

## Extended Producer Responsibility Regulations

### Information sheet – February 2022

#### Executive summary

- Until now, participation in the CropLife SA container management scheme has been ‘the right thing to do’
- From mid-2022<sup>1</sup>, it will be law for industry participants to take responsibility for the collection of pesticide packaging & obsolete stocks from the end-user, along with the associated record keeping & reporting to the Dept. Environment, Forestry & Fisheries
  - o All players in the value-chain will be impacted
    - It is not just suppliers but also distributors, crop advisers & farmers who will have to comply with the law
- CropLife SA & your ExCo believe it is in the interest of members to establish an industry PRO, managed by the CropLife SA Team on behalf of member companies, to remove the administrative burden from participating member companies & to achieve critical mass benefits
  - o An EPR levy of 0.075% of declared turnover will be charged for participants in the CropLife SA EPR
    - Only so-called ‘L-number’ products & their packaging will be handled by the CropLife SA EPR
  - o participation is voluntary & member companies are free to do their own homework to learn all about the EPR & establish their own PRO & network of collection points & recyclers
    - the CropLife SA Team will only be supporting the collective PRO & will not be available to advise or support independent PRO’s
- all CropLife SA member companies have received information relating to the EPR & CropLife SA PRO in various forms since 2021 so all member companies should by now be aware of the law
- acronyms to remember:
  - o EPR: Extended Producer Responsibility
  - o PRO: Producer Responsibility Organisation

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#### Background

- The Extended Producer Responsibility Regulations (published in Government Gazette # 43879, Notice No. 1184) were published by the Ministry of Environment, Forestry & Fisheries (DEFF) on 5 November 2020
  - o These regulations are published under the National Environmental Management: Waste Act (2008)
- Once the ‘umbrella’ regulations were published, DEFF then started to develop & publish specific regulations for various waste streams from different industries
  - o To date, regulations have been published in the government gazette for:
    - Paper, packaging & some single use plastics
    - Lighting sector
    - Electrical equipment
- **A new set of regulations that will specifically control pesticide packaging are currently being drawn up by DEFF & are expected to be published by mid-2022**

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<sup>1</sup> It is expected that the specific EPR regulation for pesticides will be published mid-2022

- Due to the association already having a well-established empty pesticide container management programme in place, CropLife SA has been asked by DEFF for inputs into the efforts to finalise draft regulations ready for public comment in the coming months
- **Extended Producer Responsibility (EPR)** is defined in the regulations as meaning: *a producer's responsibility for their product is extended to the post - consumer stage of a product's life cycle*
  - o The regulations have several aims – a non-exhaustive list includes:
    - Reducing the volume of packing that enters the waste stream ie: that is disposed in landfills, or discarded in the environment
    - Develop a circular economy for packaging wherever possible
    - Develop a process for mandatory take back of all products at the end of their life
    - Providing a framework for the implementation of the EPR, including the establishment of a Producer Responsibility Organisation (PRO)
  - o In the CropLife SA context, extending responsibility to the post-consumer stage includes recovery of empty, triple-rinsed & punctured packaging, plus obsolete stocks
- **A Producer Responsible Organisation (PRO)** is defined in the regulations as: *a not-for-profit organisation, established by producers or any person operating in any of the industrial sectors covered in the Notices published in terms of the Act, to support the implementation of their extended producer responsibility scheme and may represent either individual or collective producers*
  - o A producer is therefore obligated to either setup its own PRO, or participate in an established industry-led PRO
  - o A PRO is mandated by the EPR Regulations to fund its efforts via payments from producers utilising the services of the PRO
- **A Producer** is defined in the regulations as *any person or category of persons, or a brand owner, who is engaged in the commercial manufacture, conversion, refurbishment or import of new and /or used products as identified by the Minister by Notice in the Government Gazette in terms of section 18(1) of the Act;*
  - o In the CropLife SA context, this is any company that places a product, registered in terms of Act No. 36 of 1947 (only so-called 'L-number' products), on the local market

### CropLife SA actions

- The CropLife SA Executive Council has approved the following:
  - o CropLife SA will establish a PRO Q1 of 2022
    - Even though the final draft of the pesticide-specific EPR regulation is pending, it was agreed with your ExCo that the CropLife SA PRO scheme needed to be established so as to be ready for the publication of the regulation
    - It is also necessary either
      - Create awareness amongst CropLife SA members so that they can either prepare to join the CropLife SA PRO, OR
      - start to establish their own independent PRO for their own products

- Should they elect to participate in the CropLife SA PRO:
    - Supplier members can budget for the PRO levy for their 2022 operations
    - Distributor member companies are aware that there will be a negligible increase on the price they pay their suppliers for products from 2022
- The PRO will be funded via a levy paid by participating producers (in the case of CropLife SA, this means **supplier** member companies)
  - The levy will be charged at a percentage of the producer's annual turnover as per confidential declarations made to the CropLife SA PRO
    - The initial levy to be charged has been set at 0.075%
    - This will be reviewed as the PRO evolves but will kept low by the participation of as many CropLife SA supplier member companies as possible
  - The umbrella EPR allows for any industry levy to be passed down through the value chain & we expect the same for the pesticide-specific regulation
- In addition, to enable the CropLife SA PRO to meet the requirements of the EPR regulation in terms of statistical returns to DEFF, participating producers will also need to make confidential declarations specifying the volume of different types of pesticide packaging placed on the market each year
  - The submission of regular reports to the Ministry is a requirement of the PRO & must include information such as:
    - Volume of product & packaging entering the economy, volume collected, volume of collected material that is recycled, volume of collected material that is destroyed (end of life), etc.
- Participation in the CropLife SA PRO (under the EPR regulations) will be voluntary

CropLife SA already has a number of resources available in terms of guidance documents for the correct procedures to follow for the triple-rinsing of various pesticide packaging types, as well as a network of recyclers certified to collect empty, triple-rinsed & punctured pesticide containers

- Those member companies participating in the future CropLife SA PRO collection schemes will be able to utilise the services outlined above; those producers not participating in the CropLife SA PRO scheme will not have access to these resources

### Important to note

- So-called L-number products
  - The Dept. Environment, Forestry & Fisheries has made it quite clear that the pending pesticide-specific EPR regulation will focus ONLY on products registered under Act No. 36 of 1947 that have been assigned an 'L' registration number
  
- Triple rinsing
  - The collection & recycling of empty pesticide containers is permissible through standard recycling streams ONLY if the packaging has been triple-rinsed
  - Pesticide packaging that has not been triple-rinsed remains classified as hazardous waste & must be disposed of accordingly
  - The CropLife SA empty container management scheme, already in place for some years now, only accepts empty pesticide containers that have been triple-rinsed & punctured before entering the recycling process
  
- Obsolete stocks
  - Obsolete stocks refer to expired commercial stock already in the value chain at 'post-consumer' level, ie: that has already been sold to the end-user (farmer)
  - Production over-runs, production errors, unsold stock at the supplier level, inventory seized by government officials, to name a few, are **excluded** from the PRO activities
    - The disposal of such stock listed above are for the cost & effort of the producer or their distributors
  
- Free riders
  - The regulations take into account "free riders" & define a "free rider" as
    - *a firm or individual who benefits from the actions or efforts from another, in relation to an extended producer responsibility scheme, without sharing or paying the costs;*
  - The regulations further consider the costs for surveillance of the activities of the PRO to identify free riders & for the law & the PRO to take the necessary action against any identified free riders

### **CropLife SA Team**