

# Product & Packaging Stewardship Review

## MANAGING WASTE RESPONSIBLY

An information service for municipal governments  
Vol 2, Issue 4, July/August 2001

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## Bill 90 formula a disincentive for producer responsibility

Bill 90 was introduced into the Ontario Legislature during the last week of the spring session. A summary is posted on the Environmental Registry ([www.ene.gov.on.ca/envision/env\\_reg/er/registry.htm](http://www.ene.gov.on.ca/envision/env_reg/er/registry.htm)).

Expected to be proclaimed this fall as the Waste Diversion Act, the Bill contains many loose ends and leaves several questions unanswered.

But of greater significance is that far from encouraging producer responsibility, the formula proposed appears to penalize producers whose packaging materials have high recovery rates.

While there are provisions to designate other wastes, the "blue box waste" definition used in the Bill limits the packaging material covered by the legislation to that in the municipal blue box system.

If the blue box regulations are amended to include other materials, as senior ministry staff have suggested, Ontario municipalities may be forced to collect more materials at a high cost, receiving only low or negative revenues.

The problem is with the Province's self-imposed inability to bring in a general levy on packaging. It might be viewed as a tax.

Instead, there will likely be a

handling fee based on the cost of the material recovered through the blue box. Therefore, if the material has a very low recovery rate in the recycling system, the producer's cost will be low. If the material is not recovered in the recycling system, the producer doesn't pay—even though it is of course recovered in the municipally-operated and funded garbage system. For producers, this means the more

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collected, the greater their cost.

How this fits in with the much-heralded level playing field industry has been asking for is uncertain.

Rather than "promote the reduction, reuse and recycling of waste," which is the Bill's declared intent, there appears to be a *reverse incentive* to producers on the issue of their packaging material choice. It is in their interest to discourage recovery.

Under the regulation which covers

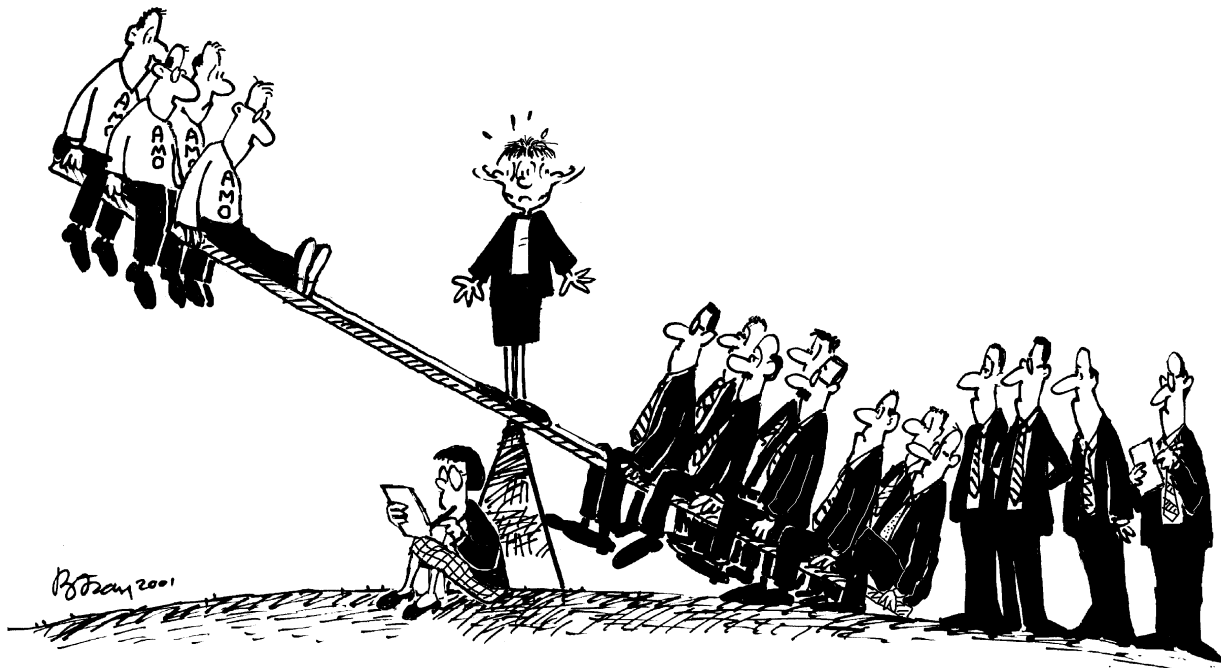
municipal recycling (101/94), there is a mandatory list of materials, all of which must be collected, and a supplementary list, two of which must be collected.

If a material were transferred from the supplementary list to the mandatory list, municipalities would be obliged to collect it. The more successful the recovery program, the more the producer would have to pay. So if market conditions were poor, this would favour the producer, as recovery would be low and municipalities would have no incentive to promote recovery by its residents. On the other hand, if a material were on the supplementary list, poor market conditions would see fewer municipalities inclined to add the material (and some to consider dropping it) and the producer would again pay less.

Any material that is currently not recyclable (e.g. chip bags, PVC and some PP packaging) will effectively be exempt from the regulation and municipal funding obligations, unless the regulation is amended to include it. This provides brand-owners with a direct incentive to package their products in non-recyclable material, non-blue box designated materials or materials with a low recovery rate.

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# The Waste Diversion Ontario Board...



Four - AMO

One: MOE  
appointee (non  
public service  
employee);  
One: MOE  
staff (non-  
voting)

Three: CSR: Corporations Supporting Recycling;  
One: Retail Council of Canada; One: Canadian  
Newspapers Association; One: LCBO; One:  
Brewers of Ontario; One: CMCSA/CPCA;  
Members of the Industry Funding Organizations.  
Observers:  
One: CMCSA/CPCA, One: Ontario Community  
Newspapers Association, One: OWMA;  
One: PPEC

....a delicate balance

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*The current issue of PPSReview, and past issues, are available for viewing on the Internet ([www.productstewardship.org](http://www.productstewardship.org)).*

*Anyone wishing to support the Fair Comment Project may email Ben Bennett ([bbc@albedo.net](mailto:bbc@albedo.net)). Confidentiality is guaranteed.*

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**NOTICE:** Please be advised that this publication, AND the views expressed, have NO connection with the Association of Municipal Recycling Coordinators of Guelph, Ontario.

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## GUEST EDITORIAL

# Environment Canada is a natural to run a Canadian EPR program

by Andy Telfer

There is an artist's studio/storefront close to where I live called "Potters and Dotters."

'Dotters' is a pun on the word 'daughters'. As well as selling their wares, the owners also teach pottery to all ages, offering classes that range from almost purely social to very serious. Their products are packaged very simply in newsprint and used bags after being sold, accompanied by their business card.

This simple system is unusual in our world of prepackaged goods. Ours is a world where packaging is an important vehicle to market products and where packaging offers a plethora of "information" (fact or fiction). This small pottery business, where products are marketed by their merits alone, comes to mind when I think of the packaging system in Germany. While it may not have the simplicity of the pottery store, its principles are simple.

From my understanding of the system, consumers who purchase goods whose packaging is labelled with the Green Dot logo know the company has paid to have a third party look after its collection and management, whether or not the packaging is actually recyclable. In the case of Germany, manufacturers were mandated to take full responsibility for their packaging 10 years ago, and have two choices. They either pay into the Duales System Deutschland (DSD) and place a green dot on the label, which usually means the packaging ends up in the country's recycling program, or they take the material back at retail and look after it themselves (a deposit-return system, for example).

Sounds simple enough, from a consumer standpoint. And obviously brand-owners have some hurdles to jump and costs to bear. These types of programs, called extended producer

responsibility (EPR), are driven by a growing public concern over the tremendous amount of waste going to landfills. As disposal costs increase, the public is becoming very concerned with the high cost of disposing of someone else's marketing-oriented packaging. If a Canadian system means full responsibility, as opposed to a proposed 50% responsibility scenario, then the full cost of recovering the package should be internalized. It then will become clear

The public is developing an increasing appetite to divert more and more material from landfills.

how much the packaging adds to the cost of the product and a message will be sent to the consumer. The public is developing an increasing appetite to divert more and more material from landfills. We can satisfy this appetite to a great degree with a broader Canadian EPR program, provided return rates are better than existing recycling systems and there is therefore increased diversion of materials from landfills.

So how about a Canadian Green Dot? Canadian recycling coordinators and others in the industry are already familiar with the concept. And there is already talk of a Canadian Green Dot. My wish is that we adopt the concepts behind the European Packaging Directive: producer responsibility and enhanced packaging recovery. But the question remains of who pays how much? Fifteen European countries are already using the Green Dot symbol but their recovery rates vary, according to the collection system they use, and the level of producer responsibility varies, too. Germany appears to be one of the best models, at this point, with its combination of high recovery rates and full responsibility.

If we decide to have a national EPR program, who would be the "potters"? In other words, who would create and regulate the program? Ideally, in Canada, we could have a harmonized national program, regulated by the federal government. Who would create and operate this program? A national multi-stakeholder body. The best place for such a program to be administered would be through the Ecologo program/ Environment Canada, a non-partisan government body already responsible for placing environmental logos on product packaging. The contract could be awarded to a third party. We have to trust industry to develop the most efficient system to handle the resulting regulated program. Those collectors may be municipalities or private sector.

Waste has never and still does not make sense. I believe that 20th and 21st century waste will one day be seen as a short-lived experiment. We are already witnessing increased pressures on natural resources and a growing disdain for dumps and landfill sites. We must therefore begin building systems to achieve the highest possible waste diversion for the planet's future well-being. A Canadian EPR system will finally be something positive we leave for our sons and dotters.

*(Andy Telfer is the Executive Director of the BC-based Coast Waste Management Association.)*

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## Briefly...

### 2000 - STATISTICS ON SOFT DRINK CONTAINER PACKAGING (USA)

While the per capita overall consumption rate of soft drinks increased by 0.5%, market share for aluminum cans fell to 47.8%, continuing its steady decline from 1991 when it was reported at 54.6%. Aluminum can unit sales totalled 63.11 billion units – down from 1998 levels of 65.11 billion units. The market share for PET bottles increased to 51.3%, continuing its steady increase from 33.6% in 1990. PET bottle unit sales totalled 25.64 billion units – an increase from 1990 levels of 7.56 billion units.

*Beverage World – CSD Packaging 2000 – June 2001*

### RECYCLING REVENUES FALLING

In Ontario, the value of recyclable commodities saw a significant decline in the last quarter, and a steady decline over the last year. Materials such as metals, glass, plastics and various paper grades that make up the basket of goods in municipal curbside recycling programs are down in value to about \$88/tonne. This is about \$12/tonne less than three months ago and \$42/tonne less than one year ago. HDPE plastic dropped about 30% in one month. Old corrugated cardboard has slowly dropped to about \$50/tonne down from \$80/tonne a year ago.

*CSR Sheet—July 2001 (www.csr.org—publications)*

### 2000 -STATISTICS ON BEVERAGE CONSUMPTION (USA)

The beverage industry continues to see volume growth, with bottled water at the top of the list with an 8.3% increase and sports drinks up 6.4%. In per capita terms, soft drinks are the most consumed beverage in the US at 55.7 gallons/person/annum, followed by beer at 22.2 gallons/person/annum, and bottled water at 18.2 gallons/person/annum. *Beverage World – Market Index 2001 – May 2001*

### UPDATE: BC'S DEPOSIT-RETURN PROGRAM \$5M IN BLACK

Encorp Pacific Canada, the not-for-profit company responsible for managing the non-alcoholic beverage recovery program in British Columbia, reported excess revenues of \$5 million for fiscal year 2000. The surplus is primarily due to a low forecast of aluminum and plastic revenues. Also, the system now has a new source of revenue coming from “container recycling fees” charged by many retailers at the point of purchase. These fees accounted for about 33.6% of revenues in 2000. Overall the program has achieved increases in recovery rates in all categories of containers in the system, including the newest program arrivals (October 1999): gable top: 45.6% — a 543.6% increase, drinkboxes 43.4% — a 86% increase and drink pouches 16.4% — a 242.5% increase.

*Encorp Pacific (Canada) —2000 Annual Report  
www.encorpinc.com*

## BC groups want milk containers added to Regs

Community recycling groups in British Columbia are pushing the provincial government to bring containers for milk and milk substitutes (soya and rice drinks) under the umbrella of the Beverage Container Deposit Refund Regulation.

A petition is circulating at local recycling depots and at Encorp Return-It bottle depots throughout the province.

Milk was originally exempted from the Regulation by decision of Cabinet following pressure from the Dairy Council of BC.

This decision was taken in spite of a unanimous recommendation from the Interim Beverage Container Management Board that these containers be included.

The recovery rate for recycling of plastic milk jugs is about 60%. This relatively high rate (for plastics) has been achieved without help from the

dairy industry. It was reached because many voluntary groups collected milk jugs for recycling at the Merlin Plastics recycling plant in Richmond, BC.

Last October, the Dairy Council reported a recovery rate of about 1% for its polycoat/gabletop containers. In June, the council reported to the Beverage Container Management Board that there had been no significant change over the past year, despite the fact that there is also a paper mill in Burnaby (Green Coast) that was re-engineered in 1999-2000 to recycle this material, together with drinking boxes.

The Dairy Council reported to the Beverage Container Management Board last October that it would study of the most effective method of recovery through a ‘multi-material’ system starting in two or more communities by March, 2001. The

starting date has since been delayed until this fall.

In 1999, approximately 1,600 tonnes of milk jugs were landfilled, according to information from the June 2000 *Report on Rigid Plastic Containers*, prepared for a provincial multi-stakeholder steering committee.

The petition hopes to encourage the dairy industry to take responsibility for their containers in the same way as the makers of soft drinks, juice, bottled water, beer, wine and liquor.

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# Bill 90:

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The make-up of the board of the proposed Waste Diversion Ontario has tipped the balance heavily in favour of industry, with eight industry delegates versus four municipal representatives. There will also be four observers from industry groups. The Bill calls for three representatives on the WDO Board to be appointed by CSR:Corporations Supporting Recycling, which is not an affected stakeholder itself, but an umbrella organization. Other industry seats have been assigned to specific industry groups or associations themselves.

Organizations representing the environmental sector are not represented at all, through voting delegates or even as observers. Matters could arise at Board meetings will remain outside of accessible information available to the public.

The Bill clearly states that industry "shall not provide for payments to municipalities that total more than 50 per cent of the total net operating costs incurred". This, in effect, enshrines the minimum long-term *municipal* share of the costs of recycling diversion at 50%. Indirectly, it also reaffirms that municipalities will continue to bear 100% of the costs of managing the packaging not recovered through recycling programs.

According to the Bill, an industry funding organization may reduce the amount of fees payable if there have been "voluntary contributions of money, goods or services" to the organization, which could include the time industry representatives spend attending WDO Board meetings. (It notes they will receive no pay but will receive expenses—based on a formula set up by the Board.) It could include projects like the half a million dollars spent on "implementation support" and \$1 million allocated to "ongoing" demonstration projects by the Waste Diversion Organization on whose recommendations

**To download a copy of Bill 90, go to the Ontario Legislature website:  
[www.ontla.on.ca](http://www.ontla.on.ca) or  
[www.productstewardship.org/bill90.pdf](http://www.productstewardship.org/bill90.pdf)**

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## COMING EVENTS

### August 19-22

Association of Municipalities of Ontario  
annual conference  
Toronto, ON  
Call (416) 971-9856

### September 19-21

Recycling Council of Alberta  
annual conference  
Edmonton, AB  
Call (403) 843-6563

### October 9-11

Recycling Council of Ontario (RCO)  
annual conference and trade show  
Hamilton, ON  
Call (416)960-1025, ext. 16

### October 17-19

Coast Waste Management Association  
fall conference  
Campbell River, BC  
Call (250) 752-8293

## September 21 deadline for written comments on Bill 90

Written submissions on Bill 90 received by the Standing Committee on General Government before September 21, 2001, will be distributed to the committee members. Submissions should be sent to:

Ann Stokes  
Clerk of the Committee Standing Committee on  
General Government  
99 Wellesley Street West  
Whitney Block, Room 1405  
Queen's Park  
Toronto, ON M7A 1A2  
Tel: (416) 325-3515; Fax: (416) 325-3505

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# Opinion Piece

The opinions expressed in this column are not necessarily those of PPSReview

## Did we wait all this time for a WDO bill that says "may"?

by Jay Arthur

After waiting so long for some kind of legislative action in Ontario on blue box funding we have been offered Bill 90. It's not a law yet, and there will be more delays before this actually happens—if it actually happens.

But what is a *law*? I ask the question because reading Bill 90, I am really not sure. When I think of law I like to go back to the basics.

Charlton Heston came down from the mountain with two tablets and carved on these were the principles from which a just society would be founded.

Thou shalt not kill, thou shalt not steal. And no covetting of your neighbour's missus. This was pretty clear—a no if's or but's law.

So, after what has been an agonizingly long wait for Moses to return to us, what do we see in Bill 90?

It begins well enough, with definite statements about what it *shall* do.

It shall set up Waste Diversion Ontario. There shall be four municipal reps, eight industry reps and one person appointed by the minister. More on that later (and see the cartoon on Page Two).

WDO shall set up waste diversion programs, shall enhance public awareness and participation, shall make sure the market place is "affected in a fair manner", shall figure out the costs it needs, and shall perform a number of administrative functions.

It's all very much as you would expect, until you get to the section everyone has been waiting for: *Waste Diversion Programs and Industry Funding Organizations*.

Now, all of a sudden, all those "shall's" have been replaced with "may's".

(Section 22) The minister *may* require WDO to develop a waste

diversion program for a designated waste or may require the program to be developed in co-operation with an existing or a new organization. *May*?

(Section 24) A waste diversion program *may* include activities to reduce, reuse and recycle the designated waste. *May*? This bill is subtitled: "An Act to promote the

**While it is tempting to suggest Bill 90 was actually written by industry lobbyists, it is more likely they just provided administrative assistance.**

reduction, reuse and recycling of waste."

(Section 29) An industry funded organization, once sanctioned by the minister *may* make rules designating stewards and setting fees. *May*?

(Section 40) The minister *may* make regulations to implement the various aspects of the bill. *May*?

Have municipalities in Ontario waited all this time for *may*?

Whatever the good or bad points in this legislation, there is no commitment from the Province to actually do anything.

This is the equivalent of our friend Mr. Heston making his long-awaited grand entrance and announcing to assembled multitudes: "The Big Guy may require that people do not kill each other. He may designate certain acts like theft, covetting, etc. as contrary to the intent of the Act. Or He *may* not."

Then again, if we are to believe Hollywood, the tablet inscriptions were a joint effort by the Big Guy and a few celestial flame throwers, with little or no input from industry.

While it is tempting to suggest Bill

90 was actually written by industry lobbyists, it is more likely they just provided administrative assistance.

How else do we explain the bizarre wording of Section 24, subsection 5? "A waste diversion program developed under this act for blue box waste shall not provide for payments to municipalities that total more than 50 per cent of the total net operating costs incurred by the municipalities in connection with the program."

That wording is a long way from the 50/50 commitment we keep hearing about. Actually, that's what we have now. Zero is "not more than 50 per cent".

How else do we explain the make-up of the proposed WDO board? Eight industry reps plus four industry observers (whose level of participation will be determined by the board) will be offset by four municipal reps, a non-voting MOE bureaucrat and a minister's designate who may be an NGO rep but could just as easily be another industry participant.

In the meantime, this Bill, at the earliest, will not become law until the late fall. Then, *if* the minister *immediately* requires an operating agreement for blue box funding, the WDO has 180 days to come up with one. That would be nine months from now.

*Shh-ting!*—another \$15 million the municipalities didn't see.

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