

November 2016



PRODUCT STEWARDSHIP:
AN OVERVIEW OF RECYCLING IN B.C.

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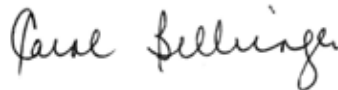
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The Honourable Linda Reid
Speaker of the Legislative Assembly
Province of British Columbia
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Victoria, British Columbia
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Dear Madame Speaker:

I have the honour to transmit to the Speaker of the Legislative Assembly of British Columbia the report, *Product Stewardship: An overview of recycling in B.C.* We are reporting this work under the authority of section 12 of the *Auditor General Act*.



Carol Bellringer, FCPA, FCA
Auditor General
Victoria, B.C.
November 2016

AUDITOR GENERAL'S COMMENTS

WE'VE HEARD FROM many stakeholders who are concerned about government's regulation and management of the recycling system, or product stewardship, in British Columbia. In light of these concerns, we made a commitment in our *Performance Audit Coverage Plan* last year to determine if we should audit the effectiveness of the Ministry of Environment's oversight of product stewardship, with a focus on Multi-Material BC (MMBC).

Over the past year, we undertook significant work to better understand recycling in B.C. We saw that major aspects of this system, such as MMBC, are relatively new. We also saw that the ministry is pursuing several planned improvements to its oversight of recycling. As a result, we decided that an audit wouldn't add value at this time.

We are issuing this report to help legislators and those interested in this topic better understand the recycling program, to fulfill our public commitment to examine this topic and to encourage the ministry's effective management of the program as it moves forward. We'll continue to periodically monitor government's progress to determine if future work in this area is needed.

In B.C. those who make, distribute or sell certain types of products are responsible for recycling them. This shifts responsibility for proper disposal of products from taxpayers and local governments to producers, and creates financial incentives for producers to be more sustainable with the materials they produce. This program covers many products, such as paper, bottles, cans, batteries, tires and much more. Some of these items are picked up at curbside; others are taken by consumers to recycling centres.

Through our work, we saw indicators that the recycling system in the province is performing well in some of the areas that we reviewed.



CAROL BELLRINGER, FCPA, FCA
Auditor General

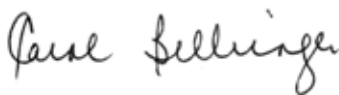
AUDITOR GENERAL'S COMMENTS

The ministry and stewardship agencies have reported positive outcomes and high recovery rates of regulated products. We saw that the ministry has a performance management framework for product stewardship. This includes long-term planning, monitoring of system performance, and enforcement of compliance with regulatory requirements. However, we identified opportunities for the ministry to improve its management and oversight, such as:

- ◆ ensuring the quality of reporting on recycling outcomes
- ◆ resolving policy implications of approving competing stewardship plans
- ◆ consistently applying compliance and enforcement regimes to eliminate free-riders
- ◆ ensuring province-wide access to recycling services
- ◆ encouraging accountability through transparent financial reporting

The ministry is aware of these opportunities for improvement, and is working to address them. We will continue to monitor the ministry's progress in making these improvements, and consider this information when planning our future work.

Thank you to everyone we spoke with, especially ministry staff who were cooperative throughout this work, and to the many stakeholders who met with us to discuss their concerns.



Carol Bellringer, FCPA, FCA
Auditor General
Victoria, B.C.
November 2016

REPORT HIGHLIGHTS



75% OF MOST
PRODUCTS
NEED TO BE
RECOVERED
THEN
RECYCLED



GOVERNMENT
WORKING ON
IMPROVING
ITS OVERSIGHT
OF RECYCLING

19
ORGANIZATIONS
MANAGE RECYCLING
IN BC



Product Stewardship



THOSE WHO **MAKE,**
DISTRIBUTE OR
SELL PRODUCTS
ARE RESPONSIBLE FOR
RECYCLING THEM



WE'LL
MONITOR
GOVERNMENT'S
PROGRESS

14
categories
of recyclable
products like:

BEVERAGE
CONTAINERS
PAPER AND
PACKAGING
BATTERIES
PHARMACEUTICALS

RESPONSE FROM THE MINISTRY OF ENVIRONMENT

THE PROVINCE WOULD LIKE TO THANK the Office of the Auditor General (OAG) for a thorough analysis and review of product stewardship in British Columbia. In particular, the focus on Packaging and Printed Paper and Multi-Material BC's implementation of its stewardship plan provides the Ministry with valuable insight moving forward with providing recycling services to all BC communities. While this report does not contain recommendations, the Ministry agrees with the five opportunities for continued improvement presented in this assessment.

Overall, while the OAG found the product stewardship program to be working well, it did identify select areas of governance and oversight that deserved greater attention. Of the five opportunities presented in the report, the Ministry is making significant progress in most areas and will be working to fully address all the areas by the end of 2018. Actions underway are as follows:

- ◆ The Ministry has initiated a contract to explore how it might better ensure that various forms of competition can benefit consumers. How these forms of competition might play out or best be administered/regulated in BC is the focus of a two-phase study initiated earlier in 2016 with completion and consultation slated for 2017.
- ◆ Since 2013, the Ministry has brought in almost 500 non-compliant producers ('free riders') into compliance, including 100 since the OAG review was first initiated. By the end of 2017, the Ministry anticipates having all producers in compliance with the Recycling Regulation.

- ◆ The Ministry is working with the various stewardship agencies to continually expand services across the province. For the packaging and printed paper program, the Ministry expects to have Multi-Material BC offering industry-funded recycling services to all eligible communities by 2018.

With respect to the OAG opportunity identified for improved reporting on recycling outcomes and ensuring transparency in financial reporting by product stewards, the Ministry will be expanding on its recently improved annual reporting requirements to also ensure greater financial transparency by the end of 2018.

The Ministry believes these months of assessment have been a positive experience for all concerned, and we sincerely thank the OAG for their efforts to further improve product stewardship in BC.

BACKGROUND

PRODUCT STEWARDSHIP VS. EXTENDED PRODUCER RESPONSIBILITY

PRODUCT STEWARDSHIP AND extended producer responsibility (EPR) are two terms that are often used interchangeably, but they have distinct meanings.

Product stewardship is a waste management system that seeks to reduce the environmental, health, safety and social impacts of a product and its packaging throughout its lifecycle. This can include managing the end-state of products, such as recovery and recycling. Product stewardship programs may be either voluntary or mandatory, and can be delivered by government, for-profit businesses, or non-profit organizations. Producers, retailers and consumers may also play a role in these systems.

By contrast, **extended producer responsibility** (EPR) is a mandatory approach to product stewardship where a producer is required to manage the lifecycle of materials they make, import, distribute, use or sell. In particular, EPR shifts the responsibility for ensuring proper management of products from taxpayers and local governments to producers and consumers. It also creates a financial incentive for producers to be more efficient and sustainable with the materials they generate.

In B.C., the system for recycling is often referred to as product stewardship. For the sake of consistency, we use this term. However, it is important to note that product stewardship in B.C. is a mandatory EPR system.

RECYCLING REGULATION

Enacted in 2004 under the authority of the *Environmental Management Act*, the Recycling Regulation (the regulation) details the requirements of producers to manage designated products, with an emphasis on environmental outcomes and program performance.

The regulation requires producers, or third-party organizations working on behalf of producers, to manage the recycling of designated products and materials through stewardship plans. The third-party organizations are known as stewardship agencies.

Stewardship plans must describe how producers or stewardship agencies will achieve target recovery rates for designated products. Stewardship plans are developed through stakeholder and public consultation, and the Ministry of Environment (ministry) reviews and approves them. Alternatively, producers have the option to adhere to a prescriptive set of regulated performance measures set out in the regulation. In B.C., there are currently 19 stewardship agencies and 22 ministry-approved product stewardship plans in place.

BACKGROUND

The regulation places the financial burden on producers, or the designated stewardship agencies, for collecting and paying the costs of managing products. Stewardship agencies are generally funded through fees collected on the sale of products, known as eco-fees, or through producer fees based on the amount of material the producer supplies into the market.

The regulation also requires stewardship agencies to submit annual reports to the ministry on stewardship plan performance. This reporting requirement includes providing third-party assurance on non-financial performance information, such as reported recovery rates of designated products. When an agency charges a visible eco-fee, these reports must also contain audited financial statements detailing revenues and expenses.

MINISTRY ROLE

In B.C., the provincial government does not directly manage recycling, nor does it set or collect fees. The ministry's role is one of regulatory oversight. Specifically, the ministry can:

- ◆ approve, deny or rescind product stewardship plans
- ◆ review annual reports of performance information
- ◆ assist producers in understanding and complying with regulatory requirements
- ◆ take actions to enforce compliance when necessary

The ministry can impose fines of up to \$200,000 on individuals or organizations who contravene the Recycling Regulation. Notably, the ministry has limited ability to impose fines on stewardship agencies.

RECYCLING REGULATION

The regulation defines 14 designated product categories:

1. antifreeze
2. beverage containers
3. electronics and electrical products
4. empty oil containers
5. gasoline
6. lead-acid batteries
7. lubricating oils
8. oil filters
9. packaging and printed paper
10. paints
11. pesticides
12. pharmaceutical products
13. solvents and flammable liquids
14. tires

Some of these product categories are further divided into sub-categories. For example, beverage containers are divided between plans covering containers for alcoholic and non-alcoholic drinks.

BACKGROUND

We identified indicators that product stewardship in B.C. is an advanced model that is performing well in some areas. Our province's recycling system has received the highest grade awarded by Extended Producer Responsibility Canada, a third-party non-profit organization that advocates for the development and improvement of extended producer responsibility

programs across the country. For well-known categories of recyclable products, such as beverage containers, stewardship agencies have self-reported that they are meeting or exceeding target recovery rates (see Exhibit 1). We must note, however, that we did not audit this reporting.

Exhibit 1: Target recovery rates for selected stewardship plans

Stewardship agency	Target recovery rates	Recovery rates reported by stewardship agencies	
		2014	2015
Multi-Material BC <ul style="list-style-type: none"> ♦ Packaging and printed paper 	75%	80.1%	77.0%
Encorp Pacific (Canada) <ul style="list-style-type: none"> ♦ Non-alcoholic beverage containers ♦ Some glass alcoholic beverage containers 	75%	79.1%	78.9%
Brewers Recycled Container Collection Council <ul style="list-style-type: none"> ♦ Alcoholic beverages sold in cans ♦ Refillable glass beer and cider bottles 	75%	93.1%	92.0%

PRODUCT STEWARDSHIP PROGRAMS

Beverage container recycling

Established in 1970, B.C.'s beverage container deposit program was originally designed to reduce litter. It evolved into the oldest EPR program in the province and is one of the longest-standing beverage container recycling programs in the world.

There are two stewardship agencies for beverage containers in B.C. Brewers Recycled Container Collection Council (BRCCC) is the stewardship agency for alcoholic beverages sold in cans as well as refillable glass beer and cider bottles. Brewers Distributor Limited is a private joint-venture company which operates the distribution and collection system for beer containers on behalf of BRCCC. Encorp Pacific (Canada) (Encorp) is the steward for all other beverage container types, including soft drinks, water and non-alcoholic beverages. Encorp is also the steward for non-refillable glass bottles used for wine, spirits, beer and cider.

BACKGROUND

According to a 2015 report by the California-based Container Recycling Institute (CRI), B.C.'s beverage container stewardship program is high-performing and environmentally significant. The report states that “with an overall redemption rate of 84.2% in 2013, the B.C. program is among the highest performing recycling programs of any type in the world.” Due to the comprehensive coverage of different product types and materials, the CRI regards the container recycling program in B.C. as “best in class.”

Packaging and printed paper

In 2009, the Canadian Council of Ministers of the Environment approved the *Canada-wide Action Plan for Extended Producer Responsibility*. The action plan called for the provinces, including B.C., to commit to developing and implementing EPR programs for an agreed-to list of product categories.

To meet this commitment, B.C. expanded the Recycling Regulation in 2011 to include packaging and printed paper (PPP). Under the expanded regulation, producers of PPP are required to submit a stewardship plan (or be included in such a plan) demonstrating how they will recover the materials they generate. The only comprehensive, province-wide stewardship plan the ministry has approved is from Multi-Material BC (MMBC).

The ministry did recently approve a PPP stewardship plan for BRCCC. However, this plan only applies to the collection of secondary materials related to beer and other alcoholic beverage container packaging, and does not provide curbside services.

According to ministry information, less than 1% of businesses are affected by the new packaging and printed paper regulation, and the largest 150 producers are responsible for about 80% of the costs of the packaging and printed paper stewardship program.

Multi-Material BC (MMBC)

MMBC is a not-for-profit organization and a member of the Canadian Stewardship Services Alliance (CSSA), another not-for-profit organization founded by a coalition of major producers. MMBC's board of directors, includes representatives from Unilever Canada, Loblaw's and Overwaitea Food Group. MMBC also has a B.C.-based advisory committee with representatives from industries, business and local communities in B.C.

MMBC's PPP stewardship plan was implemented in May of 2014. Producers who are members of MMBC must pay fees that cover the costs of the stewardship plan, including program administration, residential awareness and material management. For each designated PPP material, MMBC calculates a fee that covers the cost of collecting, transporting and processing these materials. Producers pay these fees to MMBC based on the amount of materials they report to have produced, distributed or sold in B.C.

In 2014, StewardChoice submitted a competing plan to provide PPP recycling services to residential units in the province, but the ministry did not approve it.

BACKGROUND

The ministry found that the plan did not meet regulatory requirements to provide:

- ◆ sufficient information to key stakeholders during consultation
- ◆ assurance that producers would pay the full costs of collection and recycling
- ◆ reasonable and free consumer access to collection facilities
- ◆ adequate consumer awareness of the proposed plan

MMBC SELF-REPORTING

According to its 2015 Annual Report, MMBC:

- ◆ covered 1,255,000 households in 151 B.C. communities through curbside collection
- ◆ collected 186,509 tonnes of printed paper and packaging out of a reported 243,191 tonnes produced
- ◆ achieved an overall recovery rate of 77% of regulated packaging and printed paper products

Note: We did not audit the reporting from MMBC.

PURPOSE AND SCOPE

THE PURPOSE OF THIS REPORT is to inform the Legislative Assembly and the public on the system of recycling in B.C., including both strengths and opportunities for improvement. To carry out our work, we focused on understanding two segments of regulated products: beverage containers and PPP.

We met with stakeholders, including ministry staff, MMBC, producers and a variety of third parties. We also reviewed documentary evidence, including ministry plans and activities, MMBC's stewardship plan and third-party reports on B.C.'s approach to recycling. We used this information to inform our understanding of the program area and ultimately to make our decision to not proceed with an audit of product stewardship.

Our intention is to inform legislators and the public about product stewardship. This report is not an audit and does not provide assurance on this program area. It is based on our planning work and our risk assessment to determine whether product stewardship warranted an audit. In the following sections, we share what we learned about this program area.

OPPORTUNITIES

IN REVIEWING THIS TOPIC and considering the information we received from the ministry, stakeholders and other sources, we identified several opportunities for improvement. These fall under the categories of:

1. Monitoring outcomes
2. Stewardship agency competition
3. Regulatory oversight of producers
4. Province-wide accessibility
5. Accountability

1. MONITORING OUTCOMES

By regulation, stewardship agencies are required to submit annual reports to the ministry. These reports must contain third-party assurance on non-financial information, such as:

- ◆ total amount of product sold, collected and recovered
- ◆ performance for the year in relation to targets
- ◆ descriptions of how products are recycled
- ◆ the location of collection facilities

This reporting is intended to assure the ministry that the stewardship agencies are achieving the recycling goals set out in their stewardship plans. For example, MMBC and Encorp both report they are exceeding target recovery rates. However, we heard concerns regarding the quality of reporting by stewardship agencies on outcomes and recovery rates.

When we explored the quality of existing third party assurance reporting with the ministry, staff showed us they had contracted a third-party review of the assurance and reporting program to address these concerns. Performed by Deloitte, this review provided recommendations for improvement that the ministry was working to implement. We saw this work as a demonstration that the ministry was addressing identified risks and opportunities regarding the quality of assurance reporting. We will continue to monitor the ministry's efforts in this area.

2. STEWARDSHIP AGENCY COMPETITION

One issue both stakeholders and the ministry identified is the challenge of stewardship agency competition. Under the Recycling Regulation, producers must have a plan to recover designated materials. Producers are not required to sign on with MMBC's plan, but in the absence of other approved plans, they currently have few choices in order to be compliant with regulatory requirements. They can either submit their own plan to manage the collection and recycling of products themselves, or join an existing plan.

OPPORTUNITIES

We were told by some stakeholders that it is unlikely producers can collect and recycle their products themselves because of the technical and logistical challenges they would have doing this province-wide for a single product. Some stakeholders we spoke with also expressed concern that without competition for recovering and recycling PPP, MMBC has few incentives to ensure their operations are efficient.

The ministry told us that approving additional stewardship plans for a single product category could have unintended consequences for existing plans. The ministry is concerned that competition could make stewardship agencies less viable and reduce overall recovery rates. The ministry expressed this concern in its review of the StewardChoice plan, stating that ministry staff will “undertake significant policy work to fully assess how competitive stewardship plans within a single extended producer responsibility product category should be administered ... prior to the approval of new competing plans.”

The ministry has contracted with third-party contractors Glenda Gies and Associates and Corporate Policy Group LLP to examine competition in other jurisdictions and identify best practices for the B.C. context. The first phase of this work, a jurisdictional scan, was delivered to the ministry in March, 2016. The second phase of this work, which will provide recommendations for best practice, is ongoing. We are encouraged that the ministry has taken steps to address stewardship competition within product categories. We look forward to seeing the ministry’s approach to implementing best practices.

3. REGULATORY OVERSIGHT OF PRODUCERS

Another issue identified by some stakeholders we spoke with, was whether the ministry was sufficiently engaging in compliance and enforcement activity for producers who were not meeting regulatory requirements.

In particular, the newspaper industry is a significant group of producers who are not in compliance with regulatory requirements for recycling PPP. According to the ministry, this creates a “free-rider” problem, in that newsprint is recycled by the MMBC program, but the costs of doing so are carried by the other compliant producers.

The challenge posed by free-riders, or non-compliant producers, is significant. The ministry estimates that the underfunded costs to MMBC of recycling newspapers are approximately \$3 to \$5 million per year. As a result of this shortfall, MMBC has publicly stated that it is unable to expand its services to some communities not covered under the current plan, such as Abbotsford and Kamloops. In addition, the ministry expressed concern that the persistence of a financially significant non-compliant producer group undermines stakeholder confidence in the system. Left unchecked, the ministry views this situation as threatening the structure of product stewardship and increasing the difficulty of addressing other challenges.

OPPORTUNITIES

In response to these issues, the ministry has engaged in compliance and enforcement activity to bring obligated producers into regulatory compliance, particularly for the PPP category. According to ministry records, approximately 900 obligated producers signed on to the MMBC program when it first launched. The ministry told us that as of January 2016, its compliance and enforcement efforts have resulted in approximately 250 additional obligated producers signing on. In some cases, the ministry has escalated its actions to the point of issuing Administrative Monetary Penalties.

In November 2015, the ministry began to pursue compliance and enforcement action against newspaper producers. The ministry's use of its compliance and enforcement powers suggest to us that it is exercising its oversight role to move producers into compliance with regulatory requirements. Despite this effort, more work remains for the ministry, as the ministry told us that all newspaper producers remain non-compliant.

4. PROVINCE-WIDE ACCESSIBILITY

During the course of our work, stakeholders informed us that not all communities in the province had access to adequate recycling services, in particular for PPP collection. This is especially common for rural and remote communities. MMBC cites the costs of covering free-riders as the reason it can't expand its services across the entire province.

The ministry did acknowledge that ensuring province-wide access to recycling services can be challenging, particularly where the remoteness or accessibility of a community increases the costs of providing services. The ministry also told us there are "waitlisted" communities that could not or would not join on to the MMBC stewardship plan when it was first offered. Ministry staff showed us they are working with MMBC to extend services to eligible communities and their goal is to expand accessibility to recycling services across the province.

5. ACCOUNTABILITY

Stakeholders raised a further issue with us regarding the accountability of stewardship agencies. Critics have argued that by approving MMBC's stewardship plan, the ministry has effectively imposed a tax on producers without sufficient accountability mechanisms. Some producers have expressed concerns about the lack of financial and operational accountability of stewardship agencies. We heard that there is no obligation for MMBC to demonstrate it is responsibly using the funds it collects to further the best interests of producers and achieve positive outcomes.

As a registered non-profit society, MMBC is not part of government, and is therefore not directly within our audit mandate. Consequently, we focused our work on what the ministry is doing to ensure the accountability of MMBC and other stewardship agencies.

OPPORTUNITIES

As we have previously discussed, under the regulation, the ministry does approve, monitor and require specific outcomes in stewardship plans. These provide a framework for accountability. Also, the ministry advised us that it has more closely examined the operations of MMBC and has not identified any issues of financial mismanagement, such as fraud or other misconduct.

Nevertheless, the ministry recognizes that increased transparency to demonstrate accountability is an opportunity for improvement in this sector. Ministry staff told us they are working to improve accountability by, for example, encouraging detailed financial reporting from all stewardship organizations. The ministry is also undertaking efforts to improve the non-financial reporting information as previously discussed. We agree that the ministry should continue to determine what reporting is expected of stewardship agencies to improve transparency and public perceptions of the system.

LOOKING AHEAD

ASPECTS OF THIS PROGRAM AREA are relatively new and the ministry is establishing plans and taking action to improve performance and address opportunities with the product stewardship system. We look forward to seeing evidence of the ministry's progress in:

- ◆ improving the quality of reporting on recycling outcomes
- ◆ resolving policy implications of allowing competition within a single product category
- ◆ eliminating free-riders through a program of regulatory compliance and enforcement
- ◆ achieving equitable, province-wide access to recycling services
- ◆ promoting financial transparency as a mechanism to improve accountability

We urge the ministry to publicly communicate its efforts and progress to increase public confidence in the system. We will continue to periodically monitor the ministry's activities in these areas, as well as continue to listen to stakeholder concerns. We will consider information on the ministry's progress when we plan our future program of audits.



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