



SAPVIA INDUSTRY-WIDE WEBINAR ON EXTENDED PRODUCER RESPONSIBILITY (EPR) REGULATIONS 22 AUGUST 2024



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& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



Waste Management Challenges facing South Africa

- **Burning or illegal dumping of waste** in residential areas.
- **Separation of waste at source**, in particular household wastes, and other recyclables remains a challenge
- **Insufficient funding for the sound management of waste**, and waste and recyclable materials are undervalued which results in more waste ending up on our streets, rivers and landfill sites.
- **Waste management suffers from a pervasive under-pricing**, which means that the costs of waste management are not fully internalized, appreciated by consumers and industry, and waste disposal is preferred over other options.



Waste Management Challenges facing South Africa

- **Few waste treatment options are available** and so they are more expensive than landfill costs.
- **Too few adequate, compliant landfills and hazardous waste management facilities**, which hinders the safe disposal of waste.
- Inadequate application and compliance with regulations



Global Context: Sustainable Development Goals for Pollution Prevention and Waste Management



The Sustainable Development Goals (SDGs) were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure peace and prosperity by 2030

- Achieving **Economic growth and sustainable** development requires that we urgently **reduce our ecological footprint** by changing **the way we produce and consume** goods and resources. Decoupling environmental impacts from economic growth
- The **efficient management of our shared natural resources**, and the way we **dispose of toxic waste and pollutants**, are important targets to achieve this goal.
- **Goal 12: Encouraging industries, businesses and consumers** to, **by 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse** and move towards **more sustainable patterns** of consumption and production

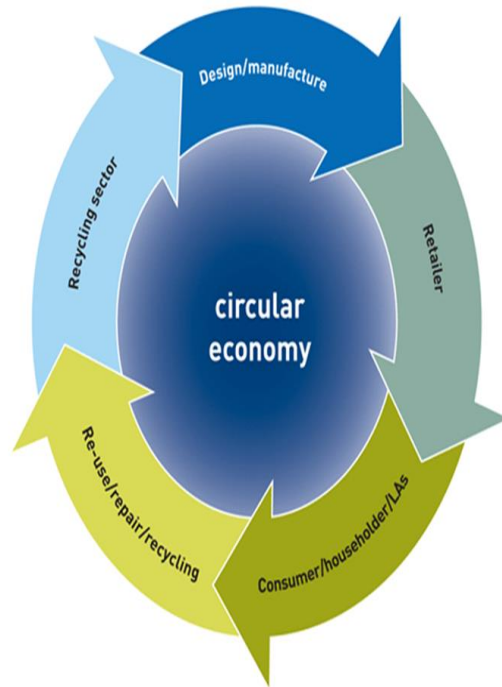


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Business case and economic rationale for Transitioning to a Circular Economy



- **Aims to promote sustainable, inclusive economic growth** due to growing pressure of production and consumption on the world's resources and pollution of the environment.
- The economy has mainly operated on a 'take-make-dispose' model
- **Circular economy approach replaces linear model** and notion of "end of life" of products
- **Encourages sustainable and efficient resource use** – sustainable production and consumption patterns
- **Keep resources within the economy when a product has reached end of its life**, so that they can be productively used
- A transition to a **circular economy shifts the focus to reusing, repairing, re-purposing, recycling**
- **Business can redesign** complete supply chains for resource efficiency and circularity.
- **Creates new markets** responding to shifts in consumption patterns away from traditional ownership towards using, reusing and sharing



National Policy Context: Section 24 of the Constitution, NEMWA, NWMS



Everyone has the right

- To an **environment that is not harmful to their health or well-being**
- To have the **environment protected for the benefit of present and future generations** through **reasonable legislative and other measures** that:
 - I. **Prevent pollution and ecological degradation**
 - II. Promote conservation
 - III. Secure ecologically sustainable development and use of natural resources while promoting justifiable economic development

Key Enabling Policy and Legislation:

- National Environmental Management: Waste Act (No 59 of 2008)**
- National Development Plan**
- National Waste Management Strategy**
- National Pricing Strategy**



National Waste Management Strategy 2020

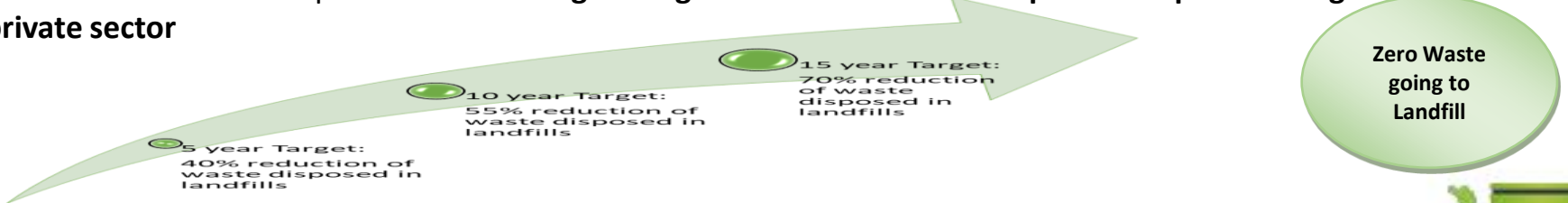
Pillar 1: Waste Minimisation

Strategic Thrust

The strategic thrust of this pillar is:

- **Minimising the impact of waste** and **especially plastic packaging** in our coasts, rivers, wetlands and our human settlement environments, by amongst others, diverting waste away from landfill;
- **Increasing re-use, recycling, recovery** and alternative waste treatment (**waste hierarchy**); and
- Maximising the **role of the waste sector in the circular economy**.
- **A circular economy consists of "closing the loop" between resource extraction and waste disposal by the application of waste avoidance, reuse, repair, recycling, and recovery throughout the economic cycle to minimise waste generated and reduce demand for virgin materials as production inputs....NWMS 2020**

A critical enabler of this pillar is the **building of long-term collaboration and partnership between government and the private sector**



EPR Regulations and Policy Timeline – 2013 to 2023

● National Environmental Management: Waste Act (No 59 of 2008)
Section 13A National Pricing Strategy (August 2016)

● Tyre Plan Government managed scheme (2017)

● Extended Producer Responsibility Regulations (Nov 2020)
Amended EPR Regulations published May 2021 for implementation

● EPR Notices for Paper and Packaging, Electrical and Electronic Equipment and Lighting came into effect in Nov 2021 (Section 18 of the Waste Act)

● EPR Notices for lubricant oils, pesticides and portable batteries came into effect from 23 March 2023



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EXTENDED PRODUCER RESPONSIBILITY REGULATIONS, 2020

Overview of regulations, roles and responsibilities, and lessons learnt



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EPR Scheme and Regulations

- **EPR Regulations** provides a framework to ensure the **effective and efficient management of the identified end-of-life products**; and
- To **encourage and enable the implementation of chemicals and waste economy and circular economy initiatives**
- Key measures to be implemented by producers include amongst others, to:
 - **develop and establish secondary markets for recycled content**;
 - **transformation** and
 - **integrate the informal sector** into the **post consumer waste collection value chain**



EPR Scheme for the Lighting sector



EPR Scheme for Paper, Packaging and some single use products



EPR Scheme for Electrical and Electronic Equipment

New notices gazetted in March 2023 for: Lubricant Oils; Batteries; Pesticides

Under implementation: Waste Tyres (Section 29 Government Managed Scheme)

STRUCTURE OF EPR REGULATIONS

1. **Definitions** – Producer
2. Purpose of the Regulations
3. **Application of the Regulations** – identified products, exports exempted
4. Registration of producers
5. **Extended producer responsibility measures to be implemented.** Obligations of producers and producer responsibility organisations
6. **Minimum requirements and criteria for extended producer responsibility schemes** to operate –incl design for recyclability, waste reduction, reuse, recycling recovery, treatment, disposal (waste hierarchy) and contribute to job creation and econ growth
7. **Financial arrangements** for an extended producer responsibility scheme – EPR Fees
8. **Monitoring, reporting and evaluation** – Performance and financial reports
9. **Performance review** of the extended producer responsibility scheme – mandatory 5 year reviews by department, ad hoc reviews as deemed appropriate
10. **Registration of producer responsibility organisations**
11. **Requirements for producer responsibility organisations** – non-profit organisations
12. Offences
13. Penalties



1. Definitions – Producer and Producer responsibility organisations

- **“producer”** means any **person or category of persons or a brand owner** who is engaged in the commercial manufacture, conversion, refurbishment (where applicable) or import of new and / or used identified products as identified by the Minister by Notice in the Government Gazette in terms of section 18(1) of the Act, **and a producer includes, where relevant, the same as defined in the specific section 18 Notices for each of the identified products as gazetted by the Minister in terms of section 18(1) and (2) of the Act;**
- **“producer responsibility organisation”** means a not-for-profit company established by producers or any person operating in any of the industrial sectors covered in the Notices published in terms of the Act to support the implementation of their extended producer responsibility scheme and may represent either individual or collective producers;



3,4 and 10. Scope of EPR Regulations and Registration

- **Scope of EPR regulations (reg 3):**
 - Applies to identified products in terms of section 18(1)(a) of the Waste Act;
 - To producers of those identified products published in the government gazette; and
 - Identified products placed on market prior to the regulations coming into effect.
- **Registration of producers (4) and producer responsibility organisations (10)**
 - Existing producers and PROs to register with the department within 6 months of publication of the government notice
 - New producers and newly established PROs to register within 3 months of being established



EPR REGISTRATIONS

Total number of Producers and PROs Registered on EPR system
(as of 5 August 2024)

Sector	EEE	Lighting	P&P	Portable Batteries	Pesticides	Lubricant Oil	Total
PRO	8	6	32	2	1	5	54
Producer	214	67	1 148	8	87	30	1 554
Total	222	73	1180	10	88	35	1 608

**Grand Total
Number of**



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5. EPR Measures to be implemented by producers

- **The producer of a product or class of products, must-**
 - establish and implement an extended producer responsibility scheme
 - or join another extended producer responsibility scheme
 - or appoint a producer responsibility organisation to establish and implement an extended producer responsibility scheme that includes the entire value chain;
- **be accountable for the operation and performance** of their extended producer responsibility scheme;
- **conduct a life cycle assessment, in relation to the identified product**, in accordance with the applicable standards within 5 years of implementation of their extended producer responsibility scheme; **through the life cycle assessment as a minimum focus on the following:**
 - (i) Minimisation of material used in the identified product;
 - (ii) Design of the product to facilitate reuse; recycling or recovery, without compromising the functionality of the product; and
 - (iii) Reduction of environmental toxicity of the resulting post -consumer waste stream;
- **Implement environmental labels** and declaration of the identified products aligned with the SANS 14021 and 14024 standards within a period of 3 years



5A-B. OBLIGATIONS OF PRO's AND PRODUCERS THAT ESTABLISH EPR SCHEMES

- **Contract for the collection, recycling and recovery of the identified products** through a fair and transparent process
- **Manage services rendered by service providers** including the collection and recycling by waste management companies.
- **Co-operate with all municipalities** (where applicable), within 3 years of implementation of their extended producer responsibility scheme, to increase the recovery of identified products from municipal waste.
- **Integrate informal waste collectors, reclaimers and pickers** into the post consumer collection value chain
- **Develop and establish secondary markets** for recycled content;



5A-B. OBLIGATIONS OF PRO's AND PRODUCERS THAT ESTABLISH EPR SCHEMES

- **Utilise existing infrastructure** across extended producer responsibility schemes in a collaborative manner where feasible or establish and operate new infrastructure within 3 years of completion of feasibility studies; initial feasibility to be undertaken within 2 years of implementation of the scheme identifying need for additional infrastructure.
- **Compensate waste collectors, reclaimers or pickers**, who register with the National Registration Database for collection services and environmental benefits through the collection service fee by Nov 2022. The collection service fee shall be reviewed by the department annually
- **Implement transformation within those entities** with whom they contract, with a special focus on women, youth and persons living with disabilities
- **Prioritise the promotion of small businesses and entrepreneurs** with a special focus on women, youth and persons living with disabilities.



EPR Regulations 7: Financial Arrangements – EPR Fees

- "7(1) The **producer responsibility organisation** that establishes and implements an extended producer responsibility scheme **must**, together with its members, **determine the proposed extended producer responsibility fee** and apply the extended producer fee proportionally to all members based on the identified products placed on the market. "
- "(2) The **proposed extended producer responsibility fee must be submitted electronically to the Minister**, including the motivation, justification and any other relevant information, **who must obtain concurrence on the proposed extended producer responsibility fee from the Minister responsible for finance within 60 days of submission.** "



Reg 7(7)(b). Administration costs for EPR Schemes

- 20% of the revenue collected in calendar year 1 of implementation;
- 15% of the revenue collected in calendar year 2 of implementation; and
- 12% of the revenue collected in calendar year 3 of implementation



Regulation 5, 7 & 8 EPR Reporting Requirements

- **Internal biannual financial audit report** : Reg 5A (b) & Reg 5B(b) to be made available to the Department on request and to the external auditor (independent financial auditor).
- **External annual financial audit report:** Reg 5A(e) & 5B(e) to be submitted to the Department within 60 days after finalisation of the audit and its summary (summary audit report) uploaded onto the SAWIC for public access.
- **Annual financial plan and budget:** Reg 7(5) & 7A (5) & (6) – submitted by 30 November for the following year.
- **Interim performance report:** Reg 8(1)(a) – within four (4) weeks of the conclusion of the 6 months period
- **Annual performance audit report/External annual performance audit report** – Reg 8(1)(c)(d) – within three months of the conclusion of the year-end.



12. OFFENCES

- (1) A **person** commits an offence if that person contravenes or fails to comply with regulations 4(1) and (2), 5, 5A, 5B, 6, 7(1), 7(2), 7(3), 7(4), 7(5), 7(6), 7(7), 7A, 8(1)(a), 8(1)(b), 8(1)(c), 8(1)(d), 8(1)(e), 8(2)(a), 8(2)(b), 8(2)(c), 8(2)(d), 8(2)(e), 9(3), 10 or 11 of these Regulations;
- (2) A **producer responsibility organisation** commits an offence if that producer responsibility organisation contravenes or fails to comply with regulations 4(1) and (2), 5, 5A, 5B, 6, 7(1), 7(2), 7(3), 7(4), 7(5), 7(6), 7(7), 7A, 8(1)(a), 8(1)(b), 8(1)(c), 8(1)(d), 8(1)(e), 8(2)(a), 8(2)(b), 8(2)(c), 8(2)(d), 8(2)(e), 9(3), 10 or 11 of these Regulations.



Summary of main requirements of EPR Regulations

Name of regulation	Offence
Reg 4 and 10 – Registration of producers and PROs	X
Reg 5A and 5B – obligations of PROs and producers establishing EPR schemes	X
Reg 6 – Minimum requirements and criteria for EPR schemes to operate and their contribution to inclusive economic growth and job creation.	X
Reg 7 – Financial arrangements <ul style="list-style-type: none"> • (1) Determination of EPR fees • (2) Submission of EPR fee motivation to Minister, Min seeks concurrence of MoF • (3) Criteria for determining fees including various costs to be included • (4) Publication of EPR fee on the website • (5) Submission of annual financial plan and budget • (7) Administration costs – specifies max administration costs allowed Reg 7A – Financial obligations of the producer implementing its own scheme	X
Regulation 8 – Reporting requirements for PROs and producers <ul style="list-style-type: none"> • Interim performance report • Annual external performance audit report • Performance to be measured against the individual targets set out in the relevant government notice ie. Paper and packaging, lighting and electrical and electronic waste 	X
Reg 9 Performance review of the EPR scheme	X
Reg 11 – PRO governance structure	X

Conclusions and learnings from the 2022 EPR implementation

- **Evaluation of interim financial and performance reports and annual audited performance reports.** Some of the broad findings from an initial evaluation of the data reported on the EPR (collection, recycling, recovery, reuse etc) and information contained in the reports include:
 - Data challenges due to data reporting in kg and not tonnes and possible double reporting of similar information under collection, reuse and recycling
 - Several cases of non-achievement of the targets set out in the notices
- **Strengthening compliance and enforcement measures under the EPR.** Work underway with the DFFE Compliance and Enforcement Unit.
- **Tracking and tracing of products from production to post consumer recycling to assess compliance with the EPR regulations.** Appropriate systems for the tracking and tracing of products will be necessary
- **Free riders.** Strengthening collaboration between government, producers, PROs and other stakeholders to improve compliance through information sharing, awareness and education campaigns and appropriate enforcement measures related to non-compliance necessary.



Conclusions and learnings from the 2022 EPR implementation

- **Categories of non-compliance identified below with proposed enforcement action: (different approaches for different categories of non-compliance)**
 - **Free riders** - Pre-compliance Notices and final compliance notices to be issued
 - **Failure to register** after condonation letters were issued - Pre-compliance Notices and final compliance notices to be issued
 - **Registered but not reporting** - process underway to identify producers / PROs
 - **Registered, reporting but failure to meet targets** - collaborative approach outlined below
- **Phase 1 – collaborative approach**
 - Formal feedback letters to be sent to PROs/producers communicating preliminary findings of the review of annual external audit performance reports.
 - The Department will engage the PROs/producers on performance reports, findings of review and consider and agree on
 - a) measures to remedy non-compliance and
 - b) timeframes for implementation of measures
 - Follow up engagements will be held to assess whether remedial measures were successfully implemented.
 - If unsuccessful.....
- **Phase 2 – C&E led formal, stricter enforcement, punitive measures**



Closing Remarks and Way Forward

- **EPR is key as part of a package of policy measures to achieve South Africa's waste reduction and minimisation goals** and facilitate the transition to a circular economy.
- **2nd year of implementation of the EPR for key sectors shows good progress made** towards establishing EPR schemes, promotion of waste collection reuse and recycling initiatives and establishment of EPR reporting and performance monitoring systems. **However more needs to be done to improve performance of EPR schemes and address implementation challenges.**
- **Government will continue to work closely with the producers, PROs and other stakeholders to build partnerships** and promote collaboration to ensure the smooth implementation of the EPR regulations through:
 - **Structured quarterly engagements with PROs and producers** implementing their own EPR schemes on key EPR policy implementation matters.
 - **Bilateral meetings with PROs and producers** implementing their own EPR schemes on overall performance, monitoring and verification, as required.



THANK YOU!

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