



DATE: April 6, 2018

TO: Depot Network

RE: **Non-Beverage Container Compliance By-law – Educational Phase**

As previously communicated on March 14, 2018, the implementation of the new *Non-Beverage Container Compliance By-law* (By-law) initiated with a 3-month Educational Phase on April 1, 2018. This phase will end on June 30, 2018. During this time, all Depots will be monitored for the shipment of non-beverage containers, 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 Quality Monitoring System (QMS) and then subsequently through correspondence from the BCMB. Depot Operators will have until the end of the next day of Depot Operations to review a Non-Beverage Container Compliance ticket and note their acceptance or challenge of the ticket with the ABCRC through the QMS. This is the same process followed for Quality Control audits as outlined in the Service Agreement.

Both the QMS ticket and correspondence from the BCMB related to Non-Beverage Container Compliance, will be strictly for educational purposes during this time. Depots should use the 3-month Educational Phase to make adjustments to their operation and internal processes and educate staff where necessary.

The Industry Leadership Committee (ILC) will review the data gathered during the Educational Phase, at the June 27, 2018, ILC meeting. The ILC will evaluate the effectiveness of both the By-law and associated operational processes, prior to the launch of the official non-compliance program on July 2, 2018. Any changes to process or the By-law will be communicated to you.

For your reference, attached you will find a copy of the *Non-Beverage Container Compliance By-law* and the framework process map. This By-law sets up a progressive framework for the non-compliant shipment of non-beverage containers to the Collection Systems Agent (CSA). The compliance framework aligns with the BCMB's Compliance assurance principles of education first, prevention second and enforcement last.



Framework Progression

EDUCATION

PREVENTION

ENFORCEMENT

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- A blue vertical arrow pointing downwards, indicating the progression from Education to Enforcement.
- **Level 1:** Warning Letter
 - **Level 2:** Warning Letter; \$200 Levy
 - **Level 3:** Warning Letter; \$200 Levy; Cost of Audit
 - **Level 4:** Complaints Director; \$200 Levy; Cost of Audit

Please review the attached By-law and the framework process. 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

