

Draft decree guiding the Extended Producer Responsibility (“EPR”) regulations under the new Law on Environmental Protection

At a glance...

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The 2020 Law on Environmental Protection for the first time introduced the Extended Producer Responsibility (“EPR”) concept which extends the responsibilities of producers and importers in regard to the recycling and treating of discarded products and packaging which contain non-biodegradable microplastics.

The Ministry of Natural Resources and the Environment (“MONRE”) has recently released a draft decree that provides guidance on the Law on Environmental Protection for public comments. Chapter VII of the Draft Decree provides guidelines on EPR.

In detail...

Key proposed EPR regulations in the draft decree include:

1. Producers/importers' responsibilities for recycling products and packages

- Organisations and individuals that manufacture and/or import the products and packages as listed in an appendix (currently Appendix 55) of the draft decree (e.g. lamps, computers, large electronic household devices, batteries, machine oils, tubes and tyres) to be sold in Vietnam are responsible for recycling these products and packaging as required under Article 54 of the Law on Environmental Protection.
- The required recycling rate of each type of product and package will be determined by the MONRE based on the actual recycling rate of each type of product/package, the national recycling target, environmental protection requirements and the socio-economic conditions of Vietnam. The required recycling rates will be adjusted every three years.
- According to the Law on Environmental Protection, the producers/importers are entitled to adopt one of the following two methods for recycling products and packages:
 - (a) Organise the recycling of products and packages; or
 - (b) Make a financial contribution to the Vietnam Environment Protection Fund to support the recycling of products and packages.

The draft decree clarifies that producers who choose option **(a)** must either:

- carry out the recycling themselves (only qualified producers are allowed to do this); or
- hire a qualified recycling service provider; or
- authorise a qualified third party to organise the recycling entirely.

Importers may hire a recycling service provider or authorise a third party to organise recycling, but they cannot carry out the recycling by themselves.

- The producers/importers who choose to make financial contributions to the Vietnam Environmental Protection Fund must do so on an annual basis. The contributed amount will be calculated in accordance with the formula provided in the draft decree.
- The producers/importers (or the third party authorised by them) must register the recycling plans and report the recycling results of the previous year to the Vietnam's EPR Office before 31 March every year. Such reports must be audited by an audit enterprise in accordance with the Law on Independent Auditing.
- Administrative penalties applicable to the producers/importers who do not observe these responsibilities include, inter alia, retrospective collection of the amount needed to recycle the products and packaging that have not been recycled as required, plus an additional 30% penalty, increased by 10% if it is not paid in the following period.

In detail...

2. Producers/importers' responsibilities for waste treatment

- The producers/importers who manufacture/import products and packages as listed in an appendix (currently Appendix 61) of the Draft Decree (e.g. containers for pesticides/insecticides/ disinfectants/bleaching chemicals, diapers, cigarettes, straws and single-use food containers) are responsible for making financial contributions to support waste-treatment activities. The contribution level varies depending on the type of product/package, the production scale or the revenue of the producers, and the shape and capacity/size of the products/packages.

3. Other responsibilities and state-level management

- Producers/importers are responsible for providing information about the products and packaging that they have manufactured/imported. The information must be displayed on the packaging of the products or in the guidelines attached to the products.
- Producers/importers must use the national recycling symbol on their labels or packaging. The national recycling symbol shall be registered and announced by the MONRE.
- Producers/importers are responsible for annually reporting to the Vietnam's EPR Office on the quantity/volume and classification of the manufactured or imported products/packages sold before March 31 every year.
- A national EPR web portal will be established to facilitate state-level management and its data will be synchronised and linked with tax data.
- A national EPR Council will be established to assist the MONRE in managing these tasks. This council will include representatives from the MONRE, the Ministry of Industry and Trade, the Ministry of Finance, the producers/importers and other related organisations, as well as other related individuals. The council's Chairman will be the MONRE's Minister.
- The Vietnam's EPR Office will be a unit of the National EPR Council assigned by the MONRE.

Contact us

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