



Province of Saskatchewan

Order in Council

Approved and Ordered:

Lieutenant Governor

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, makes *The Household Packaging and Paper Stewardship Program Regulations, 2022* in accordance with the attached Schedule.

President of the Executive Council

(For administrative purposes only)

Recommended by: Minister of Environment

Authority: *The Environmental Management and Protection Act, 2010 - sections 46 and 98*

D R A F T

RRS c E-10.22 Reg 9

SCHEDULE

Title

1 These regulations may be cited as *The Household Packaging and Paper Stewardship Program Regulations, 2022*.

Definitions

2(1) In these regulations:

“**Act**” means *The Environmental Management and Protection Act, 2010*;

“**approval**” means an approval of a product stewardship program by the minister pursuant to section 6;

“**brand owner**” means the person who is the owner or licensee of a trademark that is used in association with or marked on packaging or paper;

“**collection rate**” means the total amount of household packaging and paper products collected and sent to a sorting facility for diversion from landfills expressed as a percentage of household packaging and paper products supplied to the market;

“**diversion rate**” means the quantity of household packaging and paper products diverted from landfills calculated as the sum of household packaging and paper products recycled and recovered for energy and expressed as a percentage of household packaging and paper products supplied to the market;

“**end user**” means any person who uses a household packaging and paper product for its intended purpose;

“**household packaging and paper products**” means, subject to subsection (2), the following:

(a) any packaging or container that:

(i) is composed of glass, metal, paper, boxboard, cardboard, paper fibre or plastic, including plant-based plastic, or any combination of those materials;
and

(ii) contains a product;

(b) a product that is ordinarily disposed of after a single use or short-term use, whether or not it could be reused, including:

(i) straws and items used to stir beverages;

- (ii) utensils, plates, bowls and cups;
- (iii) party supplies; and
- (iv) objects purchased by or supplied to end users expressly for the purpose of protecting, containing or transporting commodities or products, including:
 - (A) food containers;
 - (B) foil and wraps;
 - (C) bags; and
 - (D) boxes;
- (c) paper of any description, including:
 - (i) flyers;
 - (ii) brochures;
 - (iii) booklets;
 - (iv) catalogues;
 - (v) telephone directories;
 - (vi) newspapers;
 - (vii) magazines;
 - (viii) paper fibre; and
 - (ix) paper used for copying, writing or any other general use;

“producer” means the person determined in accordance with section 3;

“producer responsibility organization” means a person that operates a product stewardship program on behalf of producers;

“product stewardship program” means a program for the collection and recycling of residentially generated household packaging and paper products;

“recycle” means the amount of household packaging and paper products collected by the program for diversion, reprocessed into raw materials and successfully sold on to secondary markets for use as inputs into new product manufacturing;

“recycling rate” means household packaging and paper products recycled by the program as a percentage of household packaging and paper products in products supplied to the market;

“residual quantities” means the household packaging and paper products collected for diversion but not successfully diverted from landfills by the program;

“trademark” means a trademark as defined in the *Trademarks Act* (Canada).

(2) For the purposes of the definition of **“household packaging and paper products”**, the following products are not household packaging and paper products:

- (a) containers prescribed in *The Environmental Management and Protection (General) Regulations* for the purposes of clause 39(a) of the Act;
- (b) containers that are part of an operating reuse system;
- (c) containers from products prescribed in *The Waste Paint Management Regulations*, *The Used Petroleum and Antifreeze Products Stewardship Regulations*, or *The Household Hazardous Waste Products Stewardship Regulations* for the purposes of section 46 of the Act;
- (d) health, hygiene or safety products that, by virtue of their anticipated use, could become unsafe or unsanitary to reuse or recycle;
- (e) bound reference books, literary books and text books.

Determination of producer

3 The person that is the producer of household packaging and paper products that are supplied in Saskatchewan to an end user is:

- (a) if the person is a resident of Canada, the brand owner, manufacturer or franchisor with respect to the household packaging and paper products;
- (b) if there is no person as described in clause (a), the person that first imports the household packaging and paper products into Saskatchewan;
- (c) if there is no person as described in clause (a) or (b), the distributor or any person registered pursuant to an Act to carry on business in Saskatchewan who delivered the household packaging and paper products to the end user for use in Saskatchewan; or
- (d) if there is no person as described in clause (a), (b) or (c), the retailer or franchisee who supplied the household packaging and paper products to the end user for use in Saskatchewan.

Prescribed products

4 Household packaging and paper products are prescribed as products for the purposes of section 46 of the Act.

Product stewardship program required

5(1) Subject to subsections (4) and (5), no producer shall fail to:

- (a) operate a product stewardship program approved by the minister; or
- (b) enter into an agreement with a producer responsibility organization to operate a product stewardship program approved by the minister.

(2) No producer responsibility organization shall fail to operate a product stewardship program in accordance with:

- (a) the program as approved by the minister; and
- (b) these regulations.

(3) No producer that has entered into an agreement to have a product stewardship program operated on the producer's behalf shall fail to ensure that the product stewardship program is operated in accordance with:

- (a) the program as approved by the minister; and
- (b) these regulations.

(4) A producer is exempt from complying with subsection (1) if the producer:

- (a) is a business that:
 - (i) generates less than \$1 million in gross annual revenue; or
 - (ii) supplies or distributes less than one tonne of household packaging and paper products; and
- (b) provides evidence satisfactory to a producer responsibility organization that the producer meets the requirements set out in subclause (a)(i) or (ii).

(5) Subsection (1) does not apply to a charitable organization registered pursuant to the *Income Tax Act* (Canada).

Approval to operate product stewardship program

6(1) A producer who operates or intends to operate a product stewardship program, or a person who operates or intends to operate a product stewardship program on a producer's behalf, must:

- (a) apply to the minister for approval of the program in a form acceptable to the minister;
- (b) submit an implementation schedule for phasing in the program, including details describing the manner in which existing recycling service providers and municipal contracts, assets and partnerships will be considered;

(c) provide evidence satisfactory to the minister that comprehensive public and stakeholder consultations with respect to the program have been undertaken; and

(d) submit any additional information or material to the minister that the minister requests and considers relevant to the application.

(2) The minister shall not approve a product stewardship program unless the product stewardship program contains details that are satisfactory to the minister respecting all of the following:

(a) the management structure of the program;

(b) the composition of the board of directors of the program, including evidence satisfactory to the minister that there will be, in the minister's opinion:

(i) sufficient Saskatchewan representation; and

(ii) sufficient producer representation;

(c) the creation of an advisory committee to the producer responsibility organization;

(d) the role of the advisory committee in relation to the operation of the program;

(e) the manner in which Saskatchewan interests will be represented on the advisory committee;

(f) in the case of a producer responsibility organization, the process that will be used by the producer responsibility organization to determine whether a producer is exempt from complying with the requirements set out in subsection 5(1) in accordance with subsection 5(4);

(g) the public education or public awareness and communication strategy for the product stewardship program;

(h) the manner in which financial disputes related to the program will be resolved;

(i) the manner in which household packaging and paper products will be collected in all areas of Saskatchewan, including the criteria to be used in determining the service types and service levels;

(j) the provision of services to the following locations:

(i) single unit dwellings;

(ii) multi-unit residential dwellings;

(iii) a school as defined in *The Education Act, 1995*;

(iv) outdoor public areas including a public park, playground or sidewalk;

(k) the manner in which household packaging and paper products will be managed in accordance with the order of preference in the waste management hierarchy set out in subsection (3) including providing evidence satisfactory to the minister that the options chosen will minimize the impact of household packaging and paper products on the environment;

(l) the policies and procedures to be followed by any person collecting or processing household packaging and paper products collected pursuant to the program;

(m) how the product stewardship program will be funded and how funds under the product stewardship program will be expended;

(n) the quality control and assurance aspects of the program, including the mechanisms to collect, track and audit information for the purposes of the product stewardship program;

(o) how program convenience, effectiveness, efficiency, fairness, sustainability, municipal accessibility, participation rates and resident feedback will be determined and measured;

(p) the schedule of targets set by the producer or the producer responsibility organization operating the program, as the case may be, to be achieved each year for the product stewardship program period, and that are satisfactory to the minister, for each of the following performance indicators:

(i) recycling rates and diversion rates for each of the following categories of household packaging and paper products:

(A) paper;

(B) plastic;

(I) rigid plastic;

(II) flexible plastic;

(C) metal;

(D) glass;

(ii) public awareness of the availability and functioning of the program;

(q) the manner in which the program will manage greenhouse gas emission related to the collection, transportation, recycling and recovery of household packaging and paper products;

(r) any collaborative initiatives undertaken or to be undertaken with other product stewardship programs approved pursuant to these regulations or any other regulations made pursuant to section 46 of the Act for the purposes of achieving public convenience and greater program effectiveness and efficiency;

(s) the management of contracts with collectors, processors and other third party contractors, including the policies and procedures to be followed to ensure that all contracted parties comply with municipal, provincial and federal laws;

(t) a contingency plan that may be implemented in times of emergency;

(u) any other matter the minister considers appropriate.

(3) For the purposes of clause (2)(j), the waste management hierarchy is as follows in descending order of preference, such that management of household packaging and paper products is not undertaken at one level unless or until all feasible opportunities for management at a higher level have been taken:

(a) reduce the environmental impact of producing the household packaging and paper product by eliminating toxic components and increasing energy and resource efficiency;

(b) redesign the household packaging and paper product to improve reusability or recyclability;

(c) eliminate or reduce the generation of unused portions of a household packaging and paper product that is consumable;

(d) reuse the household packaging and paper product;

(e) recycle the household packaging and paper product;

(f) recover material or energy from the household packaging and paper product;

(g) otherwise dispose of the waste from the household packaging and paper product.

(4) If the minister is satisfied that a proposed product stewardship program complies with the Act and these regulations and that it is in the public interest to do so, the minister may:

(a) approve the product stewardship program; and

(b) impose any terms and conditions on the approval that the minister considers appropriate.

(5) The minister shall cause notice of any approval pursuant to clause (4)(a) to be made public in any manner the minister considers appropriate, including publishing it on the ministry's website.

Review of product stewardship program

7 Every 5 years after the date of approval of the product stewardship program, every person who operates a product stewardship program shall review the approved program, demonstrate that comprehensive public and stakeholder consultation on the program has been undertaken and:

(a) request approval from the minister of any proposed amendments to the approved program; or

(b) notify the minister, in writing, if no amendments to the approved program are proposed.

Changes to product stewardship program

8 No person operating a product stewardship program shall make any changes to the program without obtaining the minister's prior written approval of the proposed changes.

Amendment, suspension or cancellation of approvals

9(1) Subject to subsection (2), if, in the minister's opinion, a product stewardship program is not being operated in accordance with the Act, these regulations or the terms and conditions of the minister's approval, or if, in the minister's opinion, it is in the public interest to do so, the minister may:

- (a) amend the approval by imposing new or additional terms and conditions; or
- (b) suspend or cancel the approval.

(2) Before amending, suspending or cancelling an approval pursuant to subsection (1), the minister shall provide the person operating the product stewardship program with:

- (a) written notice of the minister's intended action together with reasons for that intended action; and
- (b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is served or a longer period set by the minister, with respect to why the intended action should not be taken.

(3) The minister is not required to give an oral hearing to any person to whom a notice has been provided pursuant to subsection (2).

(4) After considering the representations mentioned in subsection (2), the minister shall issue a written decision and shall serve a copy of the decision together with reasons on the person operating the product stewardship program.

(5) Notwithstanding subsection (2), if the minister considers that it is necessary in order to protect the public interest, the minister may immediately amend, suspend or cancel an approval without giving the person mentioned in subsection (2) an opportunity to make written representations, but the minister shall give the producer responsibility organization an opportunity to make written representations within 15 days after the date on which the minister takes any of those actions.

Annual reporting

10(1) In this section, "**reporting period**" means:

- (a) the period commencing on January 1 in one year and ending on December 31 of the following year;
- (b) if a product stewardship program has not been operated for the period set out in clause (a), the period commencing on the date on which the minister approved the program and ending on December 31 of that year.

(2) On or before June 30 in each year, every person who operates a product stewardship program shall prepare and submit to the minister a written annual report that:

- (a) describes that activities of the product stewardship program during the previous reporting period; and
- (b) contains the information set out in subsection (3).

(3) A written annual report mentioned in subsection (2) must be in a form satisfactory to the minister and include the following information:

(a) for each category of household packaging and paper products, the amount of the products:

(i) supplied for use in Saskatchewan by the producer on whose behalf the program is being operated;

(ii) collected by the program and sent to a sorting facility for diversion;

(iii) recycled by the program, including the total amount and the amount per capita;
and

(iv) collected by the program for diversion and recovered for energy;

(b) for each category of household packaging and paper products:

(i) the collection rate;

(ii) the recycling rate;

(iii) the diversion rate;

(iv) the residual quantities;

(c) the amount of revenue collected from the sale of household packaging and paper products that has been recycled;

(d) a comparison of the approved plan's performance for the year with the performance indicator targets set out in the product stewardship program;

(e) independently audited performance data in comparison to targets set out in the product stewardship program;

(f) the accessibility of the program and the level of service provided to residents in serviced areas;

(g) the level of public awareness of the availability and functioning of the program;

(h) a description of educational materials and educational strategies used to advertise the program and educate the public;

(i) a description of the efforts taken by or on behalf of the producer to reduce environmental impacts throughout the product life cycle and to increase reusability or recyclability at the end of the life cycle;

(j) the independently audited financial statements detailing:

(i) the fees charged to producers participating in the product stewardship program for each category of household packaging and paper products, including an explanation of any significant changes to those fees;

- (ii) the total amount of fees collected from producers who are participating in the product stewardship program to fund the program;
- (iii) the amount spent to operate the program in Saskatchewan;
- (iv) the amount of recycling incentives paid out, if any;
- (v) the costs incurred to administer the program;
- (vi) the amount spent on public education or public awareness and communication;
and
- (vii) any other information that the minister may reasonably require.

RRS c E-10.21 Reg 5 repealed

11 *The Household Packaging and Paper Stewardship Program Regulations* are repealed.

Transitional

12(1) In this section:

“former regulations” means *The Household Packaging and Paper Stewardship Program Regulations*, as those regulations existed on the day before the coming into force of these regulations;

“product management program” means a product management program as defined in the former regulations;

“program operator” means a program operator as defined in the former regulations;

“steward” means a steward as defined in the former regulations.

(2) Notwithstanding any other provision of these regulations but subject to subsections (3) to (5), if a product management program was approved pursuant to the former regulations and the approval for that product management program is valid and not under suspension or cancellation on the day on which these regulations come into force:

(a) the product management program is deemed to be an approved product stewardship program for the purposes of these regulations until [date - TBD]; and

(b) the product management program may be dealt with pursuant to these regulations as if approved pursuant to these regulations but is subject to the same terms and conditions that were imposed pursuant to the former regulations.

(3) At the request of a steward or a program operator operating a product management program that was approved pursuant to the former regulations and if the minister considers it appropriate, the minister may extend the period mentioned in clause (2)(a).

(4) Any steward required to operate a product management program or any person who has entered into an agreement to operate a product management program on a steward's behalf pursuant to the former regulations, shall, if the product management program has not been approved by the minister pursuant to the former regulations before the coming into force of these regulations, apply to the minister for approval of a product stewardship program pursuant to subsection 5(1) within 180 days after the day on which these regulations come into force.

Coming into force

13 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

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