



**British Columbia  
'Packaging Regulation 101'  
What *Producers* need to know**

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**September 29, 2011**

**ISSUE:**

On May 19, 2011, British Columbia's Department of Environment regulated all packaging used in the province. When the regulations are fully implemented, any person or company that produces a material that falls under this regulation will be required, by law, to manage and pay for the end-of-life management of that material. The timeline to comply with the regulations varies depending on the end use of the designated material (i.e. household packaging vs commercial packaging).

**BACKGROUND:**

British Columbia has designated all packaging consumed in its province under a regulation titled 'Recycling Regulation (Regulation 449/2004)'. The regulation works under the authority of the British Columbia Environmental Management Act (2003). Under this legislation, persons or companies (*producers*) that produce materials designated in the regulation are required to manage and pay for a scheme to manage all of those materials at the end of their useful life.

The type of packaging targeted is very broad and it is understood that it includes agricultural products such as bale wrap and twine and other industrial packaging for items like industrial chemicals and disinfectants.

The program targets any person or company that manufactures, brands and/or sells a product into any market in B.C. that is packaged in any way or is used as a package during its life cycle. The Recycling Regulation was in existence prior to May 19, 2011 and included a host of other products such as paint, solvents, electronic and electrical goods, beverage containers etc. The British Columbia Ministry of Environment simply added 'packaging', with some minor amendments, to this regulation.

It is understood that the industrial, commercial and institutional (IC&I) industry will not be exempt from this regulation and will affect virtually every agricultural producer or industrial producer in British Columbia.

Despite the fact that IC&I packaging is not exempt from the regulation, the Ministry of Environment have clarified that IC&I packaging producers are not required to comply with the regulation at the present time. Instead, they have asked the IC&I sector to develop voluntary programs for managing their packaging and they have stated the Ministry will make this requirement mandatory at some time in the future.

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**What is a package?**

Packaging is already defined in the British Columbia Environmental Management Act and is defined as a material, substance or object that is:

- Used to protect, contain or transport a commodity or product, or;
- Attached to a commodity or product or its container for the purpose of marketing or communicating information about the commodity or product.

This broad definition of packaging does not distinguish between residential and industrial, commercial and institutional (ICI) packaging or sources and therefore includes agricultural products such as:

- Pesticide containers
- Seed and fertilizer bags
- Used twine and net wrap
- Silage and hay bale wrap
- Cardboard
- Chemical containers and other packaging
- Disinfectant containers and other packaging
- Animal health product containers
- Greenhouse and nursery pots, liners, trays and flats

**Who is a *producer*?**

“Producers” are defined in the Recycling Regulation as:

- A person who manufactures sells, offers for sale or uses in a commercial enterprise a designated product in British Columbia;
- A person who is not the manufacturer but is the owner or licensee of a trademark under which the product is sold or distributed in British Columbia;
- A person who imports the product into British Columbia for sale, distribution or use in a commercial enterprise.

Agricultural manufacturers, retailers or distributors, manufacturers and suppliers to industrial and institutional sectors and even some farmers could be defined as a producer. Each producer will be obligated under the regulation to meet specific requirements.

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**What do *producers* of packaging have to do?**

First and foremost, producers need to understand that they do not need to respond on their own to these regulations. Because the requirements under the legislation are quite onerous, producers can work together and use a stewardship organization like CleanFARMS to manage their obligations for them. This doesn't exempt each producer from the legislation, however it does give them the opportunity to pay for the services of a company like CleanFARMS that has the expertise and wherewithal to manage their obligations for them.

The British Columbia Recycling Regulation requires designated producers to prepare and submit a stewardship plan to the Ministry for approval that shows how they will meet their regulatory obligations and operate their program(s). The legislation allows producers time to get themselves organized and meet their obligations.

The Ministry of Environment has provided further clarification on who is required to comply immediately with this regulation. In simple terms, producers of packaging that go to household premises are implicated immediately. Producers of commercial packaging, however, do not have to comply immediately, but will be required to at some time in the future. Following is a statement by the Ministry of Environment regarding this issue:

***Q: Is ICI (Institutional, Commercial, Industrial) packaging and printed paper exempted (sic)?***

***A: No, the definition of packaging and printed paper does not exclude sectors. The stewardship plan must adequately provide for collection of the product by the producer from residential premises and municipal property that is not industrial, commercial or institutional property. Several commercial businesses are getting out ahead of the game and collecting all packaging they produce (e.g. London Drugs, Starbucks). It is the Ministry's expectation that ICI facilities will show leadership and strive to collect and recycle as much packaging as possible from their facilities (e.g. hospitals, schools, offices, restaurants, hotels, etc). Municipalities may also enact bylaws that ban packaging disposal that comes from ICI facilities and/or require all ICI licensed facilities to recycle packaging. The provincial government intends to include packaging and printed paper from private spaces, for example, spaces within industrial, commercial and institutional settings in the future.***

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At this time, it is understood the following key steps would occur for all producers designated in the regulation:

**Step 1:** The British Columbia government designates packaging under the Recycling Regulation. Completed May 19, 2011.

**Step 2:** Producers who are obligated under the Regulation are required to respond by preparing a stewardship plan describing how they will undertake their stewardship obligation. Producers can work under an umbrella organization like CleanFARMS and public consultation must be completed prior to submitting a plan to the Ministry. Each plan must be submitted to the Ministry by November 19, 2012.

**Step 3:** Once complete, each stewardship plan would be filed with the British Columbia Ministry of Environment and ultimately approved by the designated director.

**Step 4:** The stewardship plan would establish a program launch date and implementation plan. Programs must begin no later than May 19, 2014.

**What is in a Stewardship Plan?**

Under the Recycling Regulation, producers must either submit their own Stewardship Plan, or be part of an organization, like CleanFARMS, that submits a Stewardship Plan on their behalf. The Recycling Regulation requires that, at a minimum, the plan identifies and respond to the following:

- Conduct public consultation on their proposed plan and engage local governments, recyclers, small businesses, non-government organizations and the general public, prior to submitting the plan for Ministry approval;
- Achieving a 75% recovery rate and/or other performance targets;
- Reporting on packaging sold and collected;
- Development of a collection and recycling system;
- Collection and payment of the costs of program operation from producers for collection and end-of-life management (reuse, recycling, recovery of materials);
- Structure of financial management (e.g. fee tracking) and overall program operation;
- Reasonable consumer access to collection facilities;
- Population and geographic areas served;
- Advertising and consumer education;

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- Program timelines including program phasing;
- Elimination and reduction of product and packaging environmental impacts; and
- Meeting other regulation and by-law requirements.

**CONCLUSIONS**

1. All packaging has been designated under the B.C. Recycling Regulation for management through an Extended Producer Responsibility approach that has already been established for other materials.
2. Producers of any products using packaging and consumed in the province of BC and that is distributed to households are obligated to prepare a Stewardship Plan and are responsible for the funding and operation of a collection and recycling program.
3. Producers of any products using packaging and consumed in the province of BC and that is distributed to commercial business are not obligated now but will be obligated at some time in the future to prepare a Stewardship Plan and fund the operation of a collection and recycling program
4. CleanFARMS Inc. is an existing national not-for-profit stewardship organization that is interested in representing producers in the agricultural industry and other complimentary industries helping them meet their obligations under the proposed legislation. CleanFARMS staff has considerable experience designing, implementing and operating similar programs.

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**Appendix A**

**Extended Producer Responsibility Overview**

British Columbia's approach to packaging regulation is intended to be an Extended Producer Responsibility (EPR) approach. This is not a new approach for all Organization for Economic Cooperation and Development (OECD) countries. The OECD has defined EPR ten years ago as:

*“ . . . an environmental policy approach in which a producer's responsibility, physical and/or financial, for a product is extended to the post-consumer stage of a product's life-cycle” (EPR: A Guidance Manual for Governments, OECD 2001).*

While the OECD defined EPR in 2001, the approach began over ten years earlier. It was first proposed in Sweden and first acted on in Germany in 1991 for packaging.

British Columbia was the first Canadian jurisdiction to adopt EPR through its regulation mandating industry paint stewardship in 1994. It has since used EPR for tires, beverages, electronic and electrical equipment, lead acid batteries, used crankcase oil, containers and filters, pharmaceuticals and solvents.

EPR has been adopted widely in Europe, Japan, Korea, Australia and in some U.S. states. It exists in Canada in the form of over 40 distinct programs, mostly regulated, which include paint, packaging, used crankcase oil, tires, electronics, solvents, household hazardous wastes, pharmaceuticals, refrigerants (ODS) and pesticide containers.

The use of EPR in Canada has also been sanctioned through the Canadian Council of Ministers of Environment (CCME) Canada-wide Action Plan for EPR and Sustainable Packaging Strategy. Packaging EPR has been identified as a high priority by CCME.

Roles and responsibilities under a typical EPR program are divided as follows:

<b>Government</b>	<b>Producers</b>	<b>Consumers</b>
Designates products	Prepare a stewardship plan	Participate by returning products and packaging
Identifies producers	Establish a not-for-profit corporation or act individually to meet obligations	
Sets scope and goals for programs	Raise funds to operate the program	
Establishes performance measurement and reporting protocols	Are responsible for program operation (either directly or indirectly)	
Enforces level playing field	Report on performance and program operation	

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**Appendix B**

**British Columbia Extended Producer Responsibility (EPR)**

British Columbia is an experienced leader in Canada in the application of EPR. The province has committed publicly to having an EPR program for packaging in place by 2015, at the latest, in keeping with the commitments under the CCME Canada-wide Action Plan for EPR.

The inclusion of packaging under the Recycling Regulation is also not new, having been highlighted in a number of public announcements and conferences such as the Recycling Council of British Columbia annual conference in June 2010 and an additional workshop in November 2010.

The Recycling Regulation requires designated Producers to prepare and submit a stewardship plan to the British Columbia Ministry of Environment for approval. The stewardship plan must show how they will meet their regulatory obligations and operate the EPR program. Steps to meet the plan include:

1. The B.C. government first designates packaging under the Recycling Regulation (Completed May 19, 2011)
2. Agricultural packaging is included in the generic packaging definition.
3. Producers who are obligated under the Regulation (i.e. companies which manufacture, sell, distribute or import for sale) are required to collectively or individually respond by preparing a stewardship plan describing how they will undertake their stewardship obligation.
4. A time period for preparation and submission of the stewardship plan is established by the Province.
5. The stewardship plan is filed with the B.C. Ministry of Environment, no later than October 18, 2012, and is ultimately approved by the designated director.
6. The approved plan would establish a program launch date and possible program phasing. The launch date is no later than 36 months later than May 19, 2011.

Designated Producers of agricultural packaging must undertake their responsibility by doing the following:

- Organize themselves either individually or under an organization like CleanFARMS to manage their legal obligation;
- Raise funds to pay for the obligations;
- Establish tracking and reporting mechanisms;
- Communicate and educate the public on the program;
- Collecting packaging through depots, return to point of sale etc. and recycling or otherwise managing the packaging;
- Reporting to the Province on achievement of recovery rate(s) and performance goals.