
DATE: March 14, 2018

TO: Depot Network

RE: **Non-Beverage Container Compliance By-law**

As presented at the 2018 Regional Meetings, the Beverage Container Management Board (BCMB) approved the *Non-Beverage Container Compliance By-law* on February 21, 2018. The new By-law relates to the shipment of non-beverage containers and non-compliance in terms of shipping non-beverage containers.

The Beverage Container Recycling Regulation (BCRR) defines a “container” as...

“a bottle, can, plastic cup or paperboard carton or a package made of metal, plastic, paper, glass or other material, or a combination of them, that contains or has contained a beverage.”

Any container other than a beverage container is considered by the BCMB to be a “non-beverage container.” The industry has seen an increase in the number of non-beverage containers being shipped to the Collection Systems Agent (CSA) – Alberta Beverage Container Recycling Corporation (ABCRC), in shipping containers containing the deposit bearing beverage containers. Depots are only entitled to be paid a deposit and a handling commission for beverage containers which have been registered with the BCMB. The Service Agreement between Depots and the CSA provides for the management of Foreign Material, which in part, includes non-beverage containers as covered in this framework.

To date, non-beverage containers have been deducted from the Quality Control count for that shipping container, lowering the overall count. In cases where the count variance was less than 2.5%, the tagged amount for the shipping container/material stream would be paid by the CSA and as a result, any non-beverage containers would be paid for as well. This causes the system to pay for non-beverage containers and does not stop the shipment of non-beverage containers. Ultimately, this is a cost to the system for products not covered under the BCRR.

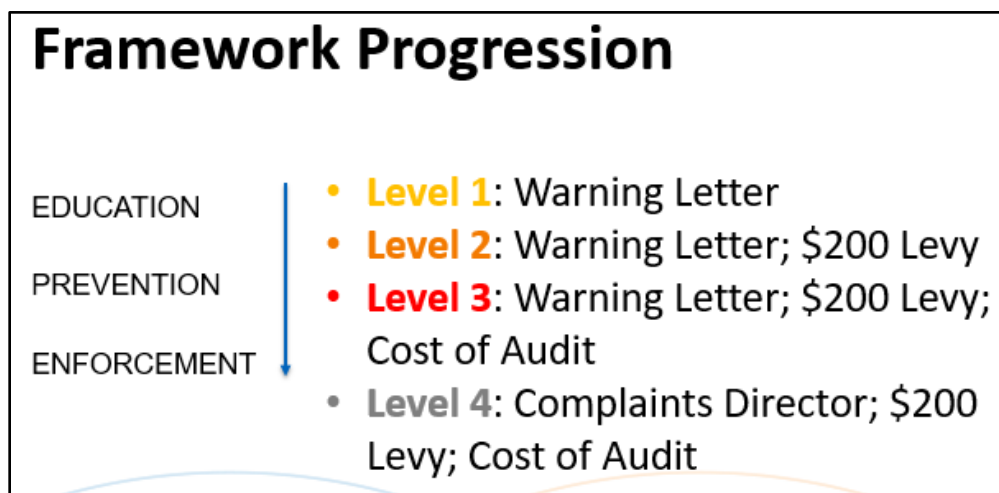


Again, a non-beverage container is any container other than a beverage container, as defined in the BCRR (examples pictured below). It is important to clarify that this By-law will not cover Industry Standard Bottles (ISBs) or other refillable beverage containers, non-registered beverage containers, or other materials formally classified as Foreign Materials (eg. cardboard). Quality Control processes will continue to account for those products if shipped incorrectly to the CSA.

See below for examples of Non-Beverage Containers:



As per other BCMB standards, a fair, transparent and predictable process is required to administer compliance in this area. This, with the broader goal to reduce the shipment of non-beverage containers to zero, caused the need for a by-law. This By-law sets up a progressive framework for the non-compliant shipment of non-beverage containers to the CSA. The compliance framework is set-up in four stages which follow the BCMB's Compliance assurance principles of education first, prevention second and enforcement last. For your reference, attached you will find a copy of the *Non-Beverage Container Compliance By-law* and the framework process map.





In terms of application of this By-law, monitoring will occur during regular Quality Control audits and reports will be provided to you through the Quality Monitoring System (QMS). It continues to be important that you are monitoring your industry email and QMS tickets to ensure you are receiving these communications and can react in a timely fashion and make any necessary operational adjustments to avoid further compliance action. You put your Depot at a distinct disadvantage if you are not monitoring your accounts and receiving the industry communications.

This By-law will be phased in beginning with a three-month educational phase. This means that all Depots will be monitored for non-beverage container shipment, but no compliance action will be taken during this time. During the Educational phase, if non-beverage containers are found during Quality Control audits, a Depot will be informed of this through the QMS. We are asking that Depots use the 3-month educational period to improve your operational processes and educate your staff where necessary. The industry will evaluate the effectiveness of the By-law during this time and work to launch the By-law, including compliance action, as of July 2, 2018.

Key Implementation Dates	
April 1 – June 30, 2018	Educational phase is active
April 1 – June 30, 2018	Ongoing industry evaluation of By-law and framework
July 2, 2018	Educational phase is complete and framework is active

Please review the attached By-law and the framework process. It will be important to understand the requirements and how this may affect operations at your Depot. This By-law is not intended to create extra work for the Depots or make your job harder. The intent is to protect our industry and ensure there is a fair and transparent playing field for all involved. For most Depots, the result of the implementation of this By-law will be “business as usual,” whereas some may need to make adjustments to their operation and internal processes.

As a Depot Operator, you have no control over what consumers buy and attempt to return to a Depot, but you can control what you pay for and ship to the CSA. To assist with this, the BCMB has built a section on the new BCMB website (“For Your Customer”) to help you communicate with your customers as to why they cannot return non-beverage containers and unregistered beverage containers to a Depot. Please visit our website at www.bcmb.ab.ca for more information.

If you have questions regarding this By-law or the process framework, please contact the BCMB at 1-888-424-7671.



A. INTRODUCTION

The Beverage Container Management Board (BCMB) ensures regulatory compliance by setting industry standards, educating, informing, assessing and monitoring compliance with those standards in a fair and transparent manner and by addressing non-compliance through an escalating sequence of enforcement actions.

The purpose of this Framework is to explain the compliance approach that the BCMB will take with regards to the shipment of Non-Beverage Containers by Depots to the Collection System Agent (“CSA”) so that all Depot Operators, and CSA, are aware of the standards they are required to meet, how those standards will be monitored and the consequences of non-compliance.

B. BACKGROUND

The Beverage Container Recycling Regulation defines a “container” as:

...a bottle, can, plastic cup or paperboard carton or a package made of metal, plastic, paper, glass or other material, or a combination of them, that contains or has contained a beverage.

Depots are only entitled to be paid a deposit and a handling commission for beverage containers which have been registered with the BCMB. The Service Agreement between Depots and the CSA provides for the management of Foreign Material, which in part, includes Non-Beverage Containers as covered in this Framework. Any container other than a beverage container is considered by the BCMB to be a “Non-Beverage Container.”

When Depots include Non-Beverage Containers in the shipping containers that are collected by the Collection System Agent (CSA), there is a contamination risk to the non-refillable beverage container recycling material streams and a risk that funds will be paid out by the CSA to the Depot that should not be paid out under the Beverage Container Recycling Regulation.

C. STANDARD

The BCMB requires each Depot to properly sort all materials accepted by that Depot and to include only non-refillable registered beverage containers in the shipping containers prepared by that Depot for collection by the CSA. A Depot shall not include Non-Beverage Containers in any shipping containers that are prepared for collection by the CSA and that are tagged as containing non-refillable beverage containers.

D. MONITORING AND ASSESSMENT

The BCMB will monitor compliance to this standard based on reports from the CSA regarding Non-Beverage Containers.

E. ENTERING THE COMPLIANCE ENFORCEMENT FRAMEWORK

- i. If the CSA provides the BCMB with audit results that indicate that a Depot has shipped **two or more** Non-Beverage Containers in any one shipping container then the Depot will move into Level 1 of the Compliance Enforcement Framework (Framework) below. The BCMB will notify the Depot of the results and of their entry into Level 1 of the Framework.
- ii. If the CSA provides to the BCMB any results that indicate that a Depot has shipped **21 or more** Non-Beverage Containers in any one shipping container, that Depot will be placed in Level 2 of the Compliance Enforcement Framework below. The BCMB will notify the Depot of the results and of their entry into Level 2 of the Framework. The Depot may challenge the audit results in the manner set out in the Service Agreement.
- iii. The shipping container that is taken into consideration when moving through the Framework will always be the shipping container with the **highest number** of Non-Beverage Containers per audit. This By-law defines an audit as the worst performing shipping container within a single R-Bill.

COMPLIANCE ENFORCEMENT FRAMEWORK

Level 1

- 1.1 The BCMB will issue a warning letter to any Depot that has shipped at least **two**, but not more than **20** Non-Beverage Containers in any shipping container or remained in Level 1.
- 1.2 The Depot will be provided with 10 calendar days to rectify their operational procedures from the date of the warning letter.
- 1.3 After the 10th calendar day, the BCMB may request that the CSA conduct an audit of shipping containers from that depot:
 - 1.3.1 If there are **zero** Non-Beverage Containers identified in the audits the Depot will be notified that they have been moved out of Level 1.
 - 1.3.2 If the number of Non-Beverage Containers identified in any one shipping container during the audit is **2 or more**, the Depot will be notified that they have moved up to Level 2 in the Framework and the BCMB will issue the Depot a levy.
 - 1.3.3. If the number of Non-Beverage Containers identified in any one shipping container during the audit is exactly **1**, the Depot will be notified that they will remain in Level 1 of the Framework. Level 1 processes will be repeated. The depot will remain in Level 1 only if each successive number of Non-Beverage Containers is **1**. If at any time, the number of Non-Beverage Containers found during an audit is **2 or more**, the depot will be moved to Level 2 of the Framework and the BCMB will issue the Depot a levy. The shipping container with the highest number of Non-Beverage Containers found during each audit will be the number that pushes the depot through the framework.

Level 2

- 2.1 The BCMB will issue a warning letter to any Depot that has: shipped **21 or more** Non-Beverage Containers in any shipping container or advanced from Level 1 or remained in Level 2.
- 2.2 The Depot will be provided 10 calendar days to rectify their operational procedures from the date of the warning letter.
- 2.3 After the 10th calendar day, the BCMB may request that the CSA conduct an audit of shipping containers from that depot.
 - 2.3.1 If the number of Non-Beverage Containers identified in the shipping container with the highest number of Non-Beverage Containers found during the audit is **2 or less**, the Depot will be notified that they have been moved down to Level 1.
 - 2.3.2 If the number of Non-Beverage Containers identified in any one shipping container found during the audit is **6 or more**, the Depot will be notified that they have moved up to Level 3 in the Framework and the BCMB will issue the Depot a levy and charge costs for the audit.
 - 2.3.3 If the number of Non-Beverage Containers identified in any one shipping container during the audit is **3 or more but less than 6**, the Depot will be notified that they will remain in Level 2. If the Depot remains at Level 2, the BCMB will issue the Depot a levy and Level 2 processes, as outlined in this By-law, will be repeated. The depot will remain in Level 2 only if each successive number of Non-Beverage Containers is **3 or more but less than 6**. If at any time, the number of Non-Beverage Containers found during an audit is **6 or more**, the depot will be moved to Level 3 of the Framework and the BCMB will issue the Depot a levy and charge the cost of the audit. The shipping container with the highest number of Non-Beverage Containers found during each audit will be the number that pushes the depot through the framework.

Level 3

- 3.1 The BCMB will issue a warning letter to any Depot that has advanced from Level 2 or remained in Level 3.
- 3.2 The Depot will be provided 10 calendar days to rectify their operational procedures from the date of their warning letter.
- 3.3 After the 10th calendar day, the BCMB may request that the CSA conduct an audit of shipping containers from that Depot.
 - 3.3.1 If the number of Non-Beverage Containers identified in the shipping container with the highest number of Non-Beverage Containers found during the audit is **2 or less**, the Depot will be notified that they have been moved down to Level 2.
 - 3.3.2 If the number of Non-Beverage Containers identified in any one shipping container found during the audit is **6 or more**, the Depot will be notified that their Non-Beverage Container audit

compliance history shall be forwarded to the Complaints Director to be dealt with in accordance with the By-laws and the BCMB will issue the Depot a \$200 levy plus costs to complete the audit.

3.3.3 If the number of Non-Beverage Containers identified in any one shipping container during the audit is **3 or more but less than 6**, the depot will be notified that they will remain in Level 3 of the Framework. The depot will remain in Level 3 only if each successive number of Non-Beverage Containers is **3 or more but less than 6**. If the Depot remains at Level 3, the BCMB will issue the Depot a levy and Level 3 processes, as outlined in this By-law, will be repeated. If at any time, the number of Non-Beverage Containers found during an audit is **6 or more**, the depot will be notified that their Non-Beverage Container audit compliance history shall be forwarded to the Complaints Director to be dealt with in accordance with the By-laws and the BCMB will issue the Depot a \$200 levy plus costs to complete the audit. The shipping container with the highest number of Non-Beverage Containers found during each audit will be the number that pushes the depot through the framework.

i. COMPLAINTS DIRECTOR

The Complaints Director will review the Depot's Non-Beverage Container audit compliance history for purposes of determining corrective action and/or directing an investigation.

ii. PERMITTED SHIPPING OF FOREIGN MATERIAL

According to the ABDA and the ABCRC Service Agreement, Foreign Material is defined as any beverage container not listed in Schedule "A" of the Service Agreement; any beverage container not registered, not sold in Alberta, or not covered by the Regulation; any container that is not a beverage container (*Non-Beverage Containers*); and any refillable beverage container. Foreign Material shall not be paid a deposit refund or handling commission.

A Depot may enter into a written agreement with the CSA with respect to the collection by the CSA of recyclable Foreign Material, which may include Non-Beverage Containers. That agreement must require clear identification of the recyclable Foreign Materials and the separation of that material from beverage containers being collected by the CSA under the Beverage Container Recycling Regulation. Any such agreement must be provided to the BCMB, by the CSA, for their information. Foreign Material is defined by the ABDA and ABCRC Service Agreement. A Depot's entry into Level 2 of this Framework will be cause for the BCMB to review the agreement between the CSA and the Depot and may result in the cancellation of this agreement.

Non-Beverage Container Compliance By-Law Process Map

