

## CFIB submission on proposed changes to the *Household Packaging and Paper Stewardship Program* regulations and the *Multi-Material Recycling Program*

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On behalf of the Canadian Federation of Independent Business (CFIB) and our 4,300 members in Saskatchewan, we appreciate the opportunity to provide feedback on the proposed changes to the *Household Packaging and Paper Stewardship Program* regulations and the *Multi-Material Recycling Program (MMRP)*.

### Program Model - Full Extended Producer Responsibility

CFIB has heard from several concerned small business owners who fear the proposal to move to full extended producer responsibility (EPR) will negatively impact their business operations at a time when they are still months - and in some cases years - away from a full recovery after the pandemic. Saskatchewan small businesses are in no position to take on additional costs, and their capacity to take on additional administrative burdens is also limited.

According to our latest [Small Business Recovery Dashboard](#), 51 per cent of Saskatchewan small businesses are still below normal sales levels, and the majority are still facing significant pandemic-related debt and stress. CFIB survey results indicated that business owners cannot afford to take on increased recycling costs at this time. In addition, small business owners say they cannot pass on additional recycling costs to their customers, and they have little control over the weight of packaging used in their businesses.

To be successful, the Saskatchewan EPR program needs to be considered through a small business lens. Changes to the regulations need to be effectively communicated in simple language that anyone can understand and impose the least amount of red tape possible. Any EPR program also needs to ensure that costs do not impose an unfair burden on small businesses, when the real “producers” are typically much bigger companies.

Beyond the issue of cost to small businesses, the challenge of transitioning to a full EPR program in Saskatchewan will be creating a program that is easily adopted, easy to understand, low-cost, and has achievable targets. As it considers changes to the MMRP model, the Saskatchewan government is in a good position to learn from the strengths and weaknesses of other provincial recycling programs and use the experiences of other jurisdictions to create a more efficient and effective EPR program. When Alberta was looking to introduce an EPR program, CFIB asked small business owners to indicate their key priorities for a new recycling program. The key priorities identified were:

- **Financial transparency:** the cost of implementing and operating under the full EPR program should be disclosed, with a comparison to the status quo (85% agree);
- **Affordability:** government must consider the affordability of a full EPR program, including the compliance burden for small businesses (83% agree);
- **Program review:** the EPR program’s impacts and effectiveness should be reviewed regularly, and any

- issues identified should be addressed (82% agree); and
- **Red tape accountability:** government should track the total EPR regulatory compliance requirements found in all related legislation, regulations, policy documents and forms (82% agree).

### Determination of Steward/Producer

CFIB has heard from small business owners in both BC and Ontario that the lack of clear, simple, and plain language used in regulations and communications to business owners creates a significant red tape burden. EPR programs are complex and require clear and effective communication to business owners and the public. In Ontario, the standard steward/producer definitions are so unclear that business owners have called CFIB's business advisors asking if they are defined as a producer and required to comply with EPR regulations.

The definition of who is obligated as a steward/producer needs to be clearly communicated, so there is no confusion. In addition, an easy-to-navigate website that outlines all program requirements (such as requirements to weigh and measure products) will help reduce red tape and create a transparent and accountable EPR program. CFIB also recommends Saskatchewan's EPR program have a business specific call-in number and dedicated email to help business owners with any questions they might have with the EPR program.

### Prescribed Products

CFIB advises that government keep the list of prescribed products small in the beginning stages of rolling out the full EPR program to give businesses ample time to adapt. If the government decides to expand or add prescribed products, they must first consult with business owners.

Given the federal government is moving forward with their plan to implement a national ban on certain single-use plastics, CFIB cautions the Saskatchewan government against including any single-use products that will be banned nationally. It makes sense to avoid the red tape and potential additional costs involved with recycling some of these products when they will soon be banned across the country.

### Business Exemptions

CFIB supports and is pleased to see the government has kept an exemption for small businesses; however, we strongly believe that the revenue threshold should remain at \$2 million instead of being cut in half to \$1 million. CFIB's research shows a \$1 million threshold would exempt only 61 per cent of Saskatchewan small businesses. Given the impacts of the pandemic, small businesses will continue to struggle to stay afloat in the years to come and their primary focus will be on paying down their COVID-19 debt, which for the average small business in Saskatchewan is an alarming \$95,188. CFIB strongly recommends the exemption include as many small businesses as possible; therefore, we recommend the exemption threshold remain at \$2 million to include nearly 80 per cent of Saskatchewan small businesses.

We also advise against the removal of the single point of retail exemption. Following three months of consultation with small businesses in BC, Multi-Material BC (MMBC) implemented a small business policy which exempts businesses that operate as a single point of retail sale. In addition, BC businesses that fall under the small business exemption are not required file a program plan of their own or join Recycle BC's program.

Requiring all businesses to provide additional evidence of meeting exemption criteria to the producer responsibility organization (PRO) will create a significant administrative burden that small business owners should not have to shoulder. To keep red tape to a minimum for smaller businesses with little environmental impact, businesses should only have to show their revenue is below the threshold. They should not be required to submit any extra paperwork to the PRO. The exemption threshold for Ontario's new EPR program for printed paper and packaging is \$2 million, and as CFIB recommended in Ontario, we strongly advise that businesses

below this threshold should not have any program obligations other than to keep records proving their revenue is under the \$2 million exemption threshold.

Tonnage exemptions should be applied to a separate, secondary exemption category, as in Ontario. For example, Ontario producers with less than \$2 million in annual revenue have one obligation only: to keep records proving they qualify for the revenue exemption. These producers do not have to register with the Recycling Authority or meet any other reporting requirements. A producer who is above the \$2 million revenue-based exemption level may **still** be exempt from performance requirements (collection, management, promotion, and education) if their supply weight is below the following exemption levels:

Ontario Blue Box material category	Supply-based exemption level (in kgs)
Paper	9,000
Rigid Plastic	2,000
Flexible Plastic	2,000
Glass	1,000
Metal	1,000
Non-alcoholic Beverage Containers	1,000

Source: [Resource Productivity & Recovery Authority](#)

Ontario-based producers who are above the revenue-based exemption but below the tonnage exemption threshold in all material categories are only required to register and report. If a producer is above the revenue-based exemption and above the tonnage exemption threshold in at least one material category, producers are required to meet all obligations (registration, reporting, collection, management, and promotion and education). However, producers are only required to meet their management requirement in material categories where they are above the exemption level.

We have also heard concerns from small business owners regarding the fact that franchised businesses are required to add together the revenues and paper and packaging waste levels of all establishments in the franchise and if combined sales are over the revenue threshold, then each individual franchisee is required to pay into the program even if their establishment is under the revenue/tonnage threshold. In other words, franchised businesses are being penalized, and the program creates a disincentive for business owners to expand and open additional establishments. We recommend that each individual business establishment be considered as a separate entity, regardless of franchisee/franchisor relationships.

## Recycling Rates and Targets

The government should be cognizant of setting targets that are both achievable and reflective of Saskatchewan's diverse economic composition. The government should also show how it arrived at the determined targets and report on its progress meeting these targets. Businesses are already struggling with rapidly increasing costs in other areas. If fees are unreasonable, they would be left with no choice but to increase prices, and they are worried this would further deter customers.

## Accountability

It will be important for the PRO to show they are meeting the goals and principles of the program. The government needs to demonstrate that the EPR policy is improving environmental outcomes; otherwise, the policy is not working.

There must be annual reporting of the funding position of the PRO. If the organization becomes over-funded, there must be a mechanism to return surpluses back to the businesses that paid them. We recommend that the

Saskatchewan government legislate an accountability framework for the PRO, so fees are reasonable, over-funding is avoided, and surpluses are returned to businesses.

### Transition and Consultation on Product Stewardship Program

Critical to the success of Saskatchewan's EPR program will be the length of the planning and transition period. It must be reasonable in order to ensure small businesses are not burdened with new costs or recycling fees at a time of great vulnerability when their recovery is still under way. Only half of Saskatchewan small businesses are back to making normal sales, and 58 per cent are still paying off significant COVID-related debt.

We appreciate the proposal to use a phased-in approach. Ontario is taking over six years to transition its printed paper and packaging program to full EPR. Discussions and planning started in mid-2019, with the program itself set to transition between July 1, 2023, and December 31, 2025. Saskatchewan should remain committed to a long phase-in timeline, given the magnitude of change for everyone and the fact that municipal programs need time to transition out of the current program. Consider postponing phased-in implementation until at least 2025 to reflect small businesses' extended period of economic recovery following the pandemic.

We also recommend the Saskatchewan government create an Industry Advisory Council (IAC) made up of representatives from key associations, including CFIB. The IAC would meet regularly with the PRO and/or government on progress with the transition to EPR and advise on other related matters.

### Enforcement

CFIB recommends that enforcement begin with an "education first" policy leading up to, and during the first year of the program's full operation. This means the first job of compliance officers should be education, not fines or ticketing. It is hard to comply with a rule if you do not know it exists, and we've yet to see if communications on this program will be effective.

In addition, the Saskatchewan government should produce a plan to address "free riders" (big online companies that do not pay fees, but whose products are collected by local recycling systems). While Ontario addressed the free rider issue by including a new section on "Marketplace sellers" in its Blue Box Regulation 391/21, enforcement will be a challenge.

### Conclusion

On behalf of small businesses in Saskatchewan, CFIB recommends the following:

- Leave the revenue threshold at \$2 million to exempt more Saskatchewan small businesses; do not lower the exemption threshold to \$1 million. Tonnage exemptions could be applied to a separate exemptions category, like in Ontario.
- Remain committed to a long planning and implementation/transition period to account for COVID recovery and the magnitude of change for everyone, including municipalities that need time to transition out of the program. Consider postponing phased-in implementation until at least 2025.
- Enforcement should begin with an "education first" policy leading up to, and during the first year of the program's full operation.
- Ensure the regulations are communicated in clear, simple language that everyone can understand and keep red tape requirements to a minimum (i.e., do not ask for what you do not need).

- When determining if a business is exempt, consider each individual business establishment separately regardless of franchisee/franchisor relationships.
- Do not remove the exemption for single point of retail sale.
- Start with a compact list of prescribed products to give small businesses ample time to adapt. If the government decides to add prescribed products, they must first consult with business owners.
- Provide a business specific call-in number and dedicated email to help business owners with any questions they might have with the EPR program. In addition, create an easy-to-navigate website, including requirements to weigh and measure products, to help reduce red tape and create a transparent and accountable EPR program.
- Legislate an accountability framework for the PRO, including public annual reporting, to ensure fees are reasonable, over-funding is avoided, and surpluses are returned to businesses.
- Clarify and communicate the roles of the PRO, the provincial government, and municipal governments for such key areas as communications, stakeholder assistance, public reporting, program oversight, and enforcement.
- Create an Industry Advisory Council (IAC) made up of representatives from key associations, including CFIB. The IAC would meet regularly with the PRO and/or government on progress with the transition to EPR and advise on other related matters.