

B.C. Reg. 449/2004

O.C. 995/2004

Deposited October 7, 2004

***Environmental Management Act***

**RECYCLING REGULATION**

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/449\\_2004](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/449_2004)

[includes amendments up to B.C. Reg. 112/2010, May 1, 2010]

Amendments from May 19, 2011 Order in Council added in red

**Part 1 — Definitions and Application**

**Definitions**

1 In this regulation:

**"Act"** means the *Environmental Management Act*;

**"agency"** means a corporation appointed by a producer to act as an agent on behalf of the producer;

**"approved plan"** means a product stewardship plan approved under section 5 [*approval of product stewardship plan*];

**"collection facility"** means

(a) in respect of a product within the beverage container product category,

(i) a container redemption facility, as defined in Schedule 1 [*Beverage Container Product Category*],  
or

(ii) a retailer whose premises are not identified in an approved plan,

(b) in respect of a product within the

(i) solvent and flammable liquids product category,

(ii) pesticide product category,

(iii) gasoline product category,

(iv) pharmaceutical product category,

(v) lubricating oil product category,

(vi) oil filter product category, ~~or~~

- (vii) paint product category,
- (viii) lead-acid battery category, or
- (Ix) antifreeze product category.

a return collection facility, as defined in the Hazardous Waste Regulation, B.C. Reg. 63/88, or

(c) in respect of a product within the empty oil container product category, electronic and electrical product category ~~or~~, tire product category or packaging and printed paper product category, a collection facility established by the producer;

**"producer" means**

(a) in respect of the producer of a product within the beverage container product category, the producer as determined under section 2 [*producers*] of Schedule 1 [*Beverage Container Product Category*],

(a.1) in respect of the producer of a product within the tire product category, a person who

- (i) sells, offers for sale or distributes a new tire product in British Columbia,
- (ii) is the owner or licensee of a trademark under which a tire product is sold or distributed in British Columbia, whether or not the trademark is registered, or
- (iii) imports the tire product into British Columbia for sale or distribution, or

(b) in respect of the producer of a product within a product category other than the beverage container product category or the tire product category,

- (i) a person who manufactures the product and sells, offers for sale ~~or~~, distributes or uses in a commercial enterprise the product in British Columbia under the manufacturer's own brand,
- (ii) if subparagraph (i) does not apply, a person who is not the manufacturer of the product but is the owner or licensee of a trademark under which a product is sold ~~or~~, distributed or used in a commercial enterprise in British Columbia, whether or not the trademark is registered, or

(iii) if subparagraphs (i) and (ii) do not apply, a person who imports the product into British Columbia for sale, distribution or use in a commercial enterprise;

**"product"** means an item within a product category;

**"product category"** means any of the following categories described in the Schedules:

- (a) beverage container product category;
- (b) solvent and flammable liquids product category;
- (c) pesticide product category;
- (d) gasoline product category;
- (e) pharmaceutical product category;
- (f) lubricating oil product category;
- (g) empty oil container product category;
- (h) oil filter product category;
- (i) paint product category;
- (j) electronic and electrical product category;
- (k) tire product category;

(l) packaging and printed paper product category;

**"recovery rate"** means the amount of product collected divided by the amount of product generated, expressed as a percentage;

**"residual"** means the portion of a product that remains after the consumer of the product has no further use for it;

**"retailer"** means a person who sells or offers for sale a product to a consumer.

**"institutional accommodations"** includes licensed care facilities, student residences, hospitals, hospices, correctional facilities and other institutional settings in which persons reside, or stay on a temporary basis, but does not include residential premises;

**"residential premises"** includes houses) apartments, condominiums, town homes and other premises in which persons reside but does not include institutional accommodations or visitor accommodations;

"visitor accommodations" includes hotels, motels, resorts, campgrounds and other accommodations in which persons stay on a temporary basis when they are away from the places they reside.

[am. B.C. Regs. 23/2006, s. 1; 65/2006, s. 1; 297/2006, ss. 1 and 2; 374/2008, s. 1; 296/2009, s. 1.]

## Duty of producer

2 (1) "Except as otherwise specifically provided in this regulation. aA  
producer must

(a) have an approved plan under Part 2 [*Product Stewardship Plans*] and comply with the approved plan, or

(b) comply with Part 3 [*Product Stewardship Program Requirements if No Product Stewardship Plan*]

with respect to a product in order to sell, offer for sale ~~or~~ distribute or use in a commercial enterprise the product the product in British Columbia.

(2) If a producer appoints an agency to carry out duties of the producer under Part 2 on behalf of the producer, the producer, before the agency begins to carry out those duties, must notify the agency in writing of the appointment, specifying the duties under Part 2 that the agency will perform on behalf of the producer.

(3) Before an agency begins to carry out duties on behalf of a producer, the agency must

(a) confirm in writing to a director the duties under Part 2 that the agency will perform on behalf of each producer that has joined the agency, and

(b) comply with Part 2 in respect of the duties referred to in paragraph (a).

(4) On the request of a director, an agency must provide the director with either or both of the following:

(a) a list of producers the agency currently represents;

(b) a copy of any notification the agency received under subsection (2) ~~(a)~~.

(5) An agency appointed by a producer under subsection (2) must, as soon as practicable, notify the producer of the following:

(a) any written notices, or written reasons provided under section 7, sent by a director to the agency alleging non-compliance with one or more requirements of this regulation;

(b) the agency is charged with an offence listed in section 16;

(c) the agency is convicted of an offence listed in section 16;

(d) the agency is issued with a ticket in accordance with the Violation Ticket Administration and Fines Regulation for an offence listed in Schedule 2 of that regulation respecting the Recycling Regulation, B.C. Reg. 449/2004.

[am. B.C. Reg. 296/2009, s. 3.]

## Part 2 — Product Stewardship Plans

### Application

3 This Part applies to a producer

~~\_(a) that sells, offers for sale or distributes a product within the beverage container product category,~~

(a) that sells, offers for sale, distributes or uses in a commercial enterprise a product within one of the following product categories:

(i) beverage container product category;

(ii) packaging and printed paper product category.

(b) that wishes to be covered by this Part in respect of a product category, other than ~~the beverage container product category~~ a product category listed in paragraph (a), of a product that the producer sells, offers for sale ~~or~~ distributes or uses in a commercial enterprise, or

(c) that is required under section 3.1 to comply with this Part in respect of a product category.

[am. B.C. Reg. 23/2006, s. 2.]

## Requirement to comply with this Part

**3.1** A director may require a producer to comply with this Part, on and after a date specified by the director, in respect of a product category specified by the director if, in the opinion of the director, the producer does not primarily sell, offer for sale ~~or,~~ distribute or use in a commercial enterprise the products that it produces in the product category from the producer's retail premises in British Columbia or through another retailer's premises in British Columbia.

[en. B.C. Reg. 23/2006, s. 3.]

## Repealed

**3.2** Repealed. [B.C. Reg. 297/2006, s. 3.]

## Submission of product stewardship plan

**4** A producer must submit a product stewardship plan at the time specified in the applicable Schedule, if any, and, in a manner and format satisfactory to a director, for the products within the product category of the product the producer sells, offers for sale ~~or,~~ distributes or uses in a commercial enterprise in British Columbia.

## Approval of product stewardship plan

**5** (1) On receipt of a product stewardship plan submitted under section 4 [*submission of product stewardship plan*], the director may approve the plan if the director is satisfied that

(a) the plan will achieve, or is capable of achieving within a reasonable time,

(i) a 75% recovery rate or another recovery rate established by the director,

(A) for each subcategory listed in section 4 of Schedule 1 for the beverage container product category, and

(B) for each product category covered by the plan, other than the beverage container product category, if required by the director,

(ii) any performance requirements or targets established by the director, and

(iii) any performance requirements or targets in the plan,

(b) the producer has undertaken satisfactory consultation with stakeholders prior to submitting the plan for approval and will provide opportunity for stakeholder input in the implementation and operation of the product stewardship program, ~~and~~

(c) the plan adequately provides for

(i) the producer collecting and paying the costs of collecting and managing products within the product category covered by the plan, whether the products are currently or previously sold, offered for sale or distributed in British Columbia,

(ii) with respect to the solvent and flammable liquids, pesticide, gasoline and pharmaceutical product categories,

(A) the collection of residuals and containers that are or were in direct contact with a residual, and

(B) the management of residuals and containers collected,

(iii) reasonable and free consumer access to collection facilities,

(iv) making consumers aware of

(A) the producer's product stewardship program,

(B) the location of collection facilities, and

(C) how to manage products in a safe manner,

(v) assessing the performance of the producer's product stewardship program, the management of costs incurred by the program and the management of environmental impacts of the program,

(vi) a dispute resolution procedure for disputes that arise between a producer and person providing services related to the collection and management of the product during implementation of the plan or operation of the product stewardship program,

(vii) eliminating or reducing the environmental impacts of a product throughout the product's life cycle, and

(viii) the management of the product in adherence to the order of preference in the pollution prevention hierarchy.

(d) with respect to the packaging and printed paper category, the plan adequately provides for the collection of the product by the producer

(i) from residential premises, and

(ii) from municipal property that is not industrial, commercial or institutional property.

(2) In deciding whether to approve the plan, the director may consider any of the following:

(a) the advice of a committee of up to 12 persons the director appoints for the purpose of giving advice on the plan;

(b) the timelines and effectiveness of the plan respecting the matters referred to in subsection (1);

(c) the population and geographical area of the markets in which the producer sells, offers for sale ~~or~~, distributes or uses in a commercial enterprise the product;

(d) the manner in which the product is marketed and retailed by the producer;

(e) the nature of the product;

(f) the amount of product the producer expects to sell ~~or~~, distribute or uses in a commercial enterprise each year;

(g) the amount of product the producer expects to collect each year;

(h) the size of the population intended to be served by each collection facility;

(i) the provision of convenient options for the collection of products in urban centres and small, isolated communities, and for persons with disabilities or who have no access to transportation;

(j) the manner, kind and amount of advertising and consumer education planned by the producer to inform

consumers of the location and operation of collection facilities and the environmental and economic benefits of participating in the product stewardship program;

(k) the methods of product collection, storage, transportation and management;

(l) the product stewardship programs of other producers for products in the same product category;

(m) the structure of financial and operational co-operation with other producers.

(3) For the purposes of subsection (1) (c) (viii), the pollution prevention hierarchy is as follows in descending order of preference, such that pollution prevention is not undertaken at one level unless or until all feasible opportunities for pollution prevention at a higher level have been taken:

(a) reduce the environmental impact of producing the product by eliminating toxic components and increasing energy and resource efficiency;

(b) redesign the product to improve reusability or recyclability;

(c) eliminate or reduce the generation of unused portions of a product that is consumable;

(d) reuse the product;

(e) recycle the product;

(f) recover material or energy from the product;

(g) otherwise dispose of the waste from the product in compliance with the Act.

(4) This section applies to

(a) a director's approval of a producer's proposed amendment to an approved plan, and

(b) a director's amendment to an approved plan.

(5) A director may amend an approved plan.

(6) An amendment referred to in subsection (5) takes effect on the date specified by the director.

[am. B.C. Regs. 23/2006, s. 4; 296/2009, s. 4.]

## Plan review every 5 years

6 A producer must review its approved plan and

(a) submit to a director proposed amendments to the approved plan, or

(b) advise a director in writing that no amendments to the approved plan are necessary,

not later than the date that is 5 years after the date the approved plan was originally approved under this section and every 5 years thereafter.

6.1 At any time, the director may rescind the approval of an approved plan.

## Written reasons required

7 The director must provide the producer with written reasons whenever

(a) a product stewardship plan submitted under section 4 [*submission of product stewardship plan*] is not approved under section 5 [*approval of product stewardship plan*],

(a.1) the director amends an approved plan,

(b) an amendment to an approved plan is not approved, or

(c) the approval of a plan is rescinded.

[am. B.C. Reg. 23/2006, s. 5.]

## Annual report

8 (1) On or before July 1 in each year, a producer with an approved plan must

(a) provide to a director a report respecting the one-year period ending not later than March 31 of that year or December 31 of the previous year, and

(b) post the report on the Internet.

(2) Subject to subsection (4), the report referred to in subsection (1) must include the following:

(a) a description of educational materials and educational strategies the producer uses for the purposes of this Part;

(b) the location of its collection facilities, and any changes in the number and location of collection facilities from the previous report;

(c) efforts taken by or on behalf of the producer to reduce environmental impacts throughout the product life cycle and to increase reusability or recyclability at the end of the life cycle;

(d) a description of how the recovered product was managed in accordance with the pollution prevention hierarchy;

(e) the total amount of the producer's product sold and collected and, if applicable, the producer's recovery rate;

(i) effective for a report required on or before July 1, 2013 and for every report required under subsection (1) after that date, the total amount of the producer's product recovered in each regional district;

(f) independently audited financial statements detailing

(i) all deposits received and refunds paid by the producers covered by the approved plan, and

(ii) revenues and expenditures for any fees associated with the approved plan that are charged separately and identified on the consumer receipt of sale;

(g) a comparison of the approved plan's performance for the year with the performance requirements and targets in this regulation and the approved plan;

(h) any other information specified by the director.

(3) If the report referred to in subsection (1) is in respect of the beverage container product category, the information required under subsection (2) (c) to (g) must be provided for each subcategory listed in section 4 of Schedule 1.

(3.1) If an agency is appointed by more than one producer to carry out the duties of the producer under this section, the agency may provide and post one report referred to in subsection (1) on behalf of all of those producers.

(4) The director may specify classes of information the producer is not required to include in the report posted on the Internet under subsection (1) (b).

[am. B.C. Reg. 23/2006, s. 6.]

## **Part 3 — Product Stewardship Program Requirements if No Product Stewardship Plan**

### **Application of stewardship requirements**

**9** (1) A producer must meet the requirements of this Part in respect of a product unless there is an approved plan for the product.

(2) This Part does not apply to a product in ~~the beverage container product category~~. one of the following product categories:

(a) beverage container product category;

(b) packaging and printed paper product category.

(3) This Part does not apply to a producer in relation to a product category for which the producer is required under section 3.1 to comply with Part 2.

(4) A producer must notify a director in writing of the producer's intention to meet the requirements of this Part.

[am. B.C. Regs. 23/2006, s. 7; 296/2009, s. 5.]

### **Consumer information**

**10** (1) A producer must provide to each retailer of the producer's product, free of charge, consumer information respecting

(a) the safe use and storage of the products,

(b) the amount of any deposit charged and refund paid by the producer, and

(c) the amount of any fee associated with the producer's product stewardship program that is charged by the producer and identified separately on the consumer's receipt of sale.

(2) A retailer must

- (a) post the consumer information referred to in subsection (1) on at least one clearly visible sign with a minimum dimension of 56 cm by 43 cm and a font with a minimum print size of 24 points that is in a contrasting colour to the background colour of the sign, and
  - (b) make available the consumer information referred to in subsection (1) as a printed handout.
- (3) The retailer must post or distribute the consumer information as required under subsection (2) at one of the following locations:
- (a) the main entrance to the retailer's premises;
  - (b) the area inside a retailer's premises where products are displayed;
  - (c) an area inside a retailer's premises where the transaction to purchase a product takes place.
- (4) A producer must post the consumer information referred to in subsection (1) on the Internet.

## Collection

**11** (1) In this section, "**municipality**" does not include a regional district, an improvement district or the Greater Vancouver Sewerage and Drainage District.

(2) A producer must operate a collection facility for all products currently or previously sold, offered for sale ~~or~~, distributed or used in a commercial enterprise in British Columbia that are within a product category in respect of which the producer sells, offers for sale ~~or~~, distributes or used in a commercial enterprise a product.

(3) If a collection facility is operated at a location other than at the premises of a retailer who sells the producer's products, the producer must locate the collection facility

- (a) within 4 kilometres by road from the retailer's premises if the retailer's premises are located in a municipality that has a population greater than 25 000, or
- (b) within 10 kilometres by road from the retailer's premises if the retailer's premises are located outside a municipality that has a population greater than 25 000.

(4) A producer must make its collection facility

(a) available without charge to any consumer who wishes to return unlimited quantities of products within the product categories it sells, offers for sale ~~or~~, distributes, or used in a commercial enterprise and

(b) operate during regular business hours, 5 days per week, one day of which must be Saturday.

### **Consumer notification by advertisement**

**12** (1) The producers using a collection facility must notify the consumers served by the facility of the location and operating hours of the facility by inserting an advertisement in a newspaper serving the consumers' area.

(2) The advertisement must

(a) have a minimum dimension of 15 cm by 10 cm, and

(b) be published

(i) once per week for the first 4 consecutive weeks the collection facility is open,

(ii) thereafter once every 2 weeks until the facility has been open for 52 weeks, and

(iii) thereafter once every 4 weeks.

### **Management of collected products**

**13** A producer must manage all products collected at a collection facility provided by that producer in adherence to the following descending order of preference, such that pollution prevention is not undertaken at one level unless or until all feasible opportunities for pollution prevention at a higher level have been taken:

(a) reuse the product;

(b) recycle the product;

(c) recover material or energy from the product;

(d) otherwise dispose of the waste from the product in compliance with the Act.

### **Reports**

**14** (1) On or before April 30 in each year, a producer must

- (a) provide to a director a report respecting the preceding calendar year, and
- (b) post the report on the Internet.

(2) The report referred to in subsection (1) must include the following:

- (a) a description of educational materials and educational strategies the producer uses for the purposes of this Part;
- (b) the total amount of the producer's product sold and collected;
- (c) the location of the producer's collection facilities;
- (d) the amount of product managed at each level referred to in section 13 by or on behalf of the producer;
- (e) efforts taken by or on behalf of the producer through redesign or repackaging to reduce product waste;
- (f) a description and rationale, prepared by an independent auditor, of the processes used by or on behalf of the producer to store and transport products and to manage products at each level referred to in section 13;
- (g) a description of the management system used by or on behalf of the producer to monitor the effectiveness of the producer's efforts under this Part.

(3) Subject to subsection (3.1), on or before April 30, July 31, October 31 and January 31 of each year, a producer must provide a director with information on the total product collected on the producer's behalf during the previous calendar quarter.

(3.1) If a producer complies with subsection (3) for 2 consecutive years beginning on the date the producer first provides information to a director under that subsection, the director may exempt the producer from further compliance with subsection (3) if the director determines that the producer is meeting the requirements of this Part.

(3.2) A director who, under subsection (3.1), exempts a producer from complying with subsection (3) may require the producer to resume complying with subsection (3) if the director determines that

(a) the producer has provided inaccurate or inadequate information in the most recent report required under subsection (1), or

(b) the producer is not meeting the requirements of this Part.

(4) On or before April 30 of each year, a producer charging a fee associated with the product stewardship program that is identified separately on the consumer receipt of sale must provide a director with audited financial statements detailing revenues and expenditures associated with its efforts under this Part for the previous calendar year.

## Part 4 — General

### ~~Annual report by director~~

~~15 On or before September 30 in each year, a director must publish a report to the public stating the extent to which every product has been managed in accordance with this regulation for the year ending not later than March 31 of that year or December 31 of the previous year.~~

### Offences

**16** A person who contravenes

(a) sections 2 (1), (2) or (3), 6, 8 or 17 (2), or

(b) sections 5 (1) and (2), 6 (1), 7 (1) or (2) or 8 (1) or (2) of Schedule 1

commits an offence and is liable to a fine not exceeding \$200 000.

[am. B.C. Regs. 65/2006, s. 3; 297/2006, s. 4.]

### Transitional — product stewardship plans

**17** (1) A plan approved under section 5 of the Post-Consumer Residual Stewardship Program Regulation or section 7 of the Beverage Container Stewardship Program Regulation is deemed to be a plan approved under section 5 of this regulation.

(2) A producer whose existing plan is deemed to be an approved plan under subsection (1) must submit a plan or amendments to the existing plan for approval in accordance with this regulation as follows:

(a) subject to paragraph (b), within 2 years of this regulation coming into force;

(b) if the plan is in respect of products in the lubricating oil, empty oil container and oil filter product categories, within 3 years of this regulation coming into force.

## **Repealed**

**18** Repealed. [B.C. Reg. 297/2006, s. 5.]

*For Schedules 1-4, see Recycling Regulation*

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/449\\_2004](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/449_2004)

**Schedule 1: Beverage Container Product Category**

**Schedule 2: Residual Product Categories**

**Solvent and flammable liquids product category**

**Pesticide product category**

**Gasoline product category**

**Pharmaceutical product category**

**Lubricating oil product category**

**Empty oil container product category**

**Oil filter product category**

**Paint product category**

**Lead-acid battery product category**

**Antifreeze product category**

**Schedule 3: Electronic and Electrical Product Category**

**Schedule 4: Tire Product Category**

## **SCHEDULE 5**

### **Packaging and Printed Paper Product Category**

#### **Definitions**

1 In this Schedule, "printed paper" means paper that is not packaging, but is printed with text or graphics as a medium for communicating information, and includes telephone directories, but does not include

- (a) other types of bound reference books,
- (b) bound literary books, or
- (c) bound text books.

#### **Packaging and printed paper category**

2 The packaging and printed paper product category consists of packaging and printed paper.

#### **Transitional**

3 A person who, on the date this section comes into force, is a producer of a product within the packaging and printed paper product category must

(a) submit a product stewardship plan under section 4 [submission of product stewardship plan] of this regulation on or before the date that is 18 months after the date this section comes into force, if the person continues to be a producer on this date, and

(b) have an approved plan under Part 2 of this regulation, and comply with the approved plan, on or before the date that is 36 months after the date this section comes into force, if the person continues to be a producer on this date, in order to sell, offer for sale, distribute or use in a commercial enterprise the product in British Columbia.