



FAX COVER

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Re: EBR Registry Number: RA03E0011

Proposal Title: *Waste Diversion Program for Blue Box Waste / Designating Regulation for Stewardship Ontario*

Pages (Including Cover): 6

Submission Regarding the Waste Diversion Program for Blue Box Wastes

Monday, May 19, 2003

EBR Registry Number: RA03E0011

Proposal Title: *Waste Diversion Program for Blue Box Waste / Designating Regulation for Stewardship Ontario*

Submitted by: Toronto Environmental Alliance

The proposed blue box funding plan (the Plan) submitted to Minister of the Environment is deeply flawed. It fails to meet the criteria for the plan in the Ministers Program Request Letter of September 23rd, 2003. It does not give adequate assurance to municipalities that full funding will flow. It ignores sound waste management planning. It contradicts certain requirements of the Waste Diversion Act (WDA), and is contrary to one the ministry's objectives in its Statement of Environmental Values (SEV). Given this it is our view the Minister should reject the Plan as provided for in section 26(3) of the WDA.

Our specific concerns are as follows:

1. Diversion Targets

The Program Request Letter from the Minister to the WDA specified a number of criteria for the Plan. Criterion number six reads:

The program shall include targets for the overall quantity of Blue Box waste to be diverted under the program, and per material targets for Blue Box waste to be captured under the program.

Section 6.2 of the Plan is supposed to address this criterion. It does not.

In terms of overall targets the Plan states (p. 54) that it will achieve 720,3000 tonnes or 45% diversion for the year 2003. It states further that this the first (partial) year will be used as the basis for setting targets in future years. This is not an overall target. Setting the only target in a partial year is not a target for waste captured under the Plan, but rather a target for waste diverted prior to the implementation of the Plan. Given that there are no targets for future years, there is no target for overall diversion under the Plan.

The Situation for per material targets is worse. The Plan states:

Stewardship Ontario's focus for the year 2003 will be on developing and implementing the proper methodologies in order to set meaningful targets for 2004 (and beyond). (p.54)

This is an admission that not only does the plan not have per material targets it does not even have a methodology for setting targets.

Section 6.2.4 of the Plan sets out future recover scenarios but scenarios are not targets.

2. Materials Covered in the Plan

Criteria 3 and 4 of the Minister's Program Request Letter establish which materials shall be covered under the program. By Criterion number 3, the Plan must cover Blue Box materials as set out in regulations made under the WDA. Those regulations state: "Waste that consists of any of the following materials, or any combination of them, is proscribed as blue box waste for the purposes of the Act: glass, metal, paper, plastic, textiles." The Plan arbitrarily changed the definition to include only consumer packaging and printing papers. Required recyclables like textiles aren't included.

3. Disincentive for Recyclable Materials

Appendix 11 of the Plan sets out the funding mechanism, or pay-in model, for the Plan. The pay-in model proposed applies charges to packaging based on a formula of 40% of the cost based on the recovery rate of the material, 40% based on a net cost factor for the material, and 20% based on an equalization factor.

The idea behind the recovery rate and equalization factors was to penalize materials which are difficult to recycle or non-recyclable and reward easy to recycle material.

However, the model does not achieve this goal. Plastic packaging and paper packaging are aggregated into only one category each.

The consequence of this aggregation can be seen in table four of Appendix 11. Taking the example of a 600ml PET bottle and an 8 oz. polystyrene coffee from the table we can see how badly skewed the system is. The former will be levied .2 cents, the later will be levied .04 cents. It takes roughly two 8 oz cups to hold as much liquid as the PET bottle. Accounting for this the non-recyclable material pays less than half as much as the recyclable material.

By thus promoting disposal over recycling the plan contravenes Section 1 of the Waste Diversion Act (WDA) and the Ministry's Statement of Environmental Values(SEV)

Section 1 of the WDA reads:

"The purpose of this Act is to *promote the reduction, reuse and recycling* (emphasis added) of waste and to provide for the development, implementation and operation of waste diversion programs."

Part III of the Ministry's Statement of Environmental Values - Resource Conservation states:

The Ministry will seek to ensure a safe, secure and reasonably priced supply of energy in an environmentally sustainable manner and will place priority on improving energy efficiency. It will also promote energy and water conservation, as well as encourage the use of the 3RS- reduction, reuse and recycling - to divert materials from disposal.

4. The Program only Applies to Home-based Recycling.

The Program Request Letter criterion number three states that all blue box waste "which are managed by or on behalf of Ontario Municipalities" shall be covered under the program. However the plan only covers material collected through household recycling programs. No provision is made for the significant volumes of these materials managed by municipalities through other programs. Two examples of these programs are litter collection and recycling programs in municipal facilities such as community centres. The City of Toronto recently estimated that their litter management program costs \$15 million per year.

5. Compliance and Payment

The Plan makes frequent reference to compliance issues. The plan calls for 95% compliance in the first year despite the first draft of the program calling for 60 - 80% (p.130). If the compliance is as low as 60% there could be a funding shortfall in excess of \$10 million dollars. The Plan states that it can defer some programs such as the Glass Market Investment Fund to cover shortfalls in 2003(41). And it permits for municipalities to charge interest for non-payment. But, there is no mechanism for Stewardship Ontario to make up lost revenues. Without this they may wind owing debts to municipalities they will never be able to pay.

6. Funding Based on Efficiency

Each municipality's funding will depend in part on the program efficiency. The definitions of efficiency were developed by Stewardship Ontario and approved by the WDO, both of which are controlled by private firms. This creates a situation whereby private firms have a means of penalizing municipalities for running programs with goals that do not coincide with industry goals.

It is important remember that municipalities are represented by democratically elected governments and may have mandates to run the programs with broader

social goals in mind. In this case industry will be penalizing elected governments for following the will of electors.

A better solution would be to remove the efficiency criteria and remind fee paying firms that section 34 of the WDA permits them to establish their own programs if they achieve similar or better goals. In other words if an industry believes municipally run programs are inefficient it can establish its own efficient program.

7. The 3Rs Hierarchy

It is no coincidence that this EBR posting overlaps the posting for the revocation of Environmental Protection Act regulations 340 and 357 which required 30% of all soft drink containers be refillable. Effectively the Plan replaces reuse with recycling. This contradicts Section 1 of the WDA and the SEV. (See point 3 above.)

8. LCBO and Coloured Glass

The fact that there is no market for coloured glass at present is a serious shortcoming in the plan. The Plan seeks to address this by establishing a market development strategy for this material which is to be funded out to the LCBO \$5 million funding contributions. (p.87) The LCBO contribution is elsewhere earmarked for making up any shortfall is overall fees collected to enable full payment to municipalities. (p.41)

However, the Minister's Program Request Letter criterion 9 earmarks the LCBO contribution for only three purposes: direct funding to municipalities, WDO administrative costs and the Plan's efficiency and effectiveness programs.

In sum, there are too many demands on the LCBO money, many of which are outside the Ministers direction and municipalities may wind up being forced to collect a non-recyclable material through the blue box.

A better solution would be to investigate a deposit based return to retail system for refillable bottles similar to the Beer Store system.

9. Lack of public information

Data on sales of Blue Box materials will not be publicly available. This means the broader public, who will through their taxes, be partners in this won't know which industry is doing a good job and which isn't. Importantly, the lack of sales data will make it impossible track if there is any reduction on reuse activity in an industry. The public will only know what is recycled. There need not be any proprietary information made available as data can be aggregated by material

type, as was done by the federal government when they conducted and released the National Packaging Protocol audits.

10. Upstream Environmental Impacts

Nowhere does the plan address the considerable upstream environmental impacts of packaging choices. Given that there is no wider packaging regulation supporting this Plan, many important environmental impacts are thus missed. Both plastics and aluminum carry considerable upstream impacts. In the case of aluminum, this is particularly important as firms will not have to contribute any fees and may even receive a credit for using an inordinately energy intensive material which also is a major source of Poly-Aromatic Hydrocarbon contamination.

11. Downcycling

The types of recycling practiced for various materials have widely divergent costs and benefits. Of particular importance is the difference between recycling (where the material is cycled back into the same products) and downcycling (where the material cannot be put back into the same product and is put into a lower grade non-recyclable product.) The difference in terms of sustainability is important. Plastics products covered by the plan will continue to have virtually no post-consumer content, and will continue to demand the consumption of non-renewable resources for their manufacture, undermining the very basis of the program. The Plan does not address these issues in any way.