

182

REDUCING SOLID WASTE

Submissions of the

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

- to -

THE CANADIAN BAR ASSOCIATION

SUSTAINABLE DEVELOPMENT ACTION PLAN

Publication #182

ISBN# 978-1-77189-548-4

*STEVEN SHRYBMAN, Counsel
June, 1990.*

Canadian Environmental Law Association

VF:
CANADIAN ENVIRONMENTAL LAW
ASSOCIATION.
CELA BRIEF NO. 182; Reducing
solid waste: Submission...RN2589

REDUCING SOLID WASTE

In his 1960 book "The Waste Makers" Vance Packard wrote about the city of the future. "Cornucopia city " would be a place dominated by the "philosophy of waste". Its residents induced to consume more and more, day by day, lest the economic machines of their society "turn and devour them".

Oblivious to his and other warnings we have in many ways become that future vision. Neither has growing public concern about environmental quality done anything to slow the pace at which we have developed and refined our skills at transforming this planet's once abundant natural resources into contaminated effluent, discharges, emissions and waste of every description.

In Canada there are approximately 35 million metric tonnes of municipal garbage generated annually. That's over 3000 tonnes every hour. As impressive as these statistics may be however, they represent only a small fraction of the waste actually generated by our society.

This is so because municipal garbage includes only solid refuse from the residential, commercial and non hazardous industrial waste streams. When we account for discharges of waste in the form of air and water pollution, hazardous and liquid industrial wastes -the quantities become truly mind boggling.

A recent report of the U.S. Conservation Foundation' estimates that 60,000 lbs. of waste per capita is generated annually for each of 240 million Americans.

Even that figure underestimates the amount of waste that can be attributed to U.S. consumption because it takes no account of the waste associated with the exploitation of resources, or the production of products, that are exported to the U.S.- from Canada for example.

While similar calculations are not available for Canada, it is unlikely that our per capita waste generation would be any more modest for at least two reasons. One, Canada's is the most energy intensive economy in the world. That means a great deal of carbon, sulphur, nitrous oxide and radioactive waste. Two, much the waste that comprises the Conservation Foundation's estimate is associated with primary resource exploitation - and Canada has a resource based economy.

While municipal garbage represents only a small fraction of the total waste we actually generate, it is the most visible, and the problems associated with finding some way to make it "disappear" are threatening to throw a monkey wrench into the works of our waste making machinery. The immediate problem of course concerns the considerable

difficulties associated with siting disposal facilities: landfill sites and incinerator plants. Neither type of facility does very much to improve the amenities of a community, and we have learned a great deal about the character and extent of the environmental and public health impacts associated with these waste disposal methods. The news is not good.

However, a far more serious crisis confronts us, and that concerns the impacts of our waste generating habits upon the resource base that is, at an ever increasing rate, being converted into the stuff of everyday consumption. We are approaching, so a consensus of scientific opinion advises, the very ecological limits of our planet.

If we have not done a great deal during the past three decades to abate the problems of environmental degradation, we have at least documented them. The fundamental erosion of agricultural, forestry and energy resources and the decline of our atmospheric, land and water quality, are now matters beyond dispute. If there is a common denominator of this process of environmental degradation it must be our failure to recognize in the wastes we generate, the resources that are fundamental to the continued well being of our society and indeed our planet.

It is clear that much more determined action is needed. Some of that action will be cost effective and relatively easy to accomplish - composting of organic wastes and recycling certain papers falls into this category. We know enough now about the impacts of landfilling or incineration to make this type initiative likely. Far more difficult, for largely political reasons, will be doing something about the ever growing proportion of packaging and disposable products in the municipal waste stream.

While the benefits of waste reduction are patent they are unfortunately broadly distributed. The negative impacts of packaging and product regulation, on the other hand, will be borne by a few economically and politically powerful organizations who can be expected to vigorously press their interests.

The means are at hand to accomplish a very fundamental reduction of the waste generated in our society. The rate of our progress toward that objective will be determined predominantly by the strength of commitment, and political will, to get there.

FROM HOW TO DISPOSE OF WASTE TO, HOW NOT TO

There are three principles that may be regarded as defining the extent and character of traditional municipal waste management activity. Each is entirely outmoded if we are going to make waste reduction our first priority.

Obsolete Principle No. 1: Waste management is essentially a local responsibility.

Traditionally, the management of municipal solid wastes was defined almost exclusively in terms of disposal. The province assumed responsibility for developing disposal regulations, such as they are, and mandated approval processes for licensing disposal facilities. In virtually all other respects the responsibility for managing solid wastes was left entirely to municipal or private initiative.

Waste management was regarded simply as a matter of finding sites for disposal facilities and providing for garbage collection. Those tasks fit well within areas of municipal competence: land use planning, and providing municipal services. Perceived in this way, the delegation of collection and disposal tasks to municipalities made sense. Now that waste management policy objectives have fundamentally changed -- from how to dispose of waste, to how *not* to, the present distribution of legislative authority is far less rational.

It is clear that all three levels of government must recognize the need to work much more aggressively and co-operatively if waste reduction objectives are to be realized. A much greater role will now have to be played by the provincial and federal governments.

Obsolete Principle No. 2: We will collectively assume responsibility for disposing of all Municipal Solid Waste (MSW) without qualification or restriction as to source, quantity or character.

Stated in this manner, a patent contradiction is apparent between the assumptions that still determine current approaches to waste management on the one hand, and an emerging policy that considers disposal to be the waste management approach of last resort, on the other.

The first priorities of devising a waste management strategy must be to minimize environmental impact and conserve natural resources. To respect those priorities, we must reject the notion that our society is obligated to provide disposal for wastes unless every reasonable effort has first been made to reduce, re-use or recycle them.

It is also significant that important analogues to this approach are being adopted in virtually all spheres of environmental regulation. For example, air and water pollution regulatory regimes are being overhauled in several jurisdictions and the underlying objective of these reforms is to minimize environmental impact.

In the area of air pollution regulation this approach has been expressed as LAER - Lowest Achievable Emission Rates. In the area of water pollution control, as BATEA - Best Available Technology, Economically Achievable. The same notional construct may be helpful in the area of waste management where it could be described as LADR -

lowest achievable disposal rates, or as HAR - highest achievable reduction.

Obsolete Principle No. 3: All individuals and corporations are free to produce materials and products without having any regard to their ultimate fate.

It is not uncommon in our society to impose constraints upon the production of goods and materials in order to promote product safety or consumer objectives. With the exception of soft drink and dairy container regulation however, no limits have been imposed upon the production of goods and materials for consumer use in order to reduce the costs and environmental impact associated with disposal. We have been indifferent as a society when faced with a choice between two products, both to serve the same purpose, but imposing very different resource or disposal impacts.

The producers of the environmentally costly product have been free to externalize any disproportionately greater costs associated with production and disposal. The basic fallacy of this approach is now finally recognized, and the principle of "polluter pay" has been adopted in several areas of environmental and resource management regulation. In the area of waste management, this means strategies and regulations that will shift responsibility for the ultimate fate of a product or material to its producer.

THE NEED FOR FEDERAL INITIATIVE

The following analysis concentrates on the need for new legislative and regulatory initiatives to accomplish solid waste reduction objectives. Needless to say, regulatory reform is but one element of a comprehensive approach that must involve research, public education, additional facilities, technical and financial support and the practice of waste reduction by governments. However, without a clear commitment to regulation waste reduction goals will remain elusive.

With limited exceptions, jurisdiction with respect to solid waste management has been considered a provincial responsibility. It is clear however that there are several practical reasons for regarding federal initiatives to reduce solid waste as necessary and, in certain instances, preferable to provincial or local measures. This is particularly true with respect to product and packaging regulation for goods and materials that are marketed across provincial and international boundaries. For example:

- (a) A patchwork of different and potentially inconsistent packaging regulations will create serious impediments to interprovincial and international trade and will deny packaging manufacturers opportunities to exploit efficiencies of scale.

(b) The development of tough regulation in some jurisdictions, and its absence in others, may encourage companies to establish operations where regulation is less onerous, or tempt certain jurisdictions to attract development by becoming "pollution havens".

(c) Two important rationales for waste reduction concern resource conservation and energy efficiency. Both objectives fit well with other federal environmental priorities including sustainable resource management and the control of greenhouse gas emissions.

(d) The Federal Government has already established national packaging standards for consumer protection and public health reasons. The development of packaging regulation to promote resource conservation, energy efficiency and waste management objectives is a logical progression of current packaging controls.

Whatever the practical value of federal regulation to reduce packaging waste, that extent of federal constitutional competence to do so is uncertain. The Federal Government currently regulates packaging, but for purposes other than waste reduction. For example, the authority to mandate container standardization requirements currently exists under the Consumer Packaging and Labelling Act to prevent the undue proliferation of container sizes and shapes. Under The Canada Agricultural Products Act certain agricultural products, such as fruit and vegetables in sealed containers, must be sold in standardized containers. While several aspects of current federal packaging regulation may provide useful precedents for regulations designed to reduce packaging waste, they do not provide a legislative basis for such initiatives.

As for current federal *environmental* legislation the most explicit reference in federal law to waste reduction measures is found in S.8 of the Canadian Environmental Protection Act which provides that the Minister of the Environment "shall formulate" "objectives, guidelines and codes of practice"... that relate under S. 8(2) to:

- (b) recycling, reusing, treating, storing, disposing of or reducing the release of substances into the environment;
- (d) conservation of natural resources and sustainable development.

It is unlikely that these provisions could be interpreted broadly enough to authorize the range of regulatory measures that will be needed if waste reduction goals are to be achieved.

It is beyond the ambit of this assessment to provide a detailed consideration of jurisdictional issues, many of them novel, that arise in this domain. Further work is obviously needed to determine the basis of constitutional authority for federal action to

accomplish waste reduction objectives². It is also important to note that a legislative scheme to accomplish waste reduction goals will largely represent new territory for both levels of government.

The recommendations that follow then are offered with the recognition that several jurisdictional and constitutional issues remain outstanding. While these proposals are directed at the federal government it is also clear the similar or parallel measures will need to be developed and promulgated by provincial governments.

It is significant that under the auspices of the Canadian Council of Ministers of the Environment (CCME), federal and provincial Ministers of the Environment have agreed to co-ordinate their efforts to devise programs and legal mechanisms to reduce packaging wastes. The approach is one that commends itself to resolving the constitutional issues that arise in this context³. A co-operative and co-ordinated effort by the provincial and federal governments should yield regulatory regimes that will be more likely to withstand the challenges that will be made to them.

FROM POLICY TO ACTION

An important commitment has recently been made by CCME to reduce municipal solid waste by 50%, and do so by the year 2000⁴. It is now incumbent upon the Ministers to develop a comprehensive plan for achieving that objective. For the reasons noted, the Federal Minister of the Environment must assume an important leadership role.

Recommendation: The Federal Government should immediately commit resources to the task of developing a comprehensive waste reduction strategy for Canada to accomplish a 50 percent reduction of municipal solid waste during the next decade. That strategy must expedite the development of appropriate legislation to ensure that waste reduction goals will be achieved, effectively and equitably.

INFORMATION AND ANALYSIS

There remains a dearth of detailed information about the quantities and characteristics of the solid waste generated in Canada. Often the most accurate estimates must be extrapolated from U.S. sources. Yet waste streams vary significantly for different communities and the development of appropriate reduction strategies must be informed by a good understanding of the particular composition of the waste stream.

A similar problem exists with respect to the availability of information concerning the effectiveness of various waste reduction technologies, programs and strategies. The type of information that is being developed and disseminated by the National Incineration

Testing Program (NITEP) with respect to waste disposal is also needed with respect to the waste reduction technologies.

Recommendation: The federal government should undertake a program to gather, assess and disseminate information about solid wastes and the strategies, programs and technologies that are needed to reduce them. A national conference should be convened annually to focus exclusively on the matter of solid waste reduction.

REGULATING PACKAGING WASTE

Packaging wastes have increased by approximately 80 percent since 1960 and estimates are that we generate twice as much packaging waste per person as does Europe. Per capita consumption of packaging in Canada is estimated to be 1 tonne packaging per family per year. 80 percent of these packaging materials are currently disposed in landfill sites or waste incinerators⁵. Not suprisingly, federal and provincial Environment Ministers have agreed to make the reduction of packaging waste a national priority⁶.

At their meeting in Vancouver on March 20, 1990 the CCME adopted the report of a National Task Force on Packaging calling for action to reduce packaging waste by 50 percent by the year 2000. The Task Force report, presented as a "National Packaging Protocol" (NAPP), identifies 1988 as the base year against which packaging waste reduction goals will be measured, and establishes interim reduction objectives of 20 percent by December 31, 1992 and 35 percent by December 31, 1996.

In the CCME communique issued by from the Vancouver meeting, the Ministers challenge the packaging industry to initiate measures voluntarily to meet the first interim target. However the Ministers also undertake to immediately prepare legislation and regulation to ensure that reduction goals are achieved.

Recommendation: CCME initiatives to develop legislative and regulatory regimes to achieve packaging waste reduction objectives must be considered a priority if reduction goals are to be achieved in an effective and equitable manner. Those initiatives should be developed in a consultative manner and be promulgated by June 30, 1991.

The National Packaging Protocol adopted by the CCME sets out six packaging policies for Canada:

1. All packaging shall have minimal effects on the environment.

2. Priority will be given to the management of packaging through source reduction, reuse and recycling.
3. A continuing campaign of information and education will be undertaken to make all Canadians aware of the function and environmental impacts of packaging.
4. These policies will apply to all packaging used in Canada including imports.
5. Regulations will be implemented as necessary to achieve compliance with these policies.
6. All government policies and practices affecting packaging will be consistent with these national policies.

NAPP also describes various actions that will be undertaken to implement these six policies. Several of these activities are germane to, or call for, the development of legal mechanisms to reduce packaging wastes, including:

- Fifty percent of the diversion of packaging wastes from disposal is to be accomplished by source reduction and reuse initiatives and the remainder through recycling programs.

- Packaging waste reduction efforts will follow a **hierarchy** of source reduction, reuse and recycling.

- A "Code of Preferred Canadian Packaging Practices" will be established that considers the following hierarchy:

- 1) No packaging
- 2) Minimal packaging
- 3) Reusable packaging
- 4) Recyclable packaging or packaging containing recyclable material.

- National minimum content standards will be established for the inclusion of secondary/post consumer material in packaging.

- Standards and regulations will be promulgated to ensure the application of NAPP policies to all packaging sold in Canada including packaging that is imported to this country.

- Federal and provincial governments will enact regulations which are compatible across Canada which specify performance requirements, targets, and deadlines for achieving NAPP targets.

With these objectives and priorities in mind, the following recommendations are offered to achieve the waste reduction goals endorsed by the CCME.

Source Reduction

The first priorities of packaging waste reduction is "no" or "minimal" packaging and the NAPP explicitly adopts these objectives. While reuse and recycling schemes will divert packaging from disposal, source reduction may be defined as:

any measure that reduces the consumption of materials or products and that minimizes the quantities of post consumer materials that must then be processed for reuse, recycling or disposed of.

The elimination of packaging is clearly a source reduction measure. So are initiatives that reduce the amount of material that is used to package a particular article.

While source reduction may be the most desirable waste reduction strategy it is not one that readily lends itself to regulatory initiative. While several jurisdictions have imposed bans on the use of certain packaging materials, none have attempted to actually prescribe the use of packaging for particular purposes⁷. To achieve source reduction objectives, industry codes of practice, government support for research and development, and education will have critical roles to play.

However, one important regulatory mechanism that has been adopted to accomplish, inter alia, source reduction goals is taxation. For example, Saskatchewan imposes a two-cent "Environmental Handling Charge" on non-refillable beverage containers at the wholesale level. This handling charge is in addition to a 5 cent deposit charged on aluminum beverage containers. Revenues in the order of \$2.75-million per year are credited to an "environmental protection fund"⁸. Florida has also established an *advanced disposal fee* on glass, plastic, metal and paper packaging where that packaging fails to achieve a 50% recycling rate by 1992⁹. Rhode Island has enacted legislation that exempts from state sales taxes all biodegradable bags, boxes and wrapping materials and all returnable containers¹⁰.

A surcharge that would be applied to a particular package and assessed against manufacturers could internalize the waste management costs associated with their particular product. The Ontario Recycling Advisory Committee favours this approach and proposes the implementation of a "waste management surcharge" to be assessed against products that cannot meet recycling performance standards¹¹.

An excess packaging tax that reflects the relative waste management burden associated with a particular product or material offers an ideal mechanism for internalizing environmental costs. Such a graded system of taxation not only creates an economic incentive for waste reduction but as well effects a more equitable distribution of waste management costs.

Recommendation: A graduated "excess packaging tax" should be established and levied against packaging producers. Such a tax should reflect the environmental costs attributable to the packaging. Taxes should be partially rebated for packaging that achieves waste reduction or recycling objectives or that uses recovered post consumer materials. Such a system could be structured in accordance with the following model:

A \$0.04 tax to be levied on all food and beverage containers offered for sale in Canada. The tax should be assessed against manufacturers or distributors who would be able to claim a:

**one-cent credit for each container that is recyclable;*

**a two-cent credit if the container achieves a 75 percent recycling rate, or is made predominantly of recovered materials, and;*

**and three-cent credit each container that is reusable and is reused, or that is made entirely of recovered materials.*

Reuse

Re-use is a technique for extending the life of non-durable products -- in particular, packaging. It is probably the waste reduction scheme with which we are most familiar in the form of reusable beverage containers. There are many other forms of packaging that would as easily lend themselves to reuse. For example, almost all corrugated containers are designed to be used once and discarded. Corrugate represents a major component of present packaging waste. Many cartons, crates and wooden pallets could also be re-used and the potential contribution of reuse initiatives to packaging waste reduction initiatives is substantial¹².

Estimates undertaken by the U.S. EPA during the mid-seventies attempted to quantify the environmental benefits that would be derived from encouraging the use of multiple-trip containers. The following benefits were projected with respect to a container that would be re-used five times instead of once. Such a container would:

- use 80 percent less energy
- cause 57 percent less air pollution,
- cause 98 percent less water pollution, and;
- cause 77 percent less waste production¹³

These figures obviously provide only a general estimate of potential environmental benefits and would vary with the type of package and packaging material. The equation also changes significantly when the comparison is between a container that is re-used and one that is recycled. It is also true that to achieve these benefits containers must actually be re-used and practical systems must be in place for this to happen.

The advantages of re-using containers and packaging are quite considerable and extend beyond environmental benefits to include net job creation. A 1979 study by the U.S. Environmental Protection Agency used econometric modelling to project the likely impacts of establishing a regime of re-use. While certain employment dislocations might occur, significant over-all net employment increases were predicted. The conclusions of that assessment have been echoed by others that have examined the relationship between bottle deposit laws and employment¹⁴.

Several Canadian jurisdictions prohibit the sale of certain beverages in non-refillable containers and their initiative should have universal application.

Recommendation: Regulations should be developed that require all containers for soft-drinks, alcoholic and other beverages to be refillable. To be effective such regulations should establish mechanisms to ensure that refillable containers are actually recovered and reused, eg. mandatory deposit requirements. These initiatives should be extended to as many types of container and packaging products as practical.

As an adjunct to such measures, programs should be developed to ameliorate the impact of any employment dislocations that may follow from them.

Recycling

NAPP stipulates that fifty percent of packaging waste reduction goals will be achieved through recycling programs. A number of regulatory initiatives will be necessary if this objective is to be realized. Fortunately there is a considerable, and developing number of precedents to draw upon in devising these regulatory strategies.

In Austria, for example, all non-recyclable packaging will be banned as of 1992. Thereafter, packaging materials that are not recyclable may be marketed only if producers fund new recycling programs to ensure the diversion of these materials from disposal. Austria's legislation applies to all domestic and imported packaging materials¹⁵. Similar bans have been proposed in Minnesota and Seattle and are under active consideration in several other jurisdictions¹⁶. The Federation of Canadian Municipalities has called upon the Federal government to take similar action¹⁷.

It is inconsistent with policies of the NAPP to sanction the use of disposable packaging where reusable or recyclable alternatives are available. With the qualification that public health considerations may dictate some exceptions, the first step towards achieving the objectives delineated under NAPP should be ensure that all packaging sold in Canada be recyclable.

Recommendation: Unless exempted for public health reasons, by Jan. 1, 1993 all packaging sold or offered for sale in Canada should be recyclable.

If waste reduction objectives are to be achieved however, not only must packaging be recyclable, but it must also *be* recycled. The establishment of recycling performance standards, such as those established under Ontario's pop container regulation¹⁸, offers several advantages as a regulatory technique to achieve this objective:

- recycling performance can be measured. This obviates the need to make abstract judgments about the likely fate of a particular product or material;
- product innovation is unimpeded, and in fact encouraged as incentives will be created to devise and improve packaging and recycling systems;
- by requiring producers to demonstrate that recycling performance standards are being achieved, the need for substantial commitments of public resources to monitor compliance is reduced¹⁹.

The implementation of recycling performance standards should be considered a necessary adjunct to a prospective ban on non-recyclable packaging materials. The correlation between recycling performance standards and actual measures of waste reduction is uncertain. Recycling systems are not perfect and materials are lost through breakage and because of contamination. In addition, the number of times that a particular packaging material may be recycled will vary for different packaging materials. Therefore recycling performance standards will have to be more ambitious than the absolute measure of waste reduction that is desired.

NAPP calls for an overall reduction of the packaging wastes destined for disposal by 20% by the end of 1992. As this goal is framed in terms of the overall weight of packaging waste disposed of in 1988, and not in terms of per-capita packaging waste generation, something in excess of 20% will have to be achieved on a per capita basis. As noted half of this reduction will occur through recycling measures.

Recommendation: Recycling performance standards should be developed and applied to all packaging. The achievement of the following recycling objectives for packaging waste should be assured:

by December 31, 1992, 30%

by December 31, 1996, 50%

Toxicity

The elimination of harmful substances in packaging materials or products should be a priority of federal packaging and product regulation. Again, several other jurisdictions have taken action to prohibit or discourage the use of various toxic substances because of the impacts they present after they enter the waste stream. For example, mercury

and cadmium are the focus of particular attention in several jurisdictions including Sweden and the United States because of risks associated with landfilling or incinerating products that contain these substances²⁰.

Perhaps the most common packaging related initiative concerns the use of CFC-blown polystyrene products. A number of jurisdictions, including the City of Toronto and the Province of Ontario, have announced regulatory measures that are intended to eliminate the use of CFCs, to produce packaging among other things. The environmental risks associated with CFC use are notorious and in light of the availability of alternative packaging materials, there seems to be no reason to delay taking swift action to eliminate the use of CFC produced packaging material entirely.

Recommendation: Regulatory measures should be developed to minimize the toxicity of materials in municipal solid waste in order to minimize the environmental impacts associated with solid waste management.

Particular priority should be given to developing, by 1991, regulations that will:

- i) Reduce and eventually eliminate the use of known toxic constituents from products including cfc's, mercury and cadmium.*
- ii) Require manufacturers to test their products and materials for the potential release of toxic substances when landfilled, incinerated or recycled.*

Labelling

The Federal Government currently regulates package labelling for several purposes including consumer protection, public health and energy efficiency. For example, under The Consumer Packaging and Labelling Act and The Food and Drugs Act packages must be labelled to indicate ingredients, durable life, and net quantity. Under the Energiguide Program, which is scheduled to be phased out by the end of March, 1989, certain appliances must be labelled to indicate the product's energy use.

Until recently, however, there was no federal program or regulation intended to communicate information about the package or product from a waste management perspective. However, in June of 1988, at the Changing Atmosphere Conference in Toronto, the Prime Minister announced a program to label products as "environmentally friendly". Now called "Environmental Choice," this new federal program will, the Government advises, "empower Canadian consumers to make environmentally sound purchases".

It is essential that this federal program will be consistent with waste reduction objectives and programs. A labelling scheme designed to facilitate reduction, reuse and recycling

objectives would include information:

- i) that would allow consumers to favour those products for which alternatives to disposal exist;
- ii) to minimize the contamination of recycling and compostable waste streams with wastes that are not amenable to those waste reduction measures;
- iii) to facilitate the isolation of household hazardous waste;
- iv) to warn waste recyclers of the presence of products and materials that may interfere with recovery efforts or pose risks for worker health and safety.

It is apparent that for waste reduction purposes it will often be important to provide consumers with information about products and materials that are "environmentally unfriendly" (household hazardous waste) or that are incompatible with recycling programs or processes (laminated paper and plastic materials). This type of information is not presently within the ambit of the "Environmental Choice Program."

Recommendation: The "Environmental Choice Program" should be re-evaluated to determine its compatibility with a waste reduction labelling regulation that should be adopted. The purpose of product labels should be to communicate, through the use of universal symbols, whether a particular product or material:

- can be recycled
- can be returned for deposit
- is compostable
- is household hazardous waste
- is neither returnable nor recyclable

PROCUREMENT

The lack of secure markets for recovered "waste" materials has often been identified as an impediment to effective recycling programs. Moreover, source separated recyclables have not infrequently found their way into disposal facilities. Accordingly, the identification and development of markets for these secondary materials must be regarded as an important priority.

Primary responsibility for establishing and maintaining strong and secure markets for recovered materials should rest with the producers and distributors of those materials or the products from which they are made. Several of the preceding proposals are intended to fix packaging producers with that responsibility. However, there is another important role for governments to play as the purchasers of goods and services.

It is likely that the Federal Government is the single largest purchaser of certain goods in Canada. The Federal Government is obviously in an excellent position to influence markets for recovered materials while setting a good example for other levels of government and the private sector.

Several American jurisdictions at both the state and municipal level have seen fit to formalize procurement policies by enacting them as state law or local ordinance²⁷. The approach is one intended to optimize implementation by governments and their various agencies.

Unfortunately, our Federal Government has not yet adopted procurement policies to facilitate waste reduction objectives. In this regard it is trailing behind its US counterpart and several other national governments as well. It should endeavour to catch up quickly.

Recommendation: The Federal Government should adopt a procurement policy and promulgate regulations that will require adherence by all federal boards, agencies and crown corporations, to ensure that:

In purchasing supplies and materials for use, whenever the price is reasonably competitive, preference will be given to products and materials that are recyclable and that contain the highest percentage of recycled material.

As experience is gained with procurement programs, and the availability of recycled and recyclable materials increases, it may also be necessary for the Federal Government to establish performance standards that will specify the percentages of public purchasing that must be composed of recovered materials.

CONCLUSION

Several of the most pressing ecological problems confronting our society -- from the fundamental depletion of natural resources to global warming -- are the product of the same indifferent and extravagant resource management practices that are at the root of our waste management crisis. One important way in which the Federal Government can demonstrate the sincerity of its commitment to address these problems, is to develop initiatives and regulations to reduce packaging and other wastes.

ENDNOTES

1. A Report of The Conservation Foundation, " State of the Environment: An Assessment at Mid-Decade", p.129.
2. The recent decision of the Supreme Court of Canada in R. v. Crown Zellerbach Canada Ltd. (1988), 49 D.L.R. (4th) 161, has extended the ambit of federal constitutional authority to legislate under its residual power of POGG to the domain of environmental law. It is not at all clear however whether this precedent would be interpreted broadly enough to encompass the types of regulatory initiatives that will be needed to accomplish waste reduction objectives.
3. Under the auspices of the National Task Force on Packaging, Justice Canada has agreed to take the lead in establishing a working group to consider the development of the regulatory initiatives to which commitments have been made in the National Packaging Protocol, see discussion infra.
4. "Plan Coming on Pledge by Ministers to Cut Waste", Globe and Mail, April 24, 1989.
5. Canadian Council of Ministers of the Environment, "National Packaging Protocol" (NAPP). NAPP was endorsed by the CCME at their meeting held in Vancouver, Canada, March 20, 1990.
6. Idem.
7. Non-recyclable packaging -- a ban enacted in Austria, proposed in Minnesota and Seattle. (Ontario pop container regulation requires all non-refillable pop containers to be recyclable). Non-Biodegradable Packaging -- a ban enacted in Italy, Suffolk County, New York; New Jersey (food containers), Michigan, (food packaging at state fairs and parks), Florida (shopping bags). Proposed in New Jersey, Los Angeles, and California. CFC blown polystyrene packaging -- a ban enacted by Toronto, Ontario, Florida (all packaging), Maine (most consumer products), Rhode Island (food containers), Minnesota (food packaging). Plastic packaging -- a ban enacted by Venice, Florence and Bologne Italy (food containers). Plastic beverage cans have been banned in Connecticut, Minnesota, Massachusetts, Rhode Island and such a ban has been proposed in Kentucky and New York. A proposal to ban plastics for food containers is being advanced in Washington State. Multi-material packaging -- a ban proposed in Florida and Massachusetts for plastic containers with more than one resin type.
8. Saskatchewan Litter Control Act Chap.29, 1988, section 14.82 (1).
9. Section 403.703 Florida Statutes, subsection 72.
10. H. 9163, An Act Promoting the Use of Paper Bags in Order to Reduce the Cost and Difficulty of Waste Disposal, 1988.
11. Recycling Advisory Committee, "Discussion Paper, A Recycling Strategy for Ontario" January, 1989, see recommendation # 12.
12. For example, wooden skids and pallets represent approximately 13% of current packaging wastes, see CCME National Task Force on Packaging, Phase I Final Report, October 16, 1989.
13. U.S. EPA 1974, "Energy Conservation Through Improved Solid Waste Management", SW 125 and see Second Report to Congress (1974), p.80.

14. U.S. EPA, " Choices for Conservation - Resource Conservation Committee Final Report to the President and Congress", 1979, SW-779. also see World Watch Paper 76, 1987.
15. See Thomas Rhan, "Beyond Curbside Report" draft for the Recycling Council of Ontario.
16. Environmental Action Foundation, The Solid Waste Alternatives Project, "Legislative Summary: Significant Packaging Initiatives Passed or Considered in 1988", Dec.1988.
17. FCM COMMUNIQUE: "Municipalities Demand Promises From Federal leaders to Reduce Packaging By at Least 50% By the Year 2000", November 7, 1988.
18. The Environmental Protection Act, R.S.O. 1980, Chapter 141, Regulations 622/85 and 623/85.
19. Idem. S.3 of R.R.O. 623/85 which establishes producer registration requirements and S.8, of the same regulation, that requires all brand owners to file monthly audits with the Minister of the Environment demonstrating that it has achieved prescribed recycling performance standards.
20. The National Environmental Protection Board (Sweden) "Energy From Waste" S-117, Stockholm, Sweden.
21. Score Technical Team, "Research Provided to the Members of the Governor's Select Committee on Recycling and the Environment" (for the State of Minnesota), October, 19,1988, see "waste reduction" p.3 and "markets" p.4.