

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 436

, Approved and Ordered

November 14, 2017


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Recycling Regulation, B.C. Reg. 449/2004, is amended as set out in the attached Schedule.


Minister of Environment and Climate Change Strategy


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Environmental Management Act*, S.B.C. 2003, c. 53, ss. 21, 138 and 139

Other: OIC 995/2004

R10150330

SCHEDULE

I Section 1 (1) of the Recycling Regulation, B.C. Reg. 449/2004, is amended

- (a) *by repealing the definition of “approved plan” and substituting the following:*
“approved plan” means an extended producer responsibility plan approved under section 5 [approval of extended producer responsibility plan]; ,
- (b) *by repealing paragraph (c) of the definition of “collection facility” and substituting the following:*
(c) in respect of a product within the
(i) empty oil container product category,
(ii) electronic and electrical product category,
(iii) tire product category, or
(iv) packaging and paper product category,
a collection facility established by the producer or identified in an approved plan; ,
- (c) *in paragraph (b) (i) of the definition of “producer” by striking out “sells, offers for sale, distributes or uses in a commercial enterprise” and substituting “uses in a commercial enterprise, sells, offers for sale or distributes”;*
- (d) *in paragraph (b) (ii) of the definition of “producer” by striking out “sold, distributed or used in a commercial enterprise” and substituting “used in a commercial enterprise, sold, offered for sale or distributed”;*
- (e) *in paragraph (b) (iii) of the definition of “producer” by striking out “sale, distribution or use in a commercial enterprise;” and substituting “use in a commercial enterprise, sale, offer for sale or distribution in British Columbia;”;*
- (f) *in paragraph (n) of the definition of “product category” by striking out “printed paper” and substituting “paper”;*
- (g) *in the definition of “recovery rate” by striking out “generated” and substituting “produced”;*
- (h) *in the definition of “small producer” by striking out “printed paper” and substituting “paper”;*
- (i) *by repealing paragraph (b) (ii) of the definition of “small producer” and substituting the following:*
(ii) subject to subsection (2), the producer produced in the most recent calendar year less than one tonne of products within the packaging and paper product category that have been or will be used in a commercial enterprise, sold, offered for sale or distributed in British Columbia; , *and*
- (j) *in paragraph (c) of the definition of “small producer” by striking out “producer” and substituting “producer, other than a producer of newspaper.”*

2 *Section 2 (1) is amended by striking out “sell, offer for sale, distribute or use in a commercial enterprise” and substituting “use in a commercial enterprise, sell, offer for sale or distribute”.*

3 *The heading to Part 2 is repealed and the following substituted:*

PART 2 – EXTENDED PRODUCER RESPONSIBILITY PLANS .

4 *Section 3 is amended*

(a) by repealing subsection (1) (a) and substituting the following:

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

- (i) beverage container product category;
- (ii) packaging and paper product category, ,

(b) in subsection (1) (b) by striking out “sells, offers for sale, distributes or uses in a commercial enterprise,” and substituting “uses in a commercial enterprise, sells, offers for sale or distributes in British Columbia,” and

(c) by repealing subsection (2) and substituting the following:

(2) Despite subsection (1) (a) (ii), this Part does not apply to a small producer.

5 *Section 3.1 is repealed and the following substituted:*

Requirement to comply with this Part

3.1 A director may require a producer, other than a small producer, to comply with this Part in respect of a product category specified by the director if, in the opinion of the director, the producer does not primarily use in a commercial enterprise, sell, offer for sale or distribute the products that it produces in the product category

- (a) from the producer’s retail premises in British Columbia, or
- (b) through another retailer’s premises in British Columbia.

6 *Section 4 is amended*

(a) by striking out “a product stewardship” and substituting “an extended producer responsibility”, and

(b) by striking out “sells, offers for sale, distributes or uses in a commercial enterprise” and substituting “uses in a commercial enterprise, sells, offers for sale or distributes”.

7 *Section 5 is amended*

(a) in subsection (1) by striking out “a product stewardship” and substituting “an extended producer responsibility”,

- (b) *in subsection (1) (a) (ii) and (iii) by striking out “performance requirements” and substituting “performance measures, performance requirements”,*
 - (c) *in subsection (1) (b) by striking out “product stewardship” and substituting “extended producer responsibility”,*
 - (d) *in subsection (1) (c) (i) by adding “used in a commercial enterprise,” after “previously”,*
 - (e) *in subsection (1) (c) (iii) by striking out “collection facilities,” and substituting “collection facilities or collection services,”,*
 - (f) *in subsection (1) (c) (iv) (A) by striking out “product stewardship” and substituting “extended producer responsibility”,*
 - (g) *in subsection (1) (c) (iv) (B) by adding “or the availability of collection services” after “collection facilities”,*
 - (h) *in subsection (1) (c) (v) and (vi) by striking out “product stewardship” and substituting “extended producer responsibility”,*
 - (i) *in subsection (1) (d) by striking out “printed paper” and substituting “paper product”,*
 - (j) *in subsection (2) (c) by striking out “sells, offers for sale, distributes or uses in a commercial enterprise the product;” and substituting “uses in a commercial enterprise, sells, offers for sale or distributes the product in British Columbia;”,*
 - (k) *in subsection (2) (f) by striking out “sell, distribute or use in a commercial enterprise” and substituting “use in a commercial enterprise, sell, offer for sale or distribute in British Columbia”,*
 - (l) *in subsection (2) (h) by striking out “by each collection facility” and substituting “by the producer’s collection facilities or collection services”,*
 - (m) *by repealing subsection (2) (j) and substituting the following:*
 - (j) the manner, kind and amount of advertising and consumer education planned by the producer to inform consumers of
 - (i) the location and operation of collection facilities,
 - (ii) the availability of collection services, and
 - (iii) the environmental and economic benefits of participating in the extended producer responsibility program; , *and*
 - (n) *in subsection (2) (l) by striking out “product stewardship” and substituting “extended producer responsibility”.*
- 8 *Section 6 is amended by striking out “this section” and substituting “section 5 [approval of extended producer responsibility plan]”.*
- 9 *Section 7 (a) is amended by striking out “a product stewardship” and substituting “an extended producer responsibility”.*

10 Section 8 (2) is amended

(a) by repealing paragraph (b) and substituting the following:

(b) the location of the producer's collection facilities, and any changes from the previous report in its collection facilities and collection services, including the number and location of collection facilities; ,

(b) in paragraph (d) by striking out "recovered" and substituting "collected",

(c) in paragraph (e) by striking out "sold" and substituting "produced",

(d) in paragraph (e.1) by striking out "effective for a report required on or before July 1, 2013 and for every report required under subsection (1) after that date," and by striking out "recovered" and substituting "collected", and

(e) in paragraph (g) by striking out "requirements and targets in this regulation and the approved plan;" and substituting "measures, performance requirements and targets referred to in section 5 (1) (a) [approval of extended producer responsibility plan];".

11 The heading to Part 3 is repealed and the following substituted:

PART 3 – EXTENDED PRODUCER RESPONSIBILITY PROGRAM REQUIREMENTS IF NO EXTENDED PRODUCER RESPONSIBILITY PLAN .

12 Section 9 (2) (b) is amended by striking out "printed paper" and substituting "paper".

13 Section 10 (1) (c) is amended by striking out "product stewardship" and substituting "extended producer responsibility".

14 Section 11 is amended

(a) by repealing subsection (2) and substituting the following:

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

(b) in subsection (4) (a) by striking out "it sells, offers for sale, distributes or uses in a commercial enterprise," and substituting "the producer uses in a commercial enterprise, sells, offers for sale or distributes in British Columbia,".

15 Section 14 is amended

(a) in subsection (2) (b) by striking out "sold" and substituting "produced", and

(b) in subsection (4) by striking out "product stewardship" and substituting "extended producer responsibility".

16 *Section 16 is amended by repealing paragraphs (a) and (b) and substituting the following:*

- (a) section 2 (1), (2) or (3), 6 or 8, or
- (b) section 5 (1) or (2), 6 (1), 7 (1) or (2) or 8 (1) or (2) of Schedule 1 .

17 *Section 17 is repealed.*

18 *Section 7 (2) (a) of Schedule 1 is repealed and the following substituted:*

- (a) in a metal can that is opened by removing a rigid metal part of the can, or .

19 *Schedule 2 is amended*

(a) in sections 10 and 11 by striking out “Effective July 1, 2011, the” and substituting “The”, and

(b) by repealing sections 12 and 13.

20 *Schedule 5 is amended*

(a) by repealing the heading to the Schedule and substituting the following:

PACKAGING AND PAPER PRODUCT CATEGORY , and

(b) by repealing sections 1, 2 and 3 and substituting the following:

Definition

- 1** (1) In this Schedule, “**paper**” means, subject to subsection (2), paper of any description, including
- (a) flyers,
 - (b) brochures,
 - (c) booklets,
 - (d) catalogues,
 - (e) telephone directories,
 - (f) newspapers,
 - (g) magazines,
 - (h) paper fibre, and
 - (i) paper used for copying, writing or any other general use.
- (2) For the purposes of subsection (1), paper does not include
- (a) paper products that, by virtue of their anticipated use, could become unsafe or unsanitary to recycle, or
 - (b) any type of bound book not mentioned in subsection (1).

Packaging and paper product category

- 2** The packaging and paper product category consists of packaging and paper.