9003, as amended by the EPR Act of 2022.

***14. Does the EPR Act of 2022 require brand-specific recovery of plastic packaging footprint for reuse, recycling, treatment, or proper disposal?***

No. Recovery of plastic packaging footprint for reuse, recycling, treatment, or proper disposal (plastic waste diversion accomplishment) is type-specific and not brand-specific. This means that flexible plastic packaging footprint shall be offset

against the recovery and diversion of flexible plastic packaging waste, regardless of brand. The same rule applies for flexible plastic packaging footprint.

**15. What, if any, are the minimum targets for the recovery of plastic product footprint generated during the immediately preceding year:**

December 31, 2023	Twenty Percent (20%)
December 31, 2024	Forty Percent (40%)
December 31, 2025	Fifty Percent (50%)
December 31, 2026	Sixty Percent (60%)
December 31, 2027	Seventy Percent (70%)
December 31, 2028 and every year thereafter	Eighty Percent (80%)

**16. How will be reported plastic packaging waste recovery and diversion accomplishments be validated?**

Reported plastic packaging waste recovery and diversion accomplishments shall be validated primarily through an EPR compliance audit to be conducted and certified by an independent third-party auditor.

**17. Will compliance with the EPR Act of 2022 result in the increase in cost of products?**

It should not. The EPR Act of 2022 provides that the “EPR expenses of obliged enterprises, PROs, and private enterprises shall be considered as necessary expenses deductible from gross income subject to the substantiation requirements for necessary business expenses deductible from gross annual income in accordance with Section 34(A)(I) of the National Internal Revenue Code of 1997, as amended.

**18. What are the fines and penalty under EPR Law?**

Any obliged enterprise that fails to register under Section 44-E, RA 9003, as amended by the EPR Law, or fails to comply with Section 44-F, RA 9003, as amended by the EPR Law, shall be liable to pay a fine of:

- not less than Five million pesos (₱5,000,000.00) but not exceeding Ten million pesos (₱10,000,000.00), for the first offense.
- not less than Ten million pesos (₱10,000,000.00) but not exceeding Fifteen million pesos (₱15,000,000.00), for the second offense, and
- not less than Fifteen million pesos (₱15,000,000.00) but not exceeding Twenty million pesos (₱20,000,000.00) and automatic suspension of

business permit until the requirement of the Act, as amended by the EPR law, is complied with for the third offense

In case of failure to meet the targets set under Section 44-F of the Act, as amended by the EPR Act of 2022, the Obligated Enterprise shall pay the same fines set above, or a fine twice the cost of recovery and diversion of the footprint or its shortfall, whichever is higher. The penalty shall be imposed whether the noncompliance is the result of failure to register under Section 44-E of the Act, as amended by the EPR Act of 2022, falsification of documents, misdeclaration of generated or recovered footprint, employment of any scheme to maliciously evade the responsibility of an enterprise under the EPR Act of 2022, or tamper its compliance with the provisions of Section 44-F of the Act, as amended by the EPR Act of 2022

***19. Are obliged enterprises, collectives, and PROs required to immediately implement their EPR Program nationwide?***

While obliged enterprises, collectives, and PROs are not required to immediately implement their EPR Program nationwide, they are nonetheless required to disclose in their EPR Program their geographic roll-out plan, to ensure that they eventually cover as much as of the country as possible.

***20. Does the implementation of EPR Programs result in added accountability or burden on the part of local governments units (LGUs)?***

It should not. The EPR Act of 2022 encourages obliged enterprises, collectives, and PROs to enter into partnerships with LGUs, communities, and informal waste retrievers. It does not mandate new obligations upon LGUs regarding EPR.

LGUs are however encouraged to prepare themselves to be EPR investment ready and reap the benefits of EPR Programs. They can do this through the establishment of inclusive waste recovery and diversion programs for plastic packaging waste and the establishment of waste accounting systems that are traceable, quantifiable, and auditable. The EPR Act of 2022 created a market for plastic packaging waste.

Doing this now prepares the LGU for future laws that will mandate the application of EPR schemes for other types of product wastes such as paper, cartons, glass, metals, etc.