GLOBAL VIETNAM LAWYERS

LEGAL ALERT

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Many important changes in responsibility for recycling products and packages of manufacturers and importers from January 6, 2025

In recent times, the Government has issued Decree 05/2025/ND-CP **("Decree 05/2025")** dated January 6, 2025 amending and supplementing a number of articles of Decree 08/2022/ND-CP **("Decree 08/2022")** and the Ministry of Natural Resources and Environment has issued Circular 07/2025/TT-BTNMT **("Circular 07/2025")** dated February 28, 2025 amending and supplementing a number of articles of Circular 02/2022/TT-BTNMT **("Circular 02/2022")** detailing a number of articles of the Law on Environmental Protection. In which, many regulations related to extended producer responsibility **(EPR)** have been amended and supplemented for enterprises, manufacturers, and importers to pay attention thereto as follows:

1. Change the way of calculating mandatory recycling rates

Article 78.1 of Decree 08/2022	Article 1.34 of Decree 05/2025
The mandatory recycling rate is the ratio of the minimum volume of products and packaging that must be recycled according to mandatory recycling specifications to the **total volume of products and packaging produced and put on the market and imported** in the year of taking responsibility.	The mandatory recycling rate is the ratio of the minimum volume of products and packaging that must be collected and recycled according to mandatory recycling specification in the year of taking responsibility to the **total volume of products and packaging produced and imported and put on the market** in the year of taking responsibility.

Thus, according to the new regulations, the responsibility for recycling products and packaging for both manufacturers and importers is calculated based on the volume of products and packaging brought to market, not the entire volume of imported products and packaging of the manufacturer and importer.

2. Select the appropriate recycling method for each product and packaging

Article 78.6 of Decree 08/2022	Article 1.34 of Decree 05/2025
Mandatory recycling specifications are selected recycling solutions with minimum **requirements on the amount of materials and fuel recovered** for product and packaging recycling.	Mandatory recycling specifications **are recycling solutions selected for each product and packaging**.

Removing the minimum requirement on the amount of materials and fuel recovered for product and packaging recycling when choosing recycling specifications will create more favorable conditions for manufacturers and importers when choosing recycling options to suit actual recycling conditions in Vietnam and save costs.

3. Add more cases that are not included in the mandatory recycling rate

Article 78.3 of Decree 08/2022	Article 1.34 of Decree 05/2025
Recycling of imported scrap as raw materials for production will not be included in the mandatory recycling rate of manufacturers and importers.	There are 3 cases that are not included in the mandatory recycling rate of manufacturers and importers: (1) recycling of imported scrap; (2) **packaging as waste** generated from industrial production processes; and (3) **defective products discarded** during the production process.

Decree 05/2025 adds 2 more cases that are not included in the mandatory recycling rate, aiming to collect and recycle products and packaging that have been put on the market and discarded after use, as well as the responsibility of waste management during the production process of the manufacturer.

4. Adjusting cases where recycling responsibilities are not required

Article 77.3 of Decree 08/2022	Article 1.33(b,d) of Decree 05/2025
(1) Products and packaging for research, study and testing purposes. (2) Packaging manufacturers *(including products with packaging that must be recycled and other products that must not be recycled)* with revenue from sales and service provision in the previous year of less than VND 30 billion; (3) Packaging importers with total import value in the previous year of less than VND 20 billion.	(1) Products and packaging for research, study and testing purposes. (2) Manufacturers and importers with product sales revenue *(only products with recyclable packaging)* of less than VND 30 billion per year. (3) Manufacturers have put packaging on the market but that packaging is collected and packaged by the manufacturer to continue putting it on the market. (4) Chewing gum.

Adding cases (3) and (4) that do not have to fulfill recycling responsibilities, and adjusting the determination of whether an enterprise has to fulfill recycling responsibilities will be based on the revenue of products with packaging that must be recycled, not the revenue of other products or calculated based on import value.

5. Time to calculate the results of implementing recycling responsibilities

Article 1.36 of Decree 05/2025 amending Article 80.1 of Decree 08/2022 has added the content *"Manufacturers and importers of packaging and battery products; lubricants; tires and tubes that have registered and implemented the product and packaging recycling plan in 2024, the volume of recycled products and packaging that meet the laws will be counted in the results of product and packaging recycling in 2025".*

This content is a novelty in Decree 05/2025 and currently the lack of more specific and clear instructions results in many different opinions on how to apply this regulation. In some informal discussions with EPR support specialists, the above added content may be aimed at a mechanism to reserve the reporting of results of recycling implemented in 2024 and count them in the 2025 results report, because 2024 is the year when recycling responsibilities begin to arise, and the implementation of reporting results will be applied from 2025, calculated on the recycling data of 2024.

6. Take recycling responsibilities for financial contributions

Article 81.3 of Decree 08/2022	Article 1.37 of Decree 05/2025
Before April 20 every year, manufacturers and importers must pay a one-time financial contribution to support recycling to the Vietnam Environmental Protection Fund or can choose to pay in two installments: the first installment is to pay at least 50% of the total amount before April 20 and the second installment is to pay the remaining amount before October 20 of the same year.	**Before April 20 every year**, manufacturers and importers **must pay full** financial contributions to support the recycling of declared products and packaging ...

Accordingly, the revised Decree 05/2025 only allows manufacturers and importers to make financial contributions to support recycling in a one-time and full payment (before April 20 every year).

7. Responsibility for registering recycling plans and reporting recycling results

(a) Article 80 of Decree 08/2022 is amended by Article 1.36 of Decree 05/2025, which has removed the provision that *"Manufacturers and importers who choose the form of financial contribution to the Vietnam Environmental Protection Fund as prescribed in Article 54.2.b of the Law on Environmental Protection are not required to register, implement recycling plans and report recycling results as prescribed in Clause 1 of this Article."* Accordingly, manufacturers and importers in general, **regardless of choosing the form of recycling organization or financial contribution** to the Vietnam Environmental Protection Fund, **are still responsible for registering, implementing recycling plans and reporting recycling results** annually before March 31 of each year to the Ministry of Natural Resources and Environment[1].

(b) According to Article 80.1 of Decree 08/2022, *manufacturers and importers can directly register and report recycling results, or fully authorize an authorized party to take the responsibility for registration and reporting recycling results on their behalf*. However, Article 1.36 of the amended Decree 05/2025 has removed this registration and

[1] From March 1, 2025, it will be the Ministry of Agriculture and Environment (established on the basis of merging the Ministry of Natural Resources and Environment with the Ministry of Agriculture and Rural Development).

reporting on behalf of the manufacturer and importer and does not clearly stipulate whether the authorized party can replace the manufacturer and importer to take the responsibility for registration and reporting recycling results.

Instead, the regulations separate the responsibilities of the manufacturer, importer and the authorized party/recycling unit as follows:

*"1. Before March 31 of each year, the **manufacturer and importer will register** the recycling plan for the products and packaging produced and imported and put on the market in the previous year **and report the results** of recycling of the products and packaging of the previous year according to the form prescribed by the Minister of Natural Resources and Environment, and send it to the Ministry of Natural Resources and Environment. The manufacturer and importer shall be responsible before the law for the accuracy of the information on the registration of the recycling plan and the report on the results of recycling.*

…

*3. Before March 31 of each year, **the recycling unit and the authorized party** specified in Articles 79.2.b,c of this Decree **will be responsible for reporting the Ministry of Natural Resources and Environment the results of recycling** of the previous year to the manufacturer and importer; the report form shall be prescribed by the Minister of Natural Resources and Environment."*

In the absence of further specific guidance, the above provision can be understood that even if the manufacturer or importer has fulfilled its responsibility to report the recycling results of the previous year as prescribed, the authorized party and the recycling unit are also responsible for reporting the recycling results of the previous year that have been carried out to the manufacturer or importer.

8. Responsibilities of the authorized recycling organization

Article 1.35 of Decree 05/2025 has added a provision to Article 80.6 of Decree 08/2022 on the responsibility of the authorized recycling organization in collecting the volume of products and packaging as raw materials for the recycling unit corresponding to the authorized volume and not re-authorizing recycling to another organization, except where there is consent from the authorized recycling organization. With this provision, the authorization to organize recycling is put into practice, minimizing risks for manufacturers when authorizing recycling organizations.

9. Conditions for recycling units

Article 1.35 of Decree 05/2025 has added a provision to Article 80.4 of Decree 08/2022 to ensure that the recycling unit hired by the manufacturer, importer or authorized party to recycle products and packaging must have an environmental license or a component environmental license that includes the content of recycling such products and packaging as prescribed by law.

10. Regulations on the list and recycling cost norms for each product and packaging

(a) Decree 05/2025 has issued a New List of *products and packaging that must be recycled and mandatory recycling rates and mandatory recycling specifications* (Appendix XXII) to replace the previous List. In which, the recycling specifications for each type of packaging and product are adjusted and supplemented.

(b) Circular 07/2025 amending Circular 02/2022 has also issued a List of *reasonable and valid recycling cost norms for a unit of product and packaging volume (Fs)* (Appendix IXa). Based on this Fs norm, manufacturers and importers will have a basis for estimating the cost of implementing their recycling responsibilities and this is one of the factors for manufacturers and importers to consider choosing the form of self-organization of recycling or paying money to the Vietnam Environmental Protection Fund in accordance with their capabilities.

11. Officially take recycling responsibilities via the National EPR Electronic Information Portal

Circular 07/2025 takes effect from February 28, 2025, the registration of recycling plans, recycling results reports, and financial contribution declarations of manufacturers and importers will be **sent electronically via the National EPR Information System** instead of sending paper documents to the address of the Ministry of Natural Resources and Environment/Vietnam Environmental Protection Fund as before. At the same time, **manufacturers and importers who self-recycle and** contracted **recycling units must update monthly recycling progress** on the National EPR Information System **before the 20th of the following month**.

The operation of the National EPR Electronic Information Portal will help manufacturers and importers to be more convenient, easier, and save compliance costs in registering, declaring, and reporting on the implementation of product and packaging recycling responsibilities.

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