

1. Requirements of a Waste Diversion Program for Blue Box Wastes

The requirements for developing and implementing a waste diversion program for Blue Box wastes are set out in the *Waste Diversion Act, 2002* (WDA), and in the Program Request Letter, dated September 23, 2002, from the Minister of Environment to the Waste Diversion Ontario.

The WDA was given Third Reading by the Legislative Assembly of Ontario on June 13, 2002, then given Royal Assent and passed into Law on June 27, 2002. The purpose of the WDA is to promote the reduction, reuse and recycling of waste in Ontario and to provide for the development, implementation and operation of waste diversion programs. A copy of the WDA is included as Appendix I.

Section 3 of the *Act* created a corporation without share capital known as Waste Diversion Ontario (WDO). Section 4 sets out the Board of Directors for the corporation, which consists of representatives of industry, NGOs, Ministry appointees and municipalities with an interest in the goals of the corporation. One of the primary responsibilities of the WDO as set out in Section 5 is to develop, implement and operate waste diversion programs for designated wastes in accordance with the WDA.

Section 23 (1) of the *Act* specifies that the Minister of Environment may require WDO to develop a waste diversion program for a designated waste. Under Section 25 (5) the Minister requests a waste diversion program for Blue Box waste developed under the *Act* provide for payments to municipalities to be determined in a manner that results in the total amount paid to all municipalities under the program be equal to 50 per cent of the total net costs incurred by those municipalities as a result of the program.

Through his Program Request Letter, the Minister directed the WDO to develop a waste diversion program for Blue Box wastes (Appendix II). In the addendum to the letter the Minister identified twelve specific issues that must be addressed within the Program Plan to be developed. The addendum reads as follows:

- (1) "Waste Diversion Ontario (WDO) shall develop a Waste Diversion Program for Blue Box Waste (the program) in accordance with all legislative requirements of the *Waste Diversion Act, 2002* (the *Act*)."
- (2) "WDO shall submit a public consultation plan to the Minister within one month of receiving the request for the program. The plan shall describe how the consultation requirements of the *Act* will be satisfied for the program." (Section 4)
- (3) "The program shall include support for all materials designated as Blue Box Waste under the *Act* and which are managed by or on behalf of Ontario municipalities." (Section 2.1)
- (4) "The program shall support, at a minimum, all categories of wastes set out in Schedule 1 of Ontario Regulation 101/94 under the *Environmental Protection Act*." (Section 2.1)
- (5) "The proposed funding rules under the program will designate and define as Stewards under the program, brand owners and first importers into Ontario of products that result in Blue Box wastes under the program. The program will include a rule to exempt Stewards under subsection 30 (1) (e) of the *Act* based on *de minimis* criteria." (Section 9.4)

- (6) "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).
- (7) "The proposed funding rules under the program will include:
 - a. The method used to calculate the total net costs incurred by municipalities as a result of the program;
 - b. The funding formula to be used for determining payments to municipalities, including variations in costs dependant on north/south and urban/rural differences; and
 - c. A funding performance incentive to encourage program efficiency and effectiveness." (Sections 6.7 and 7.1)
- (8) "The program will include a plan, with funding provisions, outlining research and development activities to support and increase the effectiveness and efficiency of Blue Box waste diversion." (Section 6.6)
- (9) "The proposed funding rules under the program will account for the voluntary contribution of the Liquor Control Board of Ontario (LCBO) of \$5 million annually for calendar years 2003 through 2006, to be used for direct funding to municipalities under the program to help cover the cost of recycling glass alcohol beverage containers in municipal blue box programs, any administrative expenses incurred by WDO and the designated IFO, and efforts to improve the effectiveness and efficiency of Blue Box waste diversion." (Section 8.2.4; Section 9.3.1)
- (10)"The proposed funding rules under the program will account for the voluntary contribution of the Canadian Newspaper Association (CNA) and the Ontario Community Newspapers Association (OCNA) of newspaper advertising with a value of \$1.3 million annually and, in addition, annual funds for the purpose of implementing and monitoring the advertising program and any administrative expenses incurred by WDO and the designated IFO. The program will contain a plan on how advertising will be allocated and administered. The funding rules will also contain a formula to determine when additional funding support from newspaper members will be required should the cost of recycling newspapers become a cost to municipal blue box programs." (Section 6.5.3)
- (11)"The program will include a plan, with funding provisions, outlining activities to develop and promote products that result from the program." (Section 6.4)
- (12)"The program will include a plan, with funding provisions, outlining educational and public awareness activities to support the program." (Section 6.5)

Blue Box wastes are defined by Regulation. The general classes of materials prescribed as Blue Box waste for the purposes of the WDA are set out in Ontario Regulation 273/02, dated September 23, 2002, and made under the WDA. Ontario Regulation 273/02 is included as Appendix III. Blue Box waste is also defined in Ontario Regulation 101/94, dated March 3, 1994, made under the *Environmental Protection Act*. Under Regulation 101/94 Blue Box waste means "*municipal waste that consists solely of waste in one or more of the categories set out in Schedule 1*". A copy of Schedule 1 is included as Appendix IV.