

The Modern Failings of Canada's 2009 Extended Producer Responsibility Action Plan

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Jessica Winton - 300502232

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Introduction

In 2009, Canadian Council of Ministers for the Environment (CCME) approved the Extended Producer Responsibility (EPR) Action Plan (CCME, 2009a) with the intention of having all provinces have EPR legislation by 2015 and 2017 for territories. This action plan also produced a sister document: A Canada-Wide Strategy for Sustainable Packaging (CCME, 2009b) with 9 primary recommendations. However despite the many recommendations made in these documents from 2009, very few of the highlighted measures to support EPR have been legislated. It is only recently within the past two years that other provinces have reached many of the responsibility targets, nearly 10 years late, all while our waste crisis had grown by 19% during this time (Environment and Climate Change Canada, 2024). This essay will explore how the CMME EPR Action Plan was a failure to account for the legislative wills of Canadian governments and how we are currently paying the price for incrementalism in waste management.

Background

Canada has 3 orders of primary government: Federal, Provincial, and Municipal. This is a result of the Canadian Constitution Acts which divided the responsibilities of government between Parliament and provincial governments, with section 92(8) granting provinces the jurisdiction to create municipalities and delegate matters to municipal institutions (Canadian Constitution Act, 2024). On the subject of waste management, Canada classifies Municipal Solid Waste (MSW) as a separate matter from other waste streams (ECCC, 2022) and as one can surmise, is of municipal responsibility. A key distinction for understanding waste management is how Environment and Climate Change Canada (ECCC) defines waste diversion as “diverted waste includes waste materials that go through any physical transformation, such as composting, separation or sorting in preparation for recycling or reuse.” (ECCC, 2024, p. 13) which simply means anything not being sent to a landfill, not the actual recycling outcomes of MSW.

The Constitution Act continues to grant the provincial authority over MSW management with Section 92 (13) “Property and Civil Rights in the Province” and 92 (16) “Generally all Matters of a merely local or private Nature in the Province” (Canadian Constitution Acts, 2024, p. 24). Nearly every province in Canada has delegated administrative responsibility of solid waste management to municipalities as it is considered a local. However this creates a lot of fragmentation in approaches to MSW across Canada where there is no single regulating entity despite overlapping jurisdictions in some manners through the Canadian Environmental Protection Act (CEPA).

This is where the Canadian Council of Ministers of the Environment (CCME) should play an important role. The CCME is a council of environment ministers from the federal, provincial and territorial governments on improving environmental issues and boosting intergovernmental cooperation. This council does not have any direct legislative authority as it was initially formed in 1964, but formalized in 1988 through the Canada-wide Accord on Environmental Harmonization agreement. This means there are no legal powers tied to the CCME nor legal authority. This is merely a council for intergovernmental cooperation wherein lies the problem as nearly every province has delegated the task of waste management to municipalities.

In 2009, the CCME released the Canada-Wide Action Plan for Extended Producer Responsibility. Extended Producer Responsibility is the concept of the polluter pays principle that was highlighted in CEPA (CEPA, 2025, p. 3) where producers of waste should be responsible for the management of it throughout the entire lifecycle of their production, including disposal. What this means in practice is that producers of what becomes MSW are expected to aid in the management of MSW through engagement programs, collection, and more by taking part in a Producer Responsibility Organization (PRO). This plan has no legal authority on the matter of MSW but was intended to harmonize some of the efforts of provinces with supporting actions to legislate the tasks of a PRO and government to reduce the growing problem of MSW across Canada. However these are merely recommendations, wherein lies the problem, having

a plan does not mean you have to follow it. Given the jurisdictional powers within Canada, ambitious plans like the 2009 EPR Action Plan fail to move the needle on environmental issues.

In 2009, provinces had already begun implementing EPR measures [Figure 1]. This plan was a guideline for how to go even further and be ambitious. Only British Columbia met many of the targets set out in the 2009 action plan, and reached Full Extended Production Responsibility in 2014, the first in North America (Circular Materials, 2025). The 2009 plan, with all of its ambitions, has had several makeovers that continue to be ignored by provinces.

Jurisdiction	Phase 1																	Phase 2				
	Packaging			Printed Materials	Compact fluorescents and other lamps containing mercury	Automotive products				Other HHW						Electronics			Construction and Demolition materials	Furniture	Textiles and carpet	Appliances, including ozone-depleting substances
	Milk	Beverage Containers	Other			Used oil	Lead-acid batteries	Tires	Other	Paint	Solvents	Batteries	Fertilizers/pesticides	Pharmaceuticals	Mercury containing products	TVs and Computers	Telephones, VCRs, etc	Other				
AB	E	E			E	E	P	P	E	E	E	E	E	E	P	E	E	E				E
BC		E			E	E	P	E		E	E	E	E	E	E	E	E	E				E
MB	E	E	E	E	E	E		E														
NB	P	E				P		P		E												
NL		P				P		P														
NS	E/P	P		P		P		P		P				P		E	E					
ON	E/P	E/P	E/P	E/P	E			E	E	E	E	E	E	E	E	E	E					
PE		E				P	P	P														
QC	E/P	E	E/P	E/P		E		P		E												
SK		P				E		P		E						E						
NT		P																				
NU		P																				
YT		P						P														
EC									E													

Figure 1. State of EPR programs across provinces in 2009 (CCME, 2009a, p. 11)

E - EPR programs, identified by an "E" in the table are programs in which manufacturers and importers are fully and directly responsible for both the funding and operation of programs.

P - Product stewardship programs, are programs in which manufacturers and importers are neither directly responsible for program funding nor for program operations.

Blank - Neither EPR or Product stewardship program

The Canadian Council of Ministers of the Environment

The CCME has no *legislative* OR *administrative* authority in Canada, as provinces set their own environmental rules; however, its very existence implies a recognition of the interlinkages between environmental policies across provinces. Unfortunately the structure of the CCME leads to a lack of jurisdictional power. Without the power to truly enact legislation, the council does not maximize its potential for change.

The council only officially meets once a year (CCME, 2025a). For a topic as large in scope as the environment, a single annual meeting is insufficient to drive cohesive national progress. What this schedule does is make national environmental progress incredibly slow and disjointed, as environmental ministers head back to their provinces and continue siloed work. As the goals of provinces vary from one another there is little incentive for following through on the objectives of the CCME in many regards. Waste management is one of these regards, as every province, except Prince Edward Island, has delegated municipal waste management to municipalities. PEI has a centralized waste management authority due to their geographic characteristics.

As municipalities are creatures of the province, have only those powers granted to them, the downstreaming of waste management responsibility means municipalities do not have a voice at the CCME for the topic of EPR administration challenges. Municipalities therefore are effectively expected to administer the laws, without legislating the laws. This power imbalance between provinces and municipalities is present in many issues yet the CCME does nothing to address this. An intergovernmental forum should include all stakeholders for the decisions they discuss for effective stakeholder engagement and institutional knowledge building.

To add insult to injury, the presidency of the CCME also changes every year, ensuring that any long-term plans may simply be de-prioritized by the next, as with the 2009 EPR Action Plan. Because the environment knows no borders, it is vital for all jurisdictions to consider one another as systems feed into each other. Waste management can be physically concentrated in a locale but is generally a result of national systems, something the CCME should be better at addressing. Their focus on other environmental matters like air and water means Canada lags behind other countries for EPR and beyond.

The 2009 Canada-Wide Action Plan for Extended Producer Responsibility

Waste management being the constitutional jurisdiction of provinces and territories additionally means there will be fragmented approaches to MSW. In 2009, many provinces already had forms of EPR [Figure 1.] but MSW continued to grow without a foreseeable end. This is where the Action Plan comes in to *hopefully*, as the CCME has no jurisdiction authority, better inform provinces decisions on EPR regulation in the future.

This plan produced two primary phases for development of programs regarding EPR and MSW, Phase 1, for more standard waste such as packaging and printed materials, and Phase 2 which was aimed at more difficult to manage streams such as construction waste and furniture. At the same time, a sister document to the EPR Action Plan called A Canada-Wide Strategy for Sustainable Packaging (CCME, 2009b) was created.

The EPR Action plan regurgitated many of the same points that EPR models in Canada already had for what constitutes a key element (CCME, 2009a, p. 23) including:

- Clarifying the Scope
- Better Product Definitions
- Defining a Producer Responsibility Organizations
- Stewardship Plans
- Having Targets
- Implementing Fees as internalized productions factors
 - Etc.

These 'Key Elements', while useful if starting from scratch, have very little impact when accounting for the existing EPR programs that every province and territory has at least one of. A summary report of the progress of the EPR Action Plan found that the amount of products covered under EPR has almost tripled" (CCME, 2014) by 2014. However, waste generation per capita continued to grow. There is an unaddressed gap between the policy and behavioural drivers that cause waste generation, as governments instead shift responsibility to PROs through EPR rather than addressing actual supporting measures to reduce overall waste through federal or provincial legislation. While Full Extended Producer Responsibility should remain an end goal, businesses will continue as usual until the incentives are strong enough to change the production lines.

The Action Plan fails to critically engage with other systemic legislation, merely mentioning CEPA in passing for federal jurisdiction on toxic substances, no mention of the constitution act or the Canadian Packaging and Labelling Act (CPLA). There is no requirement from provinces for action, just suggestions. The performativity of the action plan is nothing short of disappointing as a descriptive document does not prescribe the cure but merely addresses it.

Instead, we should look to Section 7 (CCME, 2009a, p. 26) of the Action Plan for substance: Supportive Policies and Regulations for what may be more effective at enacting production changes including:

- First Priority Supportive Policies and Regulations
 - Environmental Performance Agreements
 - Green Procurement Policies
 - Disposal Bans and Disposal Surcharges
 - Sustainability Criteria
- Second Priority Supportive Policies and Regulations
 - Product Standards
 - Waste/Packaging Reduction Strategies
 - Recycled Content Standards and Regulations
 - Promotion and Education (on EPRs)

What is of particular interest is how “Waste/Packaging Reduction Strategies” falls under “**Second Priority** Supportive Policies and Regulations” (CCME, 2009a, p. 30) rather than **First Priority**, in addition to other product standards. The government should be prioritizing these ‘supportive strategies’ over the EPR, as EPRs are a tool for archiving these goals rather than the goal itself. The CCME has missed the waste forest for the EPR tree.

Additionally, the 9 summary suggestions from the sister document, The Canada-Wide Strategy for Sustainable Packaging, are quite strong, and yet none of them were fully implemented to the recommendations if at all. And within this appendix, the CCME has even acknowledged the problem of relying on EPR “However, EPR requirements alone may not be sufficient to drive producers and other packaging actors to meet CCME’s broader goals for packaging sustainability” (CCME, 2009a, p. 49)

Summary recommendations of the Strategy for Sustainable Packaging (CCME, 2009a, p. 49):

1. Establishment of an industry-government working group to provide a forum for greater dialogue and to facilitate implementation of the other supporting measures included in the Strategy.
2. Negotiated industry agreements with interested industry sectors to reduce packaging and improve its sustainability.
3. Development of a Canada-wide standard and certification program for compostable packaging.
4. Exploration with industry of the potential development of a Canada-wide labelling system for recyclable packaging.
5. Exploration with industry of opportunities for implementation and expansion of reuse systems.
6. Adoption of Canada-wide sustainability indicators and metrics that can be used to assess the sustainability of packaging over its entire life cycle.
7. Development and implementation of industry-led educational initiatives, best practices and industry recognition programs that promote sustainable packaging design.

8. Exploration with stakeholders of the establishment of a packaging ombudsman to address consumer complaints regarding excessive packaging.
9. Exploration with industry of the potential development of an index used to measure on packaging sustainability across Canada.

If we take the compostable standard label as an example, certification remains completely optional. The term “compostable” is not actually federally regulated, the certification is merely the use of a logo linked to a non-functional website (<https://www.compostable.info>). The split into separate documents may have led to these recommendations being overlooked, in addition to the majority being for Canada-wide recommendations, implying federal responsibility with the lack of CCME follow through.

The monitoring framework for this plan only required a summary report one year before the 2015 deadline. There is no external body that holds provinces accountable for following through on the plans. Provinces will give themselves a grade and the CCME will stamp their approval of the progress report. One of the key performance indicators relies on waste diversion rates rather than exclusively recycled and composted MSW, which the plan also includes. It attributes any diversion to the EPR rather than other policies within their system, enshrining EPR success even if there is a disconnect in the drivers of positive environmental outcomes.

These performance targets are not explicitly defined by the CCME and instead directs stakeholders (including the PROs themselves) to define performance targets. By only defining the variable at play in the EPR Action Plan, the Action Plan provides no concrete definition of success beyond simple increased EPR adoption. The Action Plan explicitly outlines how “Targets should be designed to ensure measureable, waste diversion and environmentally sound end-of-life management.” (CCME, 2009a, p. 24) yet does not define them itself. This leaves provinces responsible for determining what their targets are without any input from the CCME, such as a percentage reduction in total waste generation per capita per province as an example.

If the plan is to have an effect on MSW it needs to have legal mechanisms to hold the CCME and governmental bodies accountable. The CCME will not sufficiently advertise its own failures unless mandated to. Canada’s tendency toward voluntary, poorly advertised measures leads to efforts stalling and becoming functionally redundant.

Laws are meant to be enforced, so why are we so insistent on suggesting laws and regulations without enforcement mechanisms? The CCME may not have authority to force the hand of provinces to enact changes, but the federal government does.

Federal Authority on Waste

While the federal government does not manage all forms of waste, it regulates the interprovincial and international travel of hazardous waste and hazardous recyclable waste through CEPA Division 8 - Article 185(1) (Canadian Environmental Protection Act, 1999). One *could* argue this sets a legal precedent for there being federal authority on the management of waste, in addition to its responsibility for waste management on federal lands. It has been recognized that having a nationally unified regulation is important within the action plan itself, yet over 10 years later Canada refuses to act cohesively. The limitations of the Constitution Act are rearing their head for environmental issues and waste management is a primary example. Despite the federal government having the authority to manage international movement of solid waste, our solution as a country was to ship it off to China and the United States of America.

This worked until China decided to ban the import of waste in 2018 (Brooks et al., 2018). So what did Canada do to circumvent this problem? Send waste to other countries instead! Rather than adjusting our laws we continuously find loopholes when we have many suggested solutions right in front of us from the CCME's Action Plan. While there are provinces such as British Columbia that take their responsibilities seriously, many shirk their duties for environmental management. The action plan even addresses that Canada as an already smaller country on the global stage may only have a small impact in reducing global waste through market incentives "market signals to producers from a relatively small market like Canada may not be strong enough alone to influence new environmentally conscious product design and supply chain management" (CCME, 2009a, p. 5). With this in mind the limitations of making this a provincial matter are even clearer.

The inexplicit fear of federalism among provinces addressed in the action plan compounds the notion that it is time to go further under the basis of Peace, Order and **Good Governance**. Standardized regulation for MSW from the federal level exists but is not enforced, as administrative responsibility is placed on the provinces. Using federal legislative power with the CEPA set a precedent for the federal government's role in the environment but when originally created in 1988, did not foresee waste management to be such a large environmental problem.

One key piece of legislation that is overlooked in our consumer-convenience-oriented economy is the Consumer Packaging and Labelling Act (CPLA). This grants the federal government authority to nationally regulate all **pre-packaged** goods (CPLA, 2019), and these days that includes most goods. For example, a large wholesale bag of rice is prepackaged. If a store then allows customers to dispense a desired amount of rice into their own container from this bag, it is considered a **packaged good**, same applies to fresh meat, fish, or cheese. Of particular note is that this legislation is managed by the Minister of Industry, and does not mention the environment a single time in the entire law. Because packaging now constitutes over half of all collected waste (Blair, 2024), this oversight needs to be addressed.

Therefore many supporting actions within the 2009 EPR Action Plan do overlap under the federal government's authority to implement. Instead, it seems the CCME would rather create new plans every few years on the topic of packaging.

Current Day Plans

In 2014, the CCME produced a summary report on the EPR Action Plan (CCME, 2014). This plan was an overview at the state of implementing EPR nationally, demonstrating legislative progress in many categories of waste, however many implemented EPR programs are voluntary. Despite this progress, MSW generation continued to grow each year. This led to a slew of **eight** additional plans from the CCME in 2018-2025 specifically for plastic waste (CCME, 2025b).

The most recent of which is the November 23rd 2025 Guidance on the Use of Labels and Terms for Plastic Products and Packaging (CCME, 2025). While far too early to determine the impacts of these plans, the legislation is what is important. Many provinces are starting to implement Full EPR, including Quebec in 2025 and Ontario in 2026. While this is solid progress, the lack of movement federally may lead to disjointed plans and thus minimal impacts, as the 2009 Action Plan had warned about.

There are still no bills submitted in Parliament for transferring any amount of MSW responsibilities to the federal government, despite many updated plans highlighting the importance of national cohesion. The focus on waste diversion is additionally troubling, as systems have improved thanks to EPR but actual recycling outcomes remain minimal, leading to greenwashing. Municipal landfills continue to reach their capacity as cities are forced to innovate beyond their institutional capacity while provincial regulations stall.

Conclusion

Implementing EPRs across all provinces has made considerable progress, but it cannot be directly attributed to the CCME's 2009 EPR Action Plan. The growing problem of waste demonstrates how this plan for EPRs was not enough to solve the growing waste management crisis. It was even acknowledged that supporting measures are needed for effective outcomes in reducing waste, yet we still do not implement them.

While incremental improvements are vital for sound policy, it should not take over a decade to enact the suggestions that were highlighted over a decade ago. The limitations on jurisdictional powers through Canada's Constitution Acts are holding us back through the lack of federal intervention and expecting the CCME to solve problems without authority is wishful thinking, especially as municipalities are expected to innovate without proper support. The significant gaps in implemented policy from the 2009 EPR Action Plan demonstrate how provinces will not always follow the guidance of the CCME.

The CCME needs to be reformed as their authority is too weak for nation wide changes. ECCC and the federal government need to play a larger role in facilitating the policy suggestions within their action plans as they sit in a legal limbo on top of a dismissed mountain for environmental progress.

For environmental progress to be sustained the supporting actions need to be implemented by the federal government within its jurisdiction to ensure provincial compliance. Foundational policies such as EPR are important but stall progress when there is no following action or accountability, ultimately leading to a failure of outcomes and the growing waste crisis we have today.

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