

The Household Packaging and Paper Stewardship Program Regulations

being

Chapter E-10.21 Reg 5 (effective February 15, 2013) as
amended by Saskatchewan Regulations 6/2016.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER E-10.21 REG 5

The Environmental Management and Protection Act, 2002

Title

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

Interpretation

2(1) In these regulations:

- (a) **“Act”** means *The Environmental Management and Protection Act, 2010*;
- (b) **“brand owner”** means the person who is the owner or licensee of a trade-mark that is used in association with or marked on packaging or paper;
- (c) **“net costs”** means the costs to the municipality of operating a residential waste diversion program for waste packaging and paper less any revenues received by the municipality from the sale of packaging and paper that has been recycled;
- (d) **“non-resident brand owner”** means a brand owner who does not carry on business in Saskatchewan;
- (e) **“packaging”** means any packaging or container that:
 - (i) is composed of glass, metal, paper, boxboard, cardboard, paper fibre or plastic or any combination of those materials; and
 - (ii) contains a product;

but does not include approved containers as defined in *The Litter Control Act*;

- (f) **“paper”** means, subject to subsection (2), 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;
- (g) **“product management program”** means a program for the collection and recycling of residentially generated waste packaging and paper;

- (h) “**program operator**” means the person that operates a product management program;
 - (i) “**steward**” means the person determined in accordance with section 3;
 - (j) “**trade-mark**” means a trade-mark as defined in the *Trade-marks Act* (Canada);
 - (k) “**waste packaging and paper**” means packaging and paper that is unwanted or no longer usable for its original purpose.
- (2) For the purposes of the definition of “paper” in clause (1)(f), paper does not include:
- (a) paper products that, by virtue of their anticipated use, could become unsafe or unsanitary to recycle; or
 - (b) any type of bound book not mentioned in clause (1)(f).

15 Feb 2013 cE-10.21 Reg 5 s2; 12 Feb 2016 SR
6/2016 s3.

Determination of steward

- 3** The person that is the steward of packaging or paper is:
- (a) the brand owner with respect to the packaging or paper, unless the brand owner is a non-resident brand owner;
 - (b) if there is no brand owner as described in clause (a), the person that first imports the packaging or paper into Saskatchewan; or
 - (c) if there is no brand owner as described in clause (a) or person that first imports the packaging or paper as described in clause (b), the purchaser of the packaging or paper outside of Saskatchewan that purchases it for use in Saskatchewan.

15 Feb 2013 cE-10.21 Reg 5 s3.

Prescribed products

- 4** Packaging and paper are prescribed as products for the purposes of section 46 of the Act.

15 Feb 2013 cE-10.21 Reg 5 s4; 12 Feb 2016 SR
6/2016 s4.

Product management program required

- 5(1)** No steward shall fail to:
- (a) operate a product management program approved by the minister pursuant to section 7; or
 - (b) enter into an agreement with a person to operate, on the steward’s behalf, a product management program approved by the minister pursuant to section 7.

- (2) No program operator shall fail to operate the product management program in accordance with:
- (a) the program as approved by the minister pursuant to section 7; and
 - (b) these regulations.
- (3) No steward that has entered into an agreement to have a product management program operated on the steward's behalf shall fail to ensure that the product management program is operated in accordance with:
- (a) the program as approved by the minister pursuant to section 7; and
 - (b) these regulations.
- (4) If a franchisor and a franchisee operating under a franchise agreement are stewards in relation to the same product, the duty set out in subsection (1) shall be carried out by the franchisor.
- (5) Subject to subsections (6) and (7), a steward is exempt from complying with subsection (1) if the steward is a business that:
- (a) generates less than \$2 million in gross annual revenue;
 - (b) supplies or distributes less than one tonne of paper and packaging; or
 - (c) operates as a single point of retail sale but does not generate its revenues exclusively from online sales.
- (6) The minister may deny an exemption claimed pursuant to subsection (5) and require the steward to comply with subsection (1) if the minister:
- (a) is not satisfied that one or more of the criteria mentioned in subsection (5) are met; or
 - (b) considers the exemption to be contrary to the public interest.
- (7) The minister may impose terms and conditions that the minister considers appropriate on an exemption claimed pursuant to subsection (5).
- (8) The minister may exempt a steward from complying with subsection (1) until December 31, 2016 if the steward satisfies the minister that:
- (a) it is:
 - (i) a business that generates \$2 million or more, but not more than \$5 million, in gross annual revenue; or
 - (ii) a newspaper; and
 - (b) the exemption would not be contrary to the public interest.
- (9) The minister may impose terms and conditions that the minister considers appropriate on an exemption claimed pursuant to subsection (8).

(10) No steward who has claimed an exemption pursuant to subsection (5) or (8) shall fail to comply with any terms and conditions imposed on the exemption pursuant to this section.

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

15 Feb 2013 cE-10.21 Reg 5 s5; 12 Feb 2016 SR
6/2016 s5.

Voluntary product management program

6(1) A non-resident brand owner may undertake either of the following obligations pursuant to these regulations with respect to its packaging or paper:

(a) to operate a product management program as approved by the minister pursuant to section 7;

(b) to enter into an agreement with a person to operate, on the non-resident brand owner's behalf, a product management program as approved by the minister pursuant to section 7.

(2) The minister may deal with an application made for the purposes of clause (1)(a) in the same manner as an application made by a steward and, for that purpose, sections 7 to 9 apply, with any necessary modification, to that application.

(3) Notwithstanding any other provision of these regulations but subject to subsection (4), if the minister has approved the product management program of the non-resident brand owner pursuant to section 7 or if the non-resident brand owner has entered into an agreement pursuant to clause (1)(b), a steward that receives packaging and paper from the non-resident brand owner is relieved of its obligations pursuant to section 5 with respect to that packaging and paper.

(4) A steward mentioned in subsection (3) is no longer relieved of its obligations pursuant to section 5 if:

(a) in the case of a non-resident brand owner operating a product management program:

(i) the non-resident brand owner ceases to operate the product management program; or

(ii) the minister suspends or cancels the approval of the product management program pursuant to section 9; or

(b) in the case of a non-resident brand owner who has entered into an agreement with a program operator:

(i) the non-resident brand owner has ceased to participate in the product management program;

(ii) the program operator is satisfied that the non-resident brand owner has failed to comply with the terms and conditions of the product management program; or

(iii) the minister suspends or cancels the approval of the product management program pursuant to section 9.

(5) In the circumstances mentioned in clause (4)(a) and subclause (4)(b)(iii), the minister shall provide notice to each steward mentioned in subsection (3) that it is again required to meet its obligations and state a reasonable period by which the steward must either:

- (a) apply to the minister pursuant to clause 7(1)(a) for approval to operate a product management program; or
- (b) enter into an agreement with a program operator to operate, on the steward's behalf, a product management program approved by the minister pursuant to section 7.

(6) In the circumstances mentioned in subclauses (4)(b)(i) and (ii), the program operator shall:

- (a) provide notice to the minister that the non-resident brand owner has ceased to participate in the product management program or that the non-resident brand owner has failed to comply with the terms and conditions of the product management program; and
- (b) provide notice to each steward mentioned in subsection (3) that it is again required to meet its obligations and state a reasonable period by which the steward must either:
 - (i) apply to the minister pursuant to clause 7(1)(a) for approval to operate a product management program; or
 - (ii) enter into an agreement with a program operator to operate, on the steward's behalf, a product management program approved by the minister pursuant to section 7.

15 Feb 2013 cE-10.21 Reg 5 s6.

Approval to operate product management program

7(1) A steward or non-resident brand owner who operates or intends to operate a product management program, or a person who operates or intends to operate a product management program on a steward's or non-resident brand owner's behalf, must:

- (a) apply to the minister for approval of the program in a form acceptable to the minister; and
- (b) 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 management program unless the program description set out in the application:

- (a) provides details to satisfy the minister that the product management program meets the standards set out in subsection (4);
- (b) provides details of the management structure of the program;
- (c) provides details with respect to:
 - (i) the creation of an advisory committee to the program operator, including details to satisfy the minister that there will be, in the minister's opinion, sufficient Saskatchewan representation on the advisory committee;

- (ii) the role of the advisory committee in relation to the operation of the program; and
 - (iii) the board of directors of the program operator, including details to satisfy the minister that there will be, in the minister's opinion, sufficient Saskatchewan representation on the board of directors;
- (d) provides details with respect to the manner in which the product management program will represent the interests of industry, municipalities, First Nations, environmental organizations, existing recycling service providers, Saskatchewan residents and the Government of Saskatchewan, including:
- (i) with respect to existing recycling service providers, the manner in which the interests of those providers will be considered, including a description of how the program takes into consideration the social and capital infrastructure value of existing recycling operations in Saskatchewan; and
 - (ii) with respect to municipalities:
 - (A) the manner in which the product management program will participate with existing municipal residential waste diversion programs to maximize recycling rates; and
 - (B) the manner in which municipal participation in recycling will be increased;
- (e) provides details with respect to:
- (i) the public education or public awareness and communication strategy for the product management program that is satisfactory to the minister, including details with respect to:
 - (A) the manner in which consultation will take place during the development of the program and after the program is operational;
 - (B) a description of how municipalities and First Nations will be encouraged to participate in the program; and
 - (C) a description of how the public will be informed about the product management program and any changes to that program;
 - (ii) the manner in which financial disputes related to the program will be resolved;
 - (iii) the manner in which waste packaging and paper will be collected in all areas of Saskatchewan, including details with respect to how collection and recycling of waste packaging and paper will be managed through municipal residential waste diversion programs;

- (iv) options for recycling waste packaging and paper under the product management program, with information to satisfy the minister that the options chosen will minimize the impact of waste packaging and paper on the environment;
- (v) the policies and procedures to be followed by any person collecting or processing waste packaging and paper collected pursuant to the product management program;
- (vi) how the product management program will be funded and how funds under the product management program will be expended, including:
 - (A) if more than one steward or non-resident brand owner participates in the product management program, the system to be used for the collection of revenues from stewards and non-resident brand owners and the payment of expenditures;
 - (B) setting out the funding formula to be used with details sufficient to show that the funding formula is appropriate for the range of collection and recycling options offered under the program across Saskatchewan;
 - (C) setting out the manner in which the net costs of a residential waste diversion program for waste packaging and paper operated by a municipality will be determined;
 - (D) measures that will be taken to report to the stewards and non-resident brand owners participating in the product management program with respect to how fees charged to stewards and the non-resident brand owners will be determined and applied;
- (vii) measures that will be taken with respect to quality control and assurance, including measures to collect, track and audit information required for the purposes of the product management program; and
- (viii) how the following matters will be determined and measured:
 - (A) program convenience, effectiveness, efficiency, fairness, sustainability, municipal accessibility, participation rates and resident feedback;
 - (B) recovery rates of waste packaging and paper, including:
 - (I) the kilograms per capita collected;
 - (II) the amount of revenue collected from the sale of packaging and paper that has been recycled; and
 - (III) the amount of waste packaging and paper collected under the product management program, including showing how the matters set out in subsection (3) will be determined and measured;

- (f) provides details with respect to the development of a measurement tool that:
 - (i) measures and tracks the greenhouse gas emissions of Saskatchewan's waste paper and packaging diversion activities; and
 - (ii) is implemented not later than three years after the commencement of the product management program;
 - (g) provides details of any collaborative initiatives undertaken or to be undertaken with other product management 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, including details with respect to:
 - (i) any voluntary cooperation with those other product management programs; or
 - (ii) participation in any waste minimization board that may be established pursuant to the Act.
- (3) For the purposes of subparagraph (2)(e)(viii)(B)(III), the matters to be shown are the following:
- (a) the total amount of waste packaging and paper diverted from municipal landfills;
 - (b) the recovery rate of diverted waste packaging and paper expressed as a percentage of the total waste packaging and paper that is generated in Saskatchewan;
 - (c) for each category of waste packaging and paper:
 - (i) the total amount diverted from municipal landfills; and
 - (ii) the recovery rate of diverted waste packaging and paper expressed as a percentage of the total waste packaging and paper for that category that is generated in Saskatchewan.
- (4) In determining whether or not to approve a product management program pursuant to these regulations, the minister must be satisfied that the program meets the following standards:
- (a) if a municipality operates a residential waste diversion program for waste packaging and paper or another person operates a residential waste diversion program for waste packaging and paper on behalf of a municipality, the municipality or other person:
 - (i) operates an efficient and effective program; and
 - (ii) will be reimbursed for up to 75% of the net costs of operating the program;

- (b) the funding formula set out in paragraph (2)(e)(vi)(B) is appropriate for the range of collection and recycling options to be offered under the program across Saskatchewan;
 - (c) the product management program provides convenient, effective and efficient recycling to Saskatchewan residents, taking into consideration Saskatchewan's demography and geography;
 - (d) the product management program maximizes diversion of residentially generated waste packaging and paper from municipal landfills and, as a result, will extend the life of the landfills, reduce release of leachate and emission of greenhouse gases, and conserve resources;
 - (e) the product management program maximizes social benefits, including encouraging municipalities to contract with persons, bodies or other entities that:
 - (i) provide employment and training to persons with disabilities; and
 - (ii) operate efficient and effective programs;
 - (f) the product management program encourages entrepreneurial opportunities within Saskatchewan.
- (5) If the minister is satisfied that a proposed product management 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 management program; and
 - (b) impose any terms and conditions on the approval that the minister considers appropriate.

15 Feb 2013 cE-10.21 Reg 5 s7; 12 Feb 2016 SR
6/2016 s6.

Changes to product management program

8 A program operator shall notify the minister in writing of any significant change to its product management program, including any change that would result in the reduction of the collection and recycling of residential waste packaging and paper.

15 Feb 2013 cE-10.21 Reg 5 s8.

Suspension or cancellation of approvals

9(1) Subject to subsection (2), if, in the minister's opinion, a product management program is not being operated in accordance with the Act, these regulations or the terms and conditions of the 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 give the program operator an opportunity to be heard.

(3) 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 program operator an opportunity to be heard, but the minister shall give the program operator an opportunity to be heard within 15 days after the date on which the minister takes any of those actions.

15 Feb 2013 cE-10.21 Reg 5 s9.

Annual reporting

10(1) In this section, “**reporting period**” means the period commencing on April 1 in one year and ending on March 31 of the following year.

(2) On or before July 31 in each year, every program operator must prepare and submit to the minister an annual report describing the activities of the product management program during the previous reporting period, including:

- (a) the types and amount of:
 - (i) residentially generated waste packaging and paper supplied for use in Saskatchewan by the stewards and non-resident brand owners on whose behalf the program is being operated; and
 - (ii) waste packaging and paper collected under the program, showing:
 - (A) the total amount of residentially generated waste packaging and paper diverted from municipal landfills;
 - (B) the recovery rate of diverted waste packaging and paper expressed as a percentage of the total waste packaging and paper that is generated in Saskatchewan; and
 - (C) for each category of waste packaging and paper:
 - (I) the total amount diverted from municipal landfills; and
 - (II) the recovery rate of diverted waste packaging and paper expressed as a percentage of the total waste packaging and paper for that category that is generated in Saskatchewan;
- (b) the fees charged to stewards and non-resident brand owners participating in the product management program by category of waste packaging and paper, including an explanation of any significant changes to those fees;
- (c) the total amount of fees collected from stewards and non-resident brand owners who are participating in the product management program to fund the program;

- (d) the amount spent to operate the program in Saskatchewan;
 - (e) the costs incurred to administer the program;
 - (f) the amount spent on public education or public awareness and communication; and
 - (g) any other information that the minister may reasonably require.
- (3) A report pursuant to subsection (2) must be in a form and contain details satisfactory to the minister.
- (4) **Repealed.** 12 Feb 2016 SR 6/2016 s7.

15 Feb 2013 cE-10.21 Reg 5 s10; 12 Feb 2016 SR 6/2016 s7.

Transitional

- 11(1)** No steward shall fail to comply with section 5 within 180 days after the day on which these regulations come into force.
- (2) No non-resident brand owner undertaking the obligations mentioned in section 6(1) shall fail to comply with section 7 within 180 days after the day on which these regulations come into force.
- (3) At the request of a steward or a non-resident brand owner undertaking the obligations mentioned in subsection 6(1), and if the minister considers it appropriate, the minister may extend the period mentioned in subsection (1) or (2).

15 Feb 2013 cE-10.21 Reg 5 s11.

Coming into force

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

15 Feb 2013 cE-10.21 Reg 5 s12.

