

RECYCLING REGULATION AMENDMENTS

INFORMATION UPDATE – INTENTIONS PAPER

SUMMARY OF PUBLIC COMMENTS

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Recycling Regulation Amendments – Information Update – Intentions Paper – Summary of Public Comments

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Recycling Regulation Amendments – Summary of Public Comments

1. Introduction

The Ministry of Environment (the ministry) is proposing amendments to the Recycling Regulation (the regulation) of the *Environmental Management Act*:

1. Consolidating the tracking and reporting categories for beverage containers
2. Enabling alternatives to cash only refunds for beverage containers
3. “Housekeeping” amendments

The proposed amendments will update provisions in the regulation to current industry and consumer practices. Enabling alternatives to cash only refund payments for deposits on beverage containers supports increased options for recycling. Reducing the number of beverage container material and size type categories for reporting will improve administrative efficiency for the ministry and industry. Additional minor housekeeping amendments address administrative and oversight issues identified by the ministry.

1.1 Background to the consultation process

An information update – policy intentions paper was posted for public review and comment on the ministry’s website (<http://www2.gov.bc.ca/gov/content/environment/waste-management/recycling/product-stewardship/beverage-containers>) December 15, 2015 through to January 29, 2016 (45 days). The paper provided background information and an overview of proposed changes. A separate response form for providing comments or suggestions to the ministry was also posted on the website.

1.2 Purpose and format of the *Summary of Public Comments* document

This document has been prepared for the Ministry of Environment by C. Rankin & Associates, contracted by the ministry to independently compile submissions from stakeholders and prepare a summary of public comments.

The complete set of responses received through the consultation process has been compiled and passed to the ministry for detailed review and consideration. All comments and references submitted through this process, through independent submissions and through direct consultations with stakeholders, will be reviewed and carefully considered by the ministry in considering amendments to the regulation.

This summary of comments is arranged by topic as presented in the intentions paper.

1.3 Description of responses received

Twenty-five (25) responses to the information update – intentions paper were received (by mail, e-mail and attached file) and have been recorded for this summary of public comments. More than two thirds of the respondents noted in their response that their work is associated with a beverage container recycling depot. A single response was received from a local (regional) government and no responses were received from public sector organizations (such as educational institutions or health authorities), First Nations or community interest groups.

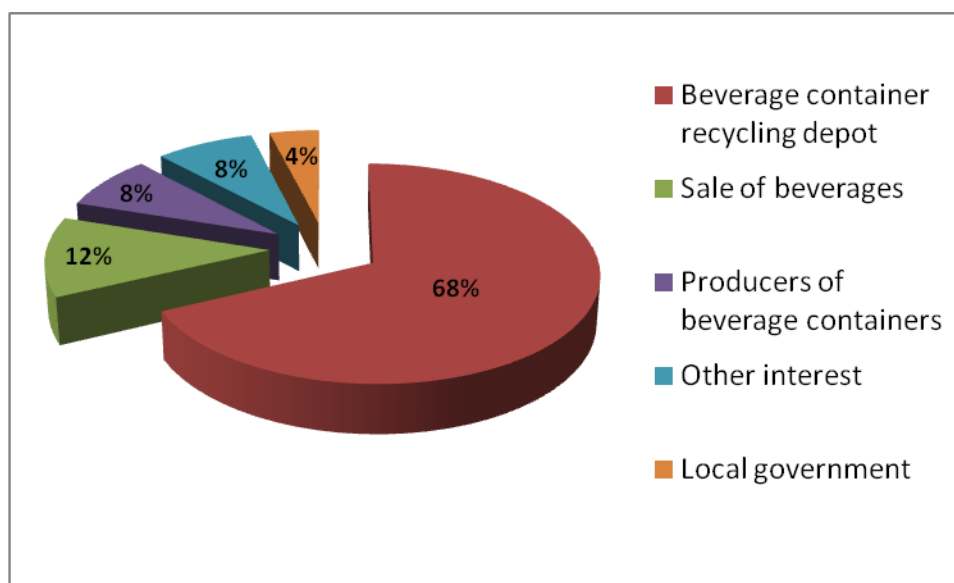


Figure 1: Recycling Regulation Amendments – respondent work or association (self-identified)

“Out of Scope” Comments

As well as responding to the consultation questions posed by the ministry, many respondents provided additional comments on topics related to the Recycling Regulation but beyond the scope of the ministry’s proposed intentions and consultation questions. These comments have been noted in this summary in a separate category. Common issues or suggestions raised by these respondents included:

- Raising the “base deposit rate” for beverage containers from five to ten cents
- Establishing a “container management board” or other “third party” group to provide advice regarding and/or monitor beverage container recycling in British Columbia
- Increasing target recovery rates for beverage container recycling
- Addressing container packaging that is not easily recycled (i.e., foil pouches)
- Ensuring continued incentives and opportunities for recycling beverage containers – including recognition of differing handling costs in different regions of the province and for different materials
- Consideration of additional containers for a deposit regime – e.g., “house milk containers”, “glass packaging”

SUMMARY OF PUBLIC COMMENTS

This summary follows the format and questions set out in the ministry's intentions paper.

1. Reporting categories

Response Form Question 1.1: Do you have comments or suggestions regarding the ministry's intention to reduce the number of beverage container categories for tracking and reporting listed in schedule 1 of the regulation?

Respondents differed distinctly in their comments regarding the ministry's intention to reduce the number of beverage container categories for tracking and reporting. Many respondents expressed support, commenting, for example, that the changes should "reduce complexity and costs to stewardship programs and reporting" or that "this will speed up the time we [bottle depot operators] serve the customers [and] shorten the time that customers [have to spend] sorting containers".

A significant number of respondents expressed concern however, that reducing the number of categories that are tracked and reported could "cloak the monitoring of cross-subsidization" or make it more difficult to assess and influence recovery rates for specific categories of containers. One respondent, for example, commented that "with [the] proposed changes how can manufacturers/stewards be held accountable for... return rate, recovery costs per container and [adherence] to the recycling hierarchy by container?"

Sample of respondent comments:

"We specifically request one further simplification to the categories in the intentions paper – the juice box category as presented is still being divided into less than 500 ml and more than 500 ml – there is no change in deposit at the 500 ml size, so there is no operational reason for this division"

"We understand that if the number of categories in the regulation is reduced, stewardship organizations may or may not choose to reduce the number of categories for which producers need to provide sales figures – it is our view that such an outcome is undesirable as it provides a stewardship organization with a benefit rather than the obligated producers (who are the target of the regulation)"

"We encourage the Government of British Columbia to move to harmonize their product categories with those of Alberta, Manitoba, Nova Scotia and Saskatchewan who currently operate the most-similar stewardship systems"

"I believe that the more information [that is] available to the [ministry], industry and the citizens of B.C., the better – it is this information that allows us to constantly make improvements to the beverage container recycling program"

"The program as it currently operates offers no incentive for the manufacturer to package their beverages in containers designed for best recycling and to date there has not been any substantial changes to any beverage container that has been prompted by extended producer responsibility (EPR)"

"The number of beverage container categories could be adjusted, but only according to the changing nature of the materials being developed, produced and consumed in the marketplace... categories and numbers must remain flexible, not merely seen as something that must remain minimal for the sake of accounting"

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Sample of respondent comments (continued):

“The current Depot system has evolved to download these reporting requirements to the consumer in the form of a physical sorting regime before receiving their cash refund... the current practice is unnecessary and the depots and consumers shouldn’t have to bear the inconvenience and cost of this reporting requirement when other options avoiding this extra work are available – a properly implemented statistical sampling program can easily provide equally accurate information”

“From a purely accounting point of view, it would appear to make sense – but... as a past Depot owner/operator, I am always concerned and wary that this type of change will be utilized to keep handling fees at an unrealistic level”

Comments considered by the ministry to be beyond the scope for amendments:

“All deposits should be one level for customer convenience and increased recovery rate”

“The best way to reduce the beverage container categories in my opinion is to set a 10 cent flat deposit on all containers”

Response Form Question 1.2: Do you think it is important to maintain reporting by material type (e.g., metal, glass, plastic)?

Respondents universally commented that it is important to maintain reporting by material type. One respondent, for example, commented “yes, how else do we know how much and what is being recycled?”

Sample of respondent comments:

“There is value in maintaining reporting by material types as it reflects how local governments, industry and the public have traditionally categorized beverage containers for different purposes; ranging from categorizing materials in waste stream analyses to educating the public about sorting recyclables”

“One of the largest benefits of a deposit-return system, compared to a single-stream recycling system, is the source separation that takes place – the collection of individual containers makes sorting by material type (and, if desired, by different classes or colours within a material type) quite simple – at the same time, this source separation allows for higher-order recycling, such as bottle-to-bottle recycling of glass and plastics at rates that cannot be duplicated in single-stream systems”

“Stewardship programs report to the ministry about the end fate of the materials they’ve collected – this end fate differs by material, which alone should necessitate that reporting by material type is maintained”

Response Form Question 1.3: Do you think it is important to maintain reporting by container size?

Most respondents commenting on this question noted that reporting by container size supports tracking of producer responsibility, analysis of recovery rates and financial auditing. Several respondents suggested harmonizing the reporting of container size to the deposit rates – to simplify return procedures, as well as enabling reporting of recovery of different container sizes on the basis of deposit values.

Sample of respondent comments:

“It is very important to maintain this type of reporting – the more information available to maximize recovery rates the better – if containers of a larger size have higher recovery rates, it shows that a larger deposit/refund is vital to ensure the container gets recycled”

“Statistical sampling programs are dynamic and can provide any level of detail required”

“[Currently] the four smallest container categories, each of which is a size-based subset of a larger container type, accounts for 0.12% of all containers collected – that is, 20 percent of... reporting is drawn from tracking far less than 1 percent of all containers collected”

“We recommend if the ministry chooses to pursue this amendment, stewardship programs should be required to provide explicit and objective performance targets, with progress against these targets being publicly evaluated on an annual basis and some form of repercussions if the targets are not met”

Comments considered by the ministry to be beyond the scope for amendments:

“There is significant evidence that economic performance is increased by increasing the deposit level – once again, source separation facilitates this type of reporting”

“The deposit applied to each container should be one tiered, making [it] much easier to sort and tally deposit amounts according to commodity”

“The need to report varying container sizes is principally constrained by the varying deposit amounts – removing the deposit for non-refillable containers would eliminate this constraint”

2. Refund alternatives

Response Form Question 2.1: Do you have comments or suggestions regarding the ministry’s intention to enable alternatives to cash only refunds for container returns under schedule 1 of the regulation?

This question generated substantive response and a range of comments. Many respondents commented that “in principle” they support allowing alternatives to cash only refunds. Also, many respondents commented that all container redemption facilities “must” provide a cash option for deposit returns as a “fundamental principle” of the system.

Respondents expressing support for providing alternatives to cash only refunds commented, for example, that “offering consumers alternatives... will encourage consumers to recycle more”, “the change will allow us to create consumer convenience opportunities” and “[the change will] be more convenient for large volumes [of returns] such as bottle drives”.

Respondents who expressed concern regarding the ministry’s intention raised a number of issues:

- Concern that enabling alternatives to cash only refunds will impact depot competitiveness
- Accurate tracking and reporting of differing refund options
- Use of gift cards or coupons – and “profits” that are made from unredeemed coupons
- Concern for people who collect containers for income potentially being disadvantaged by removing the requirement for cash

Sample of respondent comments:

“Why make the playing field more uphill for small business, alternatives would only benefit big business”

“It will create a huge disparity imposing unnecessary sorting regimes upon Cash Depots and the consumer versus a cashless alternative for the consumer; i.e., do no sorting – get paid later”

“We strongly oppose this change because... it perpetuates the deposit system which is an anachronism of the original beverage container return regime... consumers are currently paying for three collection systems in B.C. [return through obligated retailers; return through depots; and, return through the grey and blue box collection system] which is itself highly inefficient... the B.C. Government will be encouraging an entity created as a result of Government regulation to interfere with the private marketplace by choosing winners and losers in the private marketplace... IF the government makes the decision to proceed with this change, retailers, who are obligated by law to accept returned beverage containers and are required to provide cash refunds, must also be allowed to offer consumers with alternatives”

“Our principal concern with this proposed revision is the impact it will have on the existing return-to-retail provisions in Schedule 1... lack of handling fees paid to retailers poses a significant disincentive to retailers to accept consumer returns, despite their regulatory obligation to do so... we believe consumer convenience can be better achieved without regulatory amendment, through better enforcement of Schedule 1’s return-to-retail provisions”

“I have some who only want to be paid weekly or monthly, so I need to keep a substantial amount of cash on hand in case they show up to collect, so for me it would be very advantageous to be able to pay those customers by cheque or bank transfer – I do believe though that cash payment should always be an option to the customer”

“If by providing these alternative options one assumes that more people will recycle and thus a greater recovery rate can be achieved, then an increase to the deposit refunds should also be made available – if more people will recycle for the sake of alternative options provided (donations, coupons, direct deposit, etc.), then just as many more will recycle for the additional cash value that will be obtained! ”

“There are many individuals who rely on the cash system to assist with supporting themselves (bidders and low income families and individuals)... consideration of a system that would allow for these individuals to have easier access to the discarded product should be an option”

“Enabling alternatives to ‘cash only refunds’ to consumers in particular with gift cards and other coupons will make it impossible to determine how much money is held from unredeemed deposits and how much has been returned to consumers...who will police this non cash alternative and how will anyone ever know how much of the value has been redeemed?”

“There is a significant cost to providing a cash payment system – the proposal as presented could divert significant volumes from existing Depots unless they offer competing services – this in turn will increase labour costs having to sort all the subcategories for the consumer with no additional revenues or cost savings to offset”

Comments considered by the ministry to be beyond the scope for amendments:

“If the objective is to increase the incentives for return, the deposit levels should be increased as this is the financial incentive that drives the program – the deposit on beverage containers in Europe is 25% of a Euro (approximately \$0.40 Canadian)”

“Consumers are driven by marketing and marketing should be utilized to increase return rates”

Response Form Question 2.2: Do you have comments or suggestions to ensure integrity and reporting of the deposit and refund system if alternatives to cash only refunds are available to consumers?

This question generated limited comment from respondents relative to the previous question about refund alternatives. Several respondents commented that a “level playing field” between depots and stewardship groups is integral to an effective collection system. Suggestions from respondents included: “a beverage container management board... to monitor all aspects of... the program”; and “let the Stewards report using properly implemented statistical procedures like Multi Material BC is using”.

Sample of respondent comments:

“Moving to fewer cash transactions will have benefits both administratively and at the depot or retailer level, including costs associated with cash management and risks associated with theft and fraud”

“The guidelines should be simple and clearly defined”

“Variable rates of deposit complicate transparency to consumers and understanding by retail employees who charge the deposit – however, we have confidence in the integrity of the existing deposit and refund system”

“The majority of these options are already provided at the depot level”

“All forms of return venues must provide the exact same sort, count, deposit, categories, and reporting mechanisms”

“Integrity and transparent reporting are essential and reporting methods may have to be refined over time”

Comments considered by the ministry to be beyond the scope for amendments:

“Must maintain the proposed minimum of 12 sorts to ensure which container size of which material type has a higher recovery rate”

“Third party audits, fair and inclusive [of] handling fees would create a level playing field”

3. Housekeeping amendments

Response Form Question 3.1: Do you have comments or suggestions regarding the ministry’s proposed housekeeping amendments to the regulation?

In response to this question, and the ministry’s proposed housekeeping amendments, many respondents commented on the importance of performance measures and target recovery rates. While several respondents expressed support for the proposed changes, others, for example, requested additional consultation “with concrete examples” for stakeholders to assess “the extent and impact of the proposed amendment”. Respondents commonly emphasized the importance of the 75% target recovery rate for each product category as “a fundamental benchmark” and several recommended continued or additional incentives and responsibility to achieve higher recovery rates. Several respondents recommended that alternative performance measures established by the Director should only [be considered] after consultation and agreement with affected stewards and/or “all stakeholders”.

Ministry of Environment Response:

The ministry would like to provide additional clarity with respect to the intent of this proposed housekeeping amendment. The regulated minimum recovery rate of 75% will not be amended or removed. To align with the original intent of the Recycling Regulation (2004), the proposed amendment is simply to provide for terminology to be used in stewardship plans as an alternative performance measure to the recovery rate. Some product category lifecycles are not easily characterized by the recovery rate as calculated using the amount of product collected divided by the amount of product sold, including consumables (e.g., paint, pharmaceuticals) or long life products (e.g., appliances). For these product categories an example of more appropriate performance measure terminology may be the “collection rate” in the stewardship plan.

The regulatory requirement for the producer to undertake satisfactory consultation with stakeholders prior to submitting the stewardship plan for approval will remain unchanged, providing stakeholders the opportunity to have input on appropriate performance measures for stewardship programs.

Sample of respondent comments:

“Several types of containers have a lower than 75% recovery rate which does not meet the requirements outlined in [the current] stewardship plan – this issue should be addressed”

“Director should be looking at increasing to a higher percentage to challenge producers to increase recovery rates – higher Deposits on Beverage Containers and Deposits instead of Recycling Eco fees would be best incentive to increase recovery rates on all products”

“No one should want to limit or under report recovery rates – you can add ‘other’ performance measures but the recovery rate should stay in place”

“While [our association] accepts that certain materials are meant to be consumed like medications, [we] feel that these areas of the regulation should be better defined instead of relaxed”

“A specific numerical (i.e., % recovery rate) ‘as established by the director’ must remain so that the stewardship agency will continually focus on working with its producers and the public to increase recovery rates – the program must remain recovery based”

“Harmonizing across the various Product Categories is fine, but there has to be accountability and consequences for those categories that perennially fail to achieve the recovery or recycling benchmarks – if juice boxes can’t get 75% recovery, then other options, like increasing the deposit ,must be considered – for juice pouches, simply baling and stockpiling for years and years may not be disposal, but it certainly isn’t recycling”

Comments considered by the ministry to be beyond the scope for amendments:

“ A 5 cent deposit offers very little incentive for container recycling... it should be raised”

4. Additional comments

Response Form Question 4.1: Do you have any other comments for the ministry regarding the Recycling Regulation?

Several respondents provided substantive cover letters and/or supplemental submissions with additional comments for the ministry. As noted in the description of responses section of this document, many of the additional comments received relate to considerations with the beverage container category that are beyond the scope of the ministry’s intentions for the proposed amendments. All comments have been compiled and transferred to ministry staff for review and further consideration.

Additional comments included:

- At present, Schedule 1 of the Recycling Regulation is proving very successful for B.C. residents. The program is viewed as among the best in the world – overall, the two stewardship programs under this Schedule achieved a recovery rate of 84.2% in 2013 – (with the brewing industry’s program achieving a recovery rate of over 93% in both 2013 and 2014), among the highest recovery rates in Canada... If the ministry is looking to find ways to reduce complexity and costs to beverage container stewardship programs, it is important to ensure that B.C. consumers actually benefit from such reduced costs. This is particularly important given the concerns recently identified with spiraling costs – and associated significant increases in container recycling fees being charged to B.C. consumers.”
- “Stewardship accountability needs to be a priority with all levels of the stewardship program, with third party auditors in place for occasional review & reporting to the Minister”
- “Please consider adding all Glass Packaging to the deposit regime – the amount of glass and the effort to recycle it at curbside isn’t justified and they are very easy to add to the existing deposit system”
- “Before the creation of Encorp in 1994 [there was no] convenient way for the public to return deposit items because limits on return enforced by the deposit act... the creation of discount depots... provided the public a service that the public valued and wanted – with the addition Encorp it seemed that there was an appreciation by Government of what small business could provide to the nascent recycling industry – it seemed that a level playing field was about to be created – this has not transpired... Government has to find a way to value and hear all voices”
- “It would be logical to consider and simplify the collection, handling and transport of beverage and all recyclable materials. Adding more items to the deposit system such as dairy containers and related products will only improve the recovery rates by way of incentive... It is important to note that the system must be fair and consistent for all involved. All levels of the system must balance for successful recovery rates. In order for this to happen the government has to have a fair approach to amending the regulations.”
- “If the objective is to increase the incentives for return, the deposit levels should be increased as this is the financial incentive that drives the program”

- “If the ministry is reviewing the Recycling Regulation, it should also review the deposit levels at the same time and... compare deposit levels and recovery rates (and products) in Alberta”
- “Please consider a Container Management board with Government, Operators, Stewards and Stakeholders involved in important decisions”
- “[Our association] has deep concerns and is strongly opposed to the proposed amendments... other than improving perceived efficiencies for stewards the proposed amendments offer no methodology for improved recovery rates and reduce public access to detailed information... in addition the suggested amendments do not speak to or offer improvements to the Recycling Regulation that have been requested by other stakeholders over the past decade... [our association] with support of other groups such as Metro Vancouver, Union of B.C. Municipalities, Regional Districts, Municipalities and private citizens have asked for a much needed Beverage Container Management Board, more recently a Recycling Management Board consisting of all stakeholders. For over a decade there has been no opportunity for anyone other than handpicked stewardship committee members to participate in the development and implementation of any stewardship program... Changes to Dispute Resolution are Needed... [submission included a detailed description of experiences and issues with the dispute resolution process currently in place under stewardship agreements]... Increase in Deposit Rates and Milk Container into Deposit – beer containers (both refillable and one way aluminum cans) have a better recovery rate than the non-alcohol containers of equal size and material type. In our opinion that is a direct result of higher deposit levels of 10 cents... deposit rates are set by stewards as part of their program financing structure – [our association] supported by many municipalities and other groups have for years asked for higher deposit levels to at least match the Alberta system. These same groups have also requested that milk containers be classified as a beverage and captured under the Used Beverage Container Program... Deposit Refund Discounting Within the System... the average cost to consumer from discounting in the higher volume areas is the consumer receiving back 8 cents on the 10 cent deposit. In more remote areas discounting can be as high as 5 cents on a 10 cent beer container deposit... in our opinion the B.C. government is subsidizing some... costs... Efficiencies – Should real efficiencies and environmental benefits be the goal of any regulatory changes, extended producer responsibility (EPR) stewardship plans should focus on providing and implement strategies for substantial reductions in transportation... by as much as 25 times of what is used now... Compliance Issues Moving Forward to Improve EPR Programs... All stewards have been in non-compliance on a variety of issues ‘access, discounting, return of deposits in cash, dispute resolutions’ at some time... [our association] supports the ministry in addressing the issues surrounding non-compliance first before allowing any changes that benefit only one or limited stakeholders in the recycling industry... [and] would be willing to act as resource for discussions on improvement to all current or developing EPR stewardship plans.”
- “There should be an amendment made in regards to the term ‘beverage’ in schedule 1 of the Recycling Regulation. It states it ‘does not include milk, milk substitutes, rice milk, soya milk, flavoured milk, infant formulas, meal replacements or dietary supplements;’. This should not include items such as monster energy moka, starbucks frappacino etc. These items with milk in the ingredients are clearly not primarily a milk or milk substitute.”
- “Coffee cups and drink containers sold in the fast food... and grocery chains... should be brought into the recycling program as the vast majority of these products end up in the landfill or being

incinerated. These items should carry a deposit that can be returned to the existing depot system, as the infrastructure already exists to effectively and efficiently deal with them.”

- “Home brew containers should have a deposit system – right now is confusing to customers”
- “With the implementation of Multi Material BC, pressure by retailers and brand owners to eliminate deposits will increase. They in fact have a viable argument in the fact that two stewardship programs, and therefore two different accounting procedures exist, for managing the recovery of the same materials (metal, plastic, glass, etc.). My comment is that the deposit system, although not perfect, works as well as it does because it is based on monetary incentive. From the retailer to the consumer to the collector and finally the processor, there are positive economic incentives in place to encourage that the materials be kept out of the waste stream... Also in a source separated collection system (depots) better quality product for recycling is realized. Recycling markets which are always volatile, are becoming even more so. The deposit system works as it is a program based on financial incentives which is entirely paid for by the people who consume the products.”