



Reference: 333879

November 20, 2018

Mark Kurschner
Product Care Association of Canada
105 West 3rd Ave
Vancouver, BC V5Y 1E6

Dear Mark Kurschner:

Thank you for submitting proposed amendments to the British Columbia Paint and Household Hazardous Waste Stewardship Plan (the “amendments”) in fulfillment of the requirements of section 6 of the [Recycling Regulation](#) (the “regulation”) made under the *Environmental Management Act*. I appreciate the industry’s continued commitment to achieving compliance in this regard.

Under the regulation, the director has the ability to both amend an approved extended producer responsibility (EPR) plan on his own initiative, and to approve amendments to an approved plan that have been proposed by a producer. I have completed my review of, and approve, the amendments proposed by the Product Care Association of Canada (PCA) on August 31, 2018.

PCA was provided with my draft decision letter dated August 7, 2018 and the opportunity to propose further amendments or provide additional information for consideration. PCA addressed several of the identified deficiencies, however one remains outstanding. Therefore, in addition to the amendments proposed by PCA, and approved by me in this letter, I am further amending the plan, pursuant to section 5(5) of the regulation.

By December 31, 2019, PCA will:

- Complete satisfactory consultation with stakeholders to meet the requirements set out in sections 5(1)(c)(i) and (vi), taking into consideration guidance provided in the [Recycling Regulation Guide 2012](#) and [Producers Paying the Cost of Managing Obligated Materials and Dispute Resolution 2018](#);
- Submit to the director a stakeholder consultation summary document; and
- Propose amendments to the plan that address regulatory requirements and outcomes of the consultations.

The above additional amendments form part of PCA’s plan and take effect on November 20, 2018.

The requirement to undertake additional stakeholder consultation is common among other plans and plan amendments. Acknowledging the time and effort required on the part of stakeholders to provide meaningful input and feedback, PCA is encouraged to coordinate with other EPR programs when engaging stakeholders. Proposed amendments to the PCA plan will be in the form of a revised plan submitted to the director, including the stakeholder consultation summary document. PCA will also provide the director with a document that clearly highlights all proposed revisions to the plan.

These additional amendments are required to ensure the plan adequately provides for the elements set out in subsections 5(1)(b), (c)(i) and (vi) of the regulation. Specifically, I must be satisfied of the following:

- 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 extended producer responsibility program;
- The plan adequately provides for 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 used in a commercial enterprise, sold, offered for sale or distributed in British Columbia; and
- The plan adequately provides for 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 extended producer responsibility program.

Pursuant to section 6 of the regulation and based on the plan's original approval date of July 16, 2007, PCA's next plan review must be completed by July 16, 2022. However, a director under the *Environmental Management Act* may amend the approved plan pursuant to section 5(5) of the regulation or rescind approval of the approved plan pursuant to section 6.1 of the regulation, should PCA fail to meet the commitments set out in the approved plan. Please also note that failure to comply with an approved plan may result in the imposition of an administrative monetary penalty of up to \$40,000 or a fine of up to \$200,000.

Future plans and amendments

The ministry expects continuous improvement across all future plans and amendments including the following areas of concern:

1. Plan commitments – for example, use specific and measurable language;
2. Consumer access – for example, develop comprehensive province-wide accessibility – particularly in rural areas, or improve upon the current Stewardship Agencies of B.C. accessibility standard;
3. Consumer awareness - for example, include performance requirements tailored for different consumer groups and all product types managed by the program;
4. Financial transparency – for example, provide greater levels of disclosure in financial statements to better serve interests of producers, the ministry, and other stakeholders; and
5. Pollution prevention hierarchy – for example, highlight program areas of influence.

I acknowledge that some plans better address various concerns than others, and that collaboration between some producers/appointed agencies and the ministry is underway. As well, the ministry intends to develop further guidance on select areas of concern.

Related to the above concerns, but beyond my approval in this letter, I note the following opportunities for continuous improvement specific to PCA:

1. Reviewing and improving upon the current levels of disclosure offered in financial statements in order to provide greater financial granularity/transparency; and
2. Considering implementing differential fees for handling of program products based on environmental risks and true cost of end-of-life management e.g. recyclability. This is intended to further influence better Design for Environment in accordance with the pollution prevention hierarchy.

Additionally, with respect to empty product containers for the solvent and flammable liquids, pesticide and gasoline product categories, please note that, as the ministry has communicated, the intent of the regulation is to capture consumer packaging regardless of residual product content. The ministry intends to address this issue as soon as the opportunity arises.

Third Party Assurance for Non-Financial Information in Annual Reports

Third party assurance for non-financial information in Annual Reports is required through Section 8(2)(h) of the regulation. The assurance report should be completed in accordance with the document entitled, “Third Party Assurance Requirements for Non-Financial Information in Annual Reports” dated October 2018 and revised from time to time, which is enclosed.

Finally, the ministry expects this approval letter to be forwarded to PCA’s board of directors as well as its member producers, since each producer is responsible for ensuring its agent fulfills the plan, and compliance proceedings may be taken against a producer if the agent fails to implement the plan.

I look forward to working with you to ensure the success of your program. If you have any questions about this letter, please contact me at 778 698-4860 or ExtendedProducerResponsibility@gov.bc.ca. If you have any questions regarding the implementation of your plan, or suggested opportunities for improvement, please contact your ministry file lead.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob McDonald". The signature is stylized with large, overlapping loops and a prominent initial "B".

Bob McDonald
Director, Extended Producer Responsibility Section
Environmental Standards Branch

Enclosure (2)

cc: Kris Ord, Executive Director, Environmental Standards Branch
Hanna Vovk, Ministry file lead, Extended Producer Responsibility Section