



Reference: 294099

January 13, 2016

Neil Hastie
Development Director
StewardChoice Enterprises Inc.
4170 Still Creek Drive
Burnaby BC V5C 6C6
Email: nhastie@stewardchoice.ca

Dear Mr. Hastie:

Thank you for submitting the StewardChoice Enterprises Inc. packaging and printed paper (PPP) Stewardship Plan (referred to hereafter as the 'Plan') under Section 4 of the Recycling Regulation of the *Environmental Management Act*. StewardChoice Enterprises Inc. has clearly invested significant time and effort and has undertaken extensive discussions with Ministry of Environment staff in development of its Plan. I would like to recognize and acknowledge your efforts in this regard.

My review was conducted based upon version 5.1 of the Plan, submitted on December 6, 2015 and the final consultation report version submitted on August 7, 2015. I recognize that the Plan was originally submitted on June 26, 2014 and has since been revised a number of times.

My review centred on whether the Plan is consistent with Section 5 of the Recycling Regulation and Sections 5.1 and 5.2 in particular. I understand that each of the key issues identified by ministry staff in their assessment package were formally shared and discussed with you in November 2015.

Unfortunately, I am unable to approve the Plan as submitted for the reasons articulated below.

In terms of specific regulatory requirements, the Plan fails to meet the requirements under the Recycling Regulation in four key areas:

1. While StewardChoice Enterprises Inc. completed consultation process requirements relevant to Section 5.1(b) of the Recycling Regulation, key stakeholders were not provided with sufficient information in which to assess the potential implications of the Plan for their interests. In particular, it appears that the consultation did not provide sufficient information for many consulted parties to develop an understanding that implementation of the StewardChoice Enterprises Inc. Plan could involve a risk of service reductions to existing producer-funded services (i.e. the implications of StewardChoice Enterprises Inc. drawing producer funding away from Multi-Material BC appear not to have been well conveyed).

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2. The Plan does not adequately ensure that producers will pay the full costs of collecting and managing 75 percent of their produced packaging and printed paper volumes, as required under Section 5.1(c)(i) of the Recycling Regulation. The proposed Plan is based upon negotiated contracts with tonnage providers, without reference to actual collection and management costs. Thus, under the proposed Plan, it appears likely that producers signed on with StewardChoice Enterprises Inc. would be credited with collection of the required volumes of packaging and printed paper through existing collection and management mechanisms, but would potentially pay less than the full cost to collect and manage these volumes.
3. As noted above (#2) the proposed Plan does not guarantee that producers will pay the full costs to collect and manage their obligated packaging and printed paper volumes, potentially leaving consumers/taxpayers to fund the remaining costs. Given that collection facilities are an integral part of an overall recycling collection and management system, the proposed Plan thus does not guarantee “reasonable and free consumer access to collection facilities” as per Section 5.1(c)(iii). The Plan also relies on an existing network of recycling depots for collection of some products, but StewardChoice Enterprises Inc. has not demonstrated that it will be able to conclude fair agreements (e.g. with MMBC) to fulfill this aspect of its plan, nor does the plan commit to the use of actual costs as a basis for such agreements.
4. Section 5.1(c)(iv) of the Recycling Regulation requires that a stewardship plan make consumers aware of the producer’s product stewardship program, the location of collection facilities and how to manage products in a safe manner. The Plan appears to delegate responsibility for consumer awareness to recycling service companies or building owners and managers with little coordination and inadequate commitments regarding how this will be undertaken.

In deciding whether to approve a submitted stewardship plan, Section 5(2) of the Recycling Regulation also provides for the statutory decision maker to consider factors such as the product stewardship programs of other producers for products in the same product category and the structure of financial and operational co-operation with other producers.

I have concluded that there would be significant implications for existing packaging and printed paper collection services in British Columbia and for the Ministry of Environment’s role in overseeing these services if the Plan, in its current form, were to be approved and implemented. Specifically, implementation of the Plan would require negotiated revisions to the existing Multi-Material BC Plan, and the creation of appropriate procedures for ministry oversight of two or more competing plans within a single product category.

It is clear to me upon review of the Plan that the ministry must undertake significant policy work to fully assess how competitive stewardship plans within a single extended producer responsibility product category should be administered, and that this work would most appropriately be undertaken prior to the approval of new competing plans. I have asked staff to initiate such policy work immediately and can assure you that StewardChoice Enterprises Inc. will be consulted as part of this effort.

As you have noted in previous communications, StewardChoice Enterprises Inc. has business interests which depend upon timely approval of the submitted stewardship plan. I am sympathetic to the impacts that StewardChoice Enterprises Inc. may experience due to rejection of this plan, and I hope that the reasons for its rejection are clear.

In this decision I have reviewed and considered all relevant information presented to me, whether or not it is specifically referred to in this letter.

RIGHT TO APPEAL:

If you disagree with this decision, Division 2 of Part 8 of the *Environmental Management Act* provides for appeal of my decision to the Environmental Appeal Board (EAB). In accordance with the Act and with the Environmental Appeal Board Procedures Regulation, the EAB must receive notice of the appeal no later than 30 days after the date you receive this decision.

The notice must include:

- a. Your name and address and the name of the person, if any, making the request on your behalf;
- b. The address for serving a document to you or the person acting on your behalf;
- c. The grounds for appeal;
- d. A statement of the nature of the order requested; and
- e. The notice of appeal shall be signed by you, or your counsel or agent if any, and be accompanied by a fee of \$25, payable to the Minister for Finance by cheque, money order or bank draft.

The Notice of Appeal form, available online at www.eab.gov.bc.ca/forms.htm, should be completed, and must be filed by registered mail or by leaving a copy of it at the Board office during normal business hours (8:30 am – 4:30 pm, Monday through Friday, excluding public holidays). Notice may also be sent by email or fax, provided the original notice of appeal and the appeal fee follows by mail. The mailing address of the EAB is: PO Box 9425 Stn Prov Govt, Victoria BC, V8W 9V1. The street address is: 4th Floor, 747 Fort Street, Victoria, BC. For further information, please consult the EAB website at www.eab.gov.bc.ca.

I would welcome the opportunity to discuss my decision with you at your convenience. Please do not hesitate to contact my assistant, Ms. Coleen Gooderham at 250 356-0121 or Coleen.Gooderham@gov.bc.ca, if you wish to arrange for such a discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'MZ', with a horizontal line extending to the right.

Mark Zacharias
Assistant Deputy Minister
Environmental Protection Division

cc: Cameron Lewis, Executive Director, Waste Prevention, Ministry of Environment