

# PPSReview

**Product & Packaging  
Stewardship Review**

**MANAGING WASTE RESPONSIBLY**

An information service for municipal governments

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**IN ONTARIO**

## **“Ambitious” compliance rate puts recycling funds in doubt**

A decision on the blue box program plan developed by Stewardship Ontario is expected shortly, but whether enough funds can be raised from brand owners has become an issue.

The blue box program plan delivered to Ontario Environment Minister Chris Stockwell in late February has seen some changes from the one presented to the Waste Diversion Ontario (WDO) board in January (and covered by the February 2003 issue of *PPSReview*).

In a move designed to address concerns about the level of brand owner fees, the plan is now assuming an “ambitious” 95 per cent compliance rate.

Both the Association of Municipalities of Ontario (AMO) and the Recycling Council of Ontario (RCO) have voiced concerns about the change in compliance rate, which had been set at 60 per cent, resulting in higher fees for complying brand owners.

“AMO is concerned that the assumed 95 per cent compliance rate is indeed ambitious, and will likely not be met in the first several years. Given this, AMO is deeply concerned with the contingency plan to make payments to municipalities equal to 50 per cent of blue box program costs. The plan must be explicit with

respect to how to make up for a shortfall in funding,” AMO commented.

In response, the February 2003 Blue Box Program Plan suggests that \$2.5 million of the LCBO funding, which had been reallocated to market development, “will be deferred until such time that the financial obligation to municipalities in 2003 has been met in full.”

“In the event that the sum of these two payments is less than the total financial obligation to municipalities provided for under the 2003 program, year,” continues the February report, “Municipalities would be entitled to charge Stewardship Ontario interest as of January 1, 2004 on any outstanding funds due, at the lesser of the prevailing prime rate or municipality’s cost to borrow.”

“If necessary, Stewardship Ontario will consider alternative ways to cover a shortfall, including the deferral to year 2 of non-critical delivery and start-up costs,” concludes the report (Page 28).

“This provision does not guarantee funding,” noted the RCO, which voted against the blue box plan as submitted.

The RCO had a number of concerns about the blue box program plan. It has asked for an explanation for the vast increase in projected blue box costs from the 2000 Waste Diversion Organization report prepared by Corporations Supporting Recycling

(CSR) and the latest report, also prepared by CSR. As of press time, no response had been received from Stewardship Ontario on that issue.

The program plan was posted on the Environmental Bill of Rights (EBR) website for public comment for a 60-day period, starting March 21. The length of the posting means the tentative obligation date for stewards, which had been estimated to be May 1, has been delayed.

The full text of the regulation can be found on the EBR website <[www.ene.gov.on.ca/envision/env\\_reg/er/documents/2003/RA03E0011.htm](http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0011.htm)>.

**Oil and tires  
are next —  
see Page 4/6**

### **INSIDE THIS SIX-PAGE ISSUE**

<i>News in Brief</i>	2/6
<i>Quebec, BC news</i>	3/6
<i>Take-it-Back</i>	4/6
<i>LCBO responds</i>	5/6
<i>Editorial</i>	6/6

## Briefly...

### PRODUCERS EYE CELL PHONE RECYCLING

A new voluntary agreement by major cell phone makers calls for manufacturers to develop programs for collecting end-of-life phones. Ten of the world's largest manufacturers of mobile telephones have agreed to work with the United Nations Environment Programme in developing a worldwide waste management plan for phones, building on the systems already in place in the developed countries. The original equipment manufacturers will also aid developing countries to set up recycling systems and appropriate legislation.

*Resource Recycling, January 2003*

### WEEE, RoHS CONFIRMED AS EUROPEAN UNION POLICY

On February 13, 2003, two of the most highly debated European Union (EU) waste policy initiatives, the Waste Electrical and Electronic Equipment (or WEEE) directive 2002/96/EC and the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) directive 2002/95/EC became new EU law when they were entered into the EU's official journal. Implementation deadlines extend over the next two years. Starting August 13, 2004, all EU states must transpose both laws into their own national statute books. By August 13, 2005, all member countries must introduce a free take-back program nationally for waste products, which will ensure that producers are responsible for financing, collection, treatment, recovery and disposal of the collected wastes. Individual companies will be financially responsible for their own goods and collectively responsible for recycling any products placed on the market before August 2005. Producers will be allowed to charge a visible fee on the price tag of new products for eight years (10 years for large domestic items like refrigerators). The first performance deadline is December 31, 2006, when member states (by then about 25 countries) must have collected about 4 kg per capita annually. The European

Commission will set out rules for monitoring compliance with these by August 2004. Under the RoHS law, producers will be prohibited from using lead, mercury, cadmium and hexavalent chromium, or the brominated flame retardants PBDE and PBB, in their products as of July 1, 2006.

*ENDS Environment Daily, February 17, 2003*

### LOOKING GOOD IN HAWAII

It appears Hawaii's bottle bill will likely survive. Legislative efforts to undermine the imminent beverage container deposit system in Hawaii appear to be failing. While Republican Governor Linda Lingle has indicated she supports a repeal of the bill which brought in the system, no repeal measure was passed by the appropriate committee before the deadline by which measures approved by one house must be sent over to the other body. This clears the way for the deposit system to go into effect in 2005.

*Resource Recycling's electronic newsletter, March 10 2003*

### INDUSTRY NOT WAITING FOR PROVINCES ON ELECTRONICS

Earlier this year, Electronics Product Stewardship Canada, which represents about 90 per cent of TV, laptop and printer manufacturers and 50 per cent of PC makers in Canada, says its members are ready to step up and deal with the problem before the provinces come forward with a complex patchwork of regional rules. The plan is to provide bins at waste depots where city workers or the public can dump old electronic goods. Qualified vendors who are subject to standardized provincial rules would regularly empty the bins, making sure the waste is properly recycled or disposed. The program would be paid for through an advance diversion fee (ADF) of \$25 on computers and TVs, and a lower fee for handheld gadgets, charged at the point of purchase to consumers.

*Toronto Star, March 5, 2003*

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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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**PPS  
Review  
April 2003**

**Page 2/6**

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# Industry in Quebec looking for blue box funding regulation this summer

With a new provincial government about to take over in Quebec, municipalities waiting for regulations on product stewardship may have to wait a little longer, but the concept of industry support based on the Ontario model is firm.

The enabling legislation, Bill 102, was adopted by the National Assembly

December 12 and regulations were expected this spring.

The Bill is in line with the *Plan D'Action Quebecois sur la Gestion des Matieres Residuelles 1998-2008*.

Companies in the categories of containers, packaging and printed material will be financially obligated under the bill to pay up to 50 per cent

of the net cost of the province's curbside recycling program.

Like the Waste Diversion Act model in Ontario, industry funding organizations (IFOs) will be established to collect funds and these monies will be presented, in trust, to Recyc-Quebec. Industry expects to see the regulation adopted this summer with agreements finalized next winter

The IFOs will be negotiating with municipal organization to determine net costs.

The cost of recycling in Quebec was determined in 2001 to be about \$50 million (\$70 million gross costs, less \$20 million revenues).

Like its Ontario counterpart, there is provision for the regulation to allow newspapers to make their contribution an in-kind payment.

In that event, \$1.3 million in advertising space would be made available for the next five years, according to Collecte Selective Quebec (CSQ), Corporations Supporting Recycling's counterpart in that province.

CSQ's role in the coming months will be to consult with its membership on the issues, to prepare brand owners for their participation in the stewardship plan, to set up the IFO, to develop an interim financial plan and to assure harmonization with Ontario.

In the longer term, CSQ will be preparing to negotiate with municipal associations to determine the net costs and to work on the criteria for payments.

## BC gets feedback on stewardship regulation review

Four regional workshops were held recently in British Columbia as part of a stakeholder consultation process on the province's stewardship programs.

The workshops, organized and facilitated by the Recycling Council of British Columbia on behalf of the Ministry of Water, Land and Air Protection, were in Prince George, Kelowna, Nanaimo and Burnaby in March.

The consultation process focused on whether the existing Post-Consumer Residual Stewardship Program Regulation "provides an adequate regulatory vehicle for all stewardship programs."

There has been some debate as to whether one encompassing regulation could cover all the province's stewardship initiatives.

Another suggestion is that there be two regulations: one for hazardous materials like oil and solvents, and one for consumer packaging.

The BC residual regulation was designed to accommodate additional products by adding new schedules. It

states the conditions and considerations that the director must address in approving stewardship plans. It also has prescriptive requirements for brand owners that do not choose not to operate under an approved plan. While the ministry's Product Stewardship Business Plan (January 2002) calls for stewardship regulations to be results-based rather than prescriptive, it also recognizes prescription is required "to address increased risk to the environment and/or cost to a local government."

Stakeholder were asked to comment on the single regulation issue, performance measures, non-financial responsibilities of the producer/consumer, the roles of the various players, possible changes in approval criteria, the possibility of a performance requirement, monitoring and evaluation, and compliance incentives.

For more information about the regulation review, go to: [http://wlapwww.gov.bc.ca/epd/epdpa/ips/reg\\_review.html](http://wlapwww.gov.bc.ca/epd/epdpa/ips/reg_review.html).

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PPS  
Review  
April 2003

Page 3/6

# Electronic waste bills, more bottle bills coming to US legislatures

by Clarissa Morawski, CM Consulting

Every year, Raymond Communications hosts a conference called *Take-it-Back* that is wholly focused on extended producer responsibility (EPR) initiatives emerging around the world. This year's conference was held in Alexandria, Virginia, February 24-26.

About 100 delegates from Belgium, Germany, Japan, United Kingdom, United States and Canada came together to exchange information and gain a clearer understanding of the implications on their respective organizations of emerging EPR programs.

Many familiar electronics companies were there, including Sony, Dell, Eastman Kodak, AT&T Wireless, IBM, Intel, Microsoft, Polaroid, Samsung and Texas Instruments. On the packaging side, representatives from Procter and Gamble, Target Stores, Staples, International Paper, Mead, Hershey Foods, Federal Express and 3M were among the delegates.

On the electronics front, the European Union's Waste Electrical and Electronic Equipment (WEEE) and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) directives are now law and industries are strategizing on how best to comply with the various requirements under the directives (see Page 2/6).

In the United States, the National Electronics Product Stewardship Initiative (NEPSI) process was created to bring stakeholders together to develop solutions to waste electronic products management. Its goal is the development of a system, which includes a viable financing mechanism, to maximize the collection, reuse, and recycling of used electronics. It also considers appropriate incentives to design products that facilitate source reduction, reuse and recycling, reduced toxicity, and increased recycled content.

While most support a national solution over state/provincial programs,

the longer it takes to build consensus for a national program, the more state-based initiatives are popping up. This year for example, there are 26 new state electronics waste bills, which contain provisions for advance disposal fees on electronic products, take-back requirements and material bans. In addition, there are 18 proposed mercury restriction bills.

New deposit-return systems, or "bottle bills" continue to emerge in cash-strapped states. Hawaii is the newest state to pass a bottle bill (not implemented yet) and Michigan is pushing to expand its program. In addition, there are 28 other proposed bottle bills and expansions in the works. But the largest new deposit-return system being developed is in Germany (population 80 million), where failure to meet the 72 per cent mandated refill quota for several years (down to 65 per cent) resulted in a system switch to mandatory deposits on beer, water and soft drinks.

On the packaging side, many delegates were keenly interested to hear about Ontario's proposed Blue Box Program Plan, presented by this correspondent. The Ontario program will result in the first North American initiative in which brand owners will be levied fees to pay for recycling, based on quantity and type of packaging sold into the marketplace.

Affected companies recognize the potential precedence this program will set for the rest of North America, and they are anxious.

For more information on the conference and proceedings, go to: <<http://www.raymond.com>>.

## Environment minister wants oil plan by November, tire plan by January

The Waste Diversion Ontario (WDO) board has until November to set up a recovery plan for used oil and until next January to do the same for scrap tires.

Ontario Environment Minister Chris Stockwell has asked the WDO to have a program submitted for "used oil material" by November 30, and another program for scrap tires by January 30, 2004. Both were officially designated under the Waste Diversion Act at the end of last year. Mr. Stockwell has also asked for a consultation plan for oil to be submitted by the end of April and for tires by the end of May.

The Canadian Petroleum Products Institute has been asked to nominate a representative, with observer status, for the WDO board.

The oil plan should include waste from "consumers, industry, institutions and commercial and agricultural operations," says the minister.

Used oil material includes used oil filters and empty containers of 30-litre capacity or less.

There should be flexibility in the scrap tire plan, writes Mr. Stockwell.

"Although the designating regulation allows for a broad definition of used tires, I would ask that a program capable of addressing diversion of used highway vehicle tires be developed with possible inclusion of other types of used tires phased in over time," he said. The minister also wants the plan to address the clean-up of existing stockpiles.

## Reading between the lines: LCBO and Province respond to deposit-return resolutions

Ontario's minister of consumer and business services has responded to municipalities who support a depot-return system for the LCBO by telling them what the LCBO believes.

In a form letter sent in February, Tim Hudak says implementing deposit-return would, according to the LCBO, "create a duplicate collection system that would increase overall consumer costs, while having minimal impact on municipal recycling costs and the overall waste diversion rate."

The LCBO itself has also sent out form letters to municipalities. LCBO chair and chief executive officer Andy Brandt (a former Ontario cabinet minister) says he shares the desire to divert waste from landfill, "but an LCBO bottle-return program is not the answer."

*(Editor's note: According to the February 2003 Blue Box Program Plan from Stewardship Ontario, the recovery rate for LCBO glass containers is 68.5 per cent. The Beer Store's deposit-return program for beer bottles sees return rates of at least 95 per cent.)*

"There is no question that a lack of ready markets for recycled glass is one of the most significant issues facing the recycling system today," notes Mr. Brandt.

"However, spending tens of millions of dollars to set up a new deposit-return system for wine and liquor bottles will not turn recycled glass into a more valuable commodity," he continues. Instead, Mr. Brandt says, "some \$5 million over the next two years will be available for an aggressive market development program."

*(Editor's note: It may be available. Stewardship Ontario has indicated it will use those funds to "top up" brand owner obligations to support the blue box if insufficient funds are raised. See story on Page 1/6.)*

A deposit-return program "would not remove all glass from the blue box, thereby creating two glass collection streams for recycling—duplicating costs and inconveniencing the public," writes Mr. Brandt.

*(Editor's note: Municipalities are already collecting two glass streams. Whether collected separately or not, clear and coloured glass need to be separated before shipping. There has never been a problem with clear glass. It is coloured glass—principally wine bottles—that municipalities have to pay about \$20 per tonne to ship to low-grade markets.)*

"Whether we collect LCBO bottles via the blue box, at LCBO stores or through some other method, they would still end up at a recycling facility waiting for a market," writes the LCBO chair.

*(Editor's note: There would be no need for glass wine and liquor bottles to be sent to a recycling facility. The clear glass could be sent directly to established glass markets to be made into new bottles, and would likely earn a higher price because of the lack of contamination. The coloured glass could be used for aggregate substitute, or refilled for use by the domestic wine market.)*

## COMING EVENTS

### April 30 - May 3, 2003

Ontario Small Urban Municipalities (OSUM) conference  
Prince Edward County, ON  
Call (519) 271-0250, x241

### May 1- 3, 2003

Northern Ontario Municipal Association (NOMA) conference  
Fort Frances, ON  
Call (807) 626-0155

### May 7 - 9, 2003

Federation of Northern Ontario Municipalities (FONOM) conference  
Mattawa, ON  
Call (705) 669-0135

### June 4 - 6, 2003

Recycling Council of British Columbia (RCBC) annual conference  
Penticton, BC  
Call (604) 683-6009

### June 8 - 11, 2003

Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) annual meeting  
Thunder Bay, ON  
Call (905) 308-9779

### August 17 - 20, 2003

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

### October 1 - 3, 2003

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

### October 8 - 9, 2003

Saskatchewan Waste Reduction Council (SWRC) waste minimization forum  
Saskatoon, SK  
Call (306) 931-3242

PPS  
Review  
April 2003  
Page 5/6

# Opinion Piece

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

## WDA's half-baked fee formula has come back to haunt CSR

by Jay Arthur

Notwithstanding Quebec's decision to adopt Ontario's 50-cent solution, it is a half-baked measure and it is coming back to haunt us all.

And it's not even really half-baked. The "responsibility" being taken by brand owners under Ontario's Waste Diversion Act (now there's a euphemism if ever I heard one) is not only partial, it is actually partially partial.

And this is why the good folks at Corporations Supporting Recycling have less hair every time you see them. They have been tearing it out trying to keep everyone happy. And they really don't have a lot in the Act to work with.

The Bill 90/WDA formula is the problem. With brand owners paying only for what is recovered by the recycling system, as opposed to what is generated, it has nothing to do with taking responsibility and everything to do with avoiding it.

Many people knew this at the time the bill was proposed, and they took the time to tell the legislative committee—all to no avail.

Not only does the WDA formula completely ignore all the products and packaging which end up in the waste stream, it also stipulates that only half the cost of what is recovered in the blue box will be paid by the producer/consumer. So, given a formula that encourages producers to package their goods in materials that have low recovery rates, the good folks at CSR, now constituted as Stewardship Ontario, were tasked with finding a way to offset that anomaly.

And thus this rather bizarre "three-factor" material fee formula was born. Developed by Stewardship Ontario staff, the formula balances recovery

rate, actual cost and an equalization factor to determine the fee a brand owner should pay for using a certain material.

The intent is noble enough, recognizing as it does that there is indeed a built-in bias toward making packaging decisions that favour the least recovered materials. The idea of the formula is to reward, not penalize, those materials with higher recovery rates.

Unfortunately, the good folks are further hampered by the need to relate the fee to the actual cost of recovery, in order to maintain the illusion that the fee it is paying for a "service", and is thus not, heaven forbid, a tax.

As a result of all these statistical calisthenics, the material rate for wine and liquor bottles suggested the Liquor Control Board of Ontario (LCBO) should be paying not the \$5 million it has already committed, but \$2.5 million! (It actually costs more than \$11 million to manage LCBO containers, according to a recent *PPSReview*, I note.) The extra LCBO funds were quickly reassigned to "aggressive" market development.

As a result of this piece of news, the monies needing to be raised from the other brand owners has increased by \$2.5 million, adding to each brand owner's share of the pie.

And just to muddy the waters further we have the *de minimus* rule which says it is not worth the paperwork to collect fees from the little guy because the revenue would be outweighed by the administrative costs.

And then of course you have to recognize that not everyone will pay so you need to set your fees based on an assumed compliance rate that is realistic.

The good folks did just this. They looked around at other programs, and reasoned, quite fairly, that a 60 per cent compliance in Year One made sense. And the brand owner fees were set accordingly. They also calculated the brand owner fees based on a 95 per cent compliance rate and both were made available at the stakeholder meetings.

Needless to say, the latter were much lower and by the next WDO board meeting, the good folks advised they were using the

higher compliance rate. This may have made the brand owners happy, and made it easier to "bury" the extra \$2.5 million, but it did not impress the municipal representatives. They quite reasonably pointed out that this assumption placed in real doubt the good folks' ability to raise the necessary funds to pay their portion of the partial responsibility proscribed by the Act.

No problem, said the good folks. If we can't raise enough funds, we'll take back the LCBO money and market development can wait another year.

Well, this has certainly been an example for the rest of Canada so far, hasn't it?

**"The intent is noble enough, recognizing as it does that there is indeed a built-in bias toward making packaging decisions that favour the least recovered materials."**