



The Household Packaging and Paper Stewardship Program Regulations

Summary of Proposed Regulatory Changes

Introduction

The Government of Saskatchewan is continuing its engagement regarding potential regulatory changes to *The Household Packaging and Paper Stewardship Program Regulations* (the regulations) and Multi-Material Recycling Program. The regulations govern the distribution of packaging and paper to Saskatchewan households by businesses and are intended to ensure a successful, efficient and sustainable program to handle the recycling of packaging and paper.

During spring 2021, the Ministry of Environment began the regulatory review process, engaging with stakeholders on key components of the program, including:

- program funding and considerations related to different program delivery models (i.e. shared responsibility versus full producer responsibility);
- business exemptions;
- designated materials;
- targets and recovery rates;
- non-residential waste; and
- regulatory red tape.

The ministry followed engagement with the release of a What We Heard document in November 2021 and committed to further engagement on proposed draft regulations. The draft regulations are a result of feedback collected during engagement in 2021, alignment with other Saskatchewan recycling regulations, harmonizing with other jurisdictions and our commitments to the Canadian Council of Ministers of the Environment (CCME).

The intent of this document is to provide additional information, highlight and clarify the proposed changes in the draft regulations, and invite additional feedback before finalizing regulatory changes.

Engagement Process

The ministry will host three engagement sessions to provide information on proposed changes and answer questions, as well as present at stakeholder associations and committee meetings upon request. Responses can be provided through written submissions and will be accepted until June 30, 2022.

For additional information or questions, stakeholders, municipalities and interest groups have the option of attending virtual engagement sessions offered by the ministry. Details on the virtual engagement sessions can be found on the ministry's website at:

<https://www.saskatchewan.ca/residents/environment-public-health-and-safety/saskatchewan-waste-management/multi-material-recycling-program>

Summary of Proposed Changes

Program Model – Full Extended Producer Responsibility

Current

The existing regulations use a form of extended producer responsibility (EPR) policy, where a portion of the financial responsibility for the end-of-life management of products and materials shifts to the producers of these materials (i.e., brand owners, first importers or manufacturers) and away from municipalities and general taxpayers. No direct environmental handling fees are paid by consumers and collection is funded through a cost sharing arrangement between producers (up to 75 per cent) and municipalities (remaining costs). Municipalities operate programs for packaging and paper in their communities and receive funding from Multi-Material Stewardship Western (MMSW) to cover a portion of their operating costs. Producers do not have a role in the collection of the municipal recycling programs funded through the Multi-Material Recycling Program.

Proposed

The draft regulations propose transitioning to a full EPR model, where industry assumes full operational and financial responsibility for collecting and recycling packaging and paper products in Saskatchewan. In this model, delivering recycling services, marketing recyclable materials and educating Saskatchewan residents on the program will be the responsibility of producers.

The details of a full EPR program will be developed by the producer responsibility organization within the product stewardship program (PSP). It is the government's intent to ensure the following objectives are met by the program:

- preserve the integrity of residential recycling while ensuring uninterrupted collection service to residents;
- minimize disruption of existing municipal contracts with third parties;
- standardize the list of accepted materials;
- ensure an open and competitive market for future collection and processing of materials;
- outline a process for establishing standards, definitions, and service responsibilities; and
- provide for continuous improvement of environmental outcomes.

Determination of Steward/Producer

Current

The existing regulations use a producer hierarchy to determine who is obligated as a steward/producer in descending order. The regulations define steward as:

- a) the brand owner, unless the brand owner is a non-resident brand owner;
- b) if there is no brand owner, the person who first imports the packaging or paper into Saskatchewan; or
- c) if there is no brand owner or first importer, the purchaser of the packaging or paper outside of Saskatchewan that purchases it for use in Saskatchewan.

Proposed

During engagement, stakeholders recommended revising the regulations to provide clarity on which businesses in the supply chain hold the responsibilities of a steward/producer and to capture e-commerce sellers, marketplace facilitators and businesses who sell into Saskatchewan but are located outside the province. Therefore, the draft regulations propose a producer hierarchy that identifies Canadian resident brand owners, distributors who deliver products to Saskatchewan consumers, and retailers and franchisees.

Voluntary Product Management Program

Current

The existing regulations allow non-resident brand owners to voluntarily act as a steward/producer on behalf of brand owners who are resident in Saskatchewan.

Proposed

The draft regulations propose removing the section referencing voluntary stewards and non-resident brand owners, as it is an operational component that does not need to be included in the regulations. Packaging and paper regulations in British Columbia, Manitoba and Ontario do not reference voluntary stewards or non-resident brand owners, but their associated stewardship programs still allow non-resident brand owners to act on behalf of resident brand owners.

Prescribed Products

Current

The existing regulations include the following as prescribed products:

- paper of any description, including flyers, brochures, booklets, catalogues, telephone directories, newspapers, magazines, paper fibre and paper used for copying, writing or any other general use; and
- packaging that contains a product and is composed of glass, metal, paper, boxboard, paper fibre or plastic or any combination of those materials.

The regulations exclude beverage containers as defined in *The Litter Control Act*, as well as health, hygiene or safety products that, by virtue of their anticipated use, could become unsafe or unsanitary to recycle.

Proposed

The draft regulations propose including packaging-like products and single-use products that are ordinarily disposed of after a single-use or short-term use, whether or not they could be reused. Examples include straws, items used to stir beverages, utensils, plates, bowls, cups and party supplies, as well as food containers, foil and wraps, bags, boxes and objects purchased by or supplied to consumers expressly for the purpose of protecting, containing or transporting commodities or products. Adding these products will harmonize the list of products with British Columbia and the proposed list provided in Alberta's 2021 EPR discussion paper. Ontario's regulations also include packaging-like products and some single-use products, but excludes products made from flexible plastic that are used for the containment, protection or handling of food.

The draft regulations also propose clarifying which containers are excluded from the regulations and updating the reference to *The Litter Control Act*. Before being repealed in 2015, beverage containers were prescribed in *The Litter Control Act*. Authority for the beverage container program now resides in *The Environmental Management and Protection Act, 2010* and beverage container categories are prescribed in *The Environmental Management and Protection (General) Regulations*. The draft regulations propose excluding beverage containers as defined in *The Environmental Management and Protection (General) Regulations* and containers from products prescribed in *The Waste Paint Management Regulations*, *The Used Petroleum and Antifreeze Products Stewardship Regulations* and *The Household Hazardous Waste Products Stewardship Regulations*.

Business Exemptions

Current

The existing regulations include exemptions for businesses that generate less than \$2 million in gross revenue annually or produce less than one tonne of packaging and paper annually or have a single point of retail sale.

Proposed

The draft regulations propose lowering the revenue threshold to \$1 million, maintaining the one tonne exemption and removing the exemption for single point of retail sale. Lowering the revenue threshold will harmonize business exemptions more closely with other western jurisdictions. British Columbia's revenue threshold is \$1 million and Multi-Material Stewardship Manitoba's (MMSM) draft program plan proposes raising the threshold from \$750,000 to \$1 million. Continuing the one tonne exemption was suggested during engagement, as the amount of waste produced from these businesses would have little environmental or fiscal impact on the program. Removing the exemption for single point of retail was also suggested during engagement, as the number of retail locations is irrelevant to the impact of a business on the environment or its ability to pay to manage its materials. Removing the single point of retail exemption will also make onboarding easier, reduce confusion and make compliance and enforcement more straightforward.

The draft regulations also propose that all businesses, regardless of size and tonnes of waste produced, would be required to provide evidence of meeting exemption criteria to the producer responsibility organization in the form and manner specified by the producer responsibility organization in the PSP. This change will also allow for more straightforward compliance and enforcement action by the ministry and will provide a more accurate picture of the number of businesses exempt from participating in the program. A similar method has been used in Manitoba since the beginning of their packaging and paper program. Manitoba's regulations do not include exemptions; however, MMSM's Rules for Stewards provides fee and reporting exemptions for qualifying businesses. To qualify for an exemption, MMSM requires all businesses to register and self-declare their obligation status through an annual questionnaire.

Recycling Rates and Targets

Current

The existing regulations do not require the producer responsibility organization to meet targets, but requires annual reporting on the types and amounts of:

- residentially generated waste packaging and paper supplied for use in Saskatchewan;
- the amount of waste packaging and paper collected under the program and diverted from municipal landfills; and
- the recovery rate of diverted waste packaging and paper.

The producer responsibility organization is also required to report on financial requirements, including the fees charged to stewards and the amount spent to operate and administer the program.

Proposed

The draft regulations recommend requiring the producer responsibility organization to propose and report on annual incremental targets to be achieved for public awareness of the program and recycling and diversion rates for each material category (i.e. paper, rigid plastic, flexible plastic, metal and glass). British Columbia's regulations require producer responsibility organizations to meet material-specific targets of 75 per cent for each category. MMSM's draft PSP proposes using material-specific targets, but figures have not yet been proposed.

The draft regulations also propose requiring the producer responsibility organization to report on how materials are managed in adherence to the order of preference in the waste management hierarchy. In British Columbia, Recycle BC reports on how producers use the waste management hierarchy (i.e. reduce, redesign, recycle, energy recovery and residual management) to manage packaging and paper.

Service and Accessibility

Current

The existing regulations do not require stewards to meet specific service levels or accessibility standards. Municipalities operate their own collection programs and MMSW provides funding to reimburse municipalities for a portion of the operating costs.

Proposed

The draft regulations propose requiring the provision of services to single family households, multi-family residential units, elementary and high schools, and outdoor public spaces including parks, playgrounds and sidewalks. The packaging and paper regulations in New Brunswick and Ontario include similar provisions for collection from schools and outdoor public spaces.

The draft regulations also propose requiring the producer responsibility organization to put forward in the PSP the manner in which household packaging and paper products will be collected in all areas of Saskatchewan, including the criteria for determining service types and service levels. In British Columbia, Recycle BC maintains a standard of a depot being available within a 30-minute drive in urban communities and a 45-minute drive in rural communities for 98 per cent of British Columbia's population. Recycle BC also requires a minimum population of 5,000 residents in a defined area for the municipality to qualify for curbside collection.

Auditing Performance Data

Current

The existing regulations do not require the performance data reported in the annual report to be independently audited.

Proposed

The draft regulations propose a requirement for the producer responsibility organization to have independently audited performance data in comparison to targets set out in the PSP. In British Columbia, the regulations require the annual report to include a description and rationale, prepared by an independent auditor, of the processes used by or on behalf of the producer to store and transport products and to manage products at each level of the waste management hierarchy.

Review of the Product Stewardship Program

Current

The existing regulations do not require periodic reviews of the approved PSP.

Proposed

The draft regulations propose requiring a review of the PSP every five years. The producer responsibility organization will be required to review the approved program, demonstrate that comprehensive public and stakeholder consultation on the program has been undertaken, and request approval from the ministry for amendments or show that no amendments are required. The requirement for a PSP review aligns with other stewardship regulations in Saskatchewan, including those for tires, electronics, and household hazardous waste.

Transition and Consultation on Product Stewardship Program

Current

The existing regulations require the PSP to outline how consultation will take place during the development of the program and after the program is operational.

Proposed

The draft regulations propose that the PSP outlines the implementation schedule for phasing in the program, including details describing how existing recycling service providers, and municipal contracts, assets and partnership will be considered.

The draft regulations also require that comprehensive public and stakeholder consultation on the program and implementation schedule has been undertaken.

Next Steps

The information received during engagement will help inform the final regulatory amendments to *The Household Packaging and Paper Stewardship Program Regulations*. The ministry appreciates all feedback as it aims for an effective, efficient and sustainable Multi-Material Recycling Program. Once regulations are finalized and approved, a producer responsibility organization will develop a PSP in consultation with stakeholders and municipalities throughout 2023 and a new program for packaging and paper could potentially begin its phased-in implementation in 2024.

Contact

Written submissions and questions can be forwarded to:

Ministry of Environment
Environmental Assessment and Stewardship Branch
Attn: Packaging and Printed Paper Regulations
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