

Nova Scotia Announces Final Electronic Product Stewardship Regulations

March 25, 2007

Canada - Nova Scotia - Product Take-Back

Nova Scotia has amended the Solid Waste-Resource Management Regulations ("Amended Regulations" - link below) under its Environment Act (link below) to establish an Electronic Products Stewardship Program (the "Program") that requires "brand owners" to operate a stewardship program approved by the Minister of Environment and Labour or designate a third party to operate an approved program for covered end-of-life electronics.

Stewardship programs must establish a process for the collection, transportation, reuse and recycling of designated products, and if no further options exist, the disposal of any residual components.

The Amended Regulations call for a phased implementation schedule, with product stewardship programs required by February 1, 2008 for the first set of covered electronics: televisions; desktop, laptop and notebook computers and accessories (e.g., CPUs, keyboards, mice, cables); computer monitors; and printers, including printers with scanning and/or fax capabilities. By February 1, 2009, product stewardship programs will also be required for computer scanners, audio and video playback and recording systems, telephones and fax machines, and cell phones and other wireless devices. All designated electronics must have in place a brand name image or logo that is "clearly affixed in plain view" on the product.

The Amended Regulations define "brand owners" to include owners and licensees, manufacturers or distributors of designated products sold, offered for sale or otherwise distributed in or into the province. A brand owner may comply with the Amended Regulations by operating its own stewardship program or designating a third party to operate a program on its behalf. Brand owners or designated third parties that submit product stewardship programs to the Minister of Environment and Labour must do so six months prior to the earliest implementation date specified under the Amended Regulations. Programs must contain the following elements:

- an education and awareness program that describes the scope of products under the program, the process for their collection and the environmental benefits of participating;
- a list of collection facilities; and
- a description of the proposed methods to be used for reuse and recycling.

The Amended Regulations also purport to require brand owners or designated third parties to enter into an agreement with Nova Scotia's Resource Recovery Fund Board ("RRFB") for managing designated products. (RRFB is a non-profit

organization created under the Solid Waste-Resource Management Regulations to oversee industry stewardship programs and municipal or regional diversion programs. RRFB has served as the administrator of the post-consumer paint recycling program under the Regulations). This provision appears to be a vestige of the prior iteration of Nova Scotia's proposed amendment to its solid waste regulations, which required e-waste brand owners to contract with RRFB or prepare their own stewardship program. (See [Nova Scotia Regulatory Alert dated March 4, 2005](#)). The current, final Amended Regulations are intended to provide brand owners with greater choice regarding how to manage the collection and recycling of designated wastes. Accordingly, the nature and scope of any required agreement with RRFB, as well as RRFB's role in e-waste stewardship programs in Nova Scotia, will need to be clarified as the Program takes shape.

Notably, the RRFB is one of several organizations bidding to provide the management and administrative services for a potential industry-led stewardship program that is in the initial stages of development by Electronics Product Stewardship Canada ("EPSC"). The EPSC program will likely resemble the Saskatchewan Waste Electronic Equipment Program ("SWEEP"), which was also developed by EPSC and is the first industry-led stewardship program in Canada. (See [Saskatchewan Regulatory Alert dated January 8, 2007](#)).

The Amended Regulations also require brand owners or designated third parties operating stewardship programs to report on or before June 30 of each year the total quantity of electronic products collected. Under the Amended Regulations, programs may not charge consumers a fee at return-collection facilities. Retailers are held responsible for making available all education and awareness program information at the point of display or sale.

Upon request in writing from the Minister, brand owners or designated third parties may also have to provide additional information regarding: (i) the types and processes used for reuse and recycling; (ii) the location of return-collection facilities; (iii) the location of any long-term containment or final treatment and processing facilities; (iv) vendor qualification standards or information demonstrating the collected end-of-life products were managed in a manner that "employs environmental and human health and safety standards meeting or exceeding applicable federal, Provincial, and local regulations;" and (v) efforts made to improve the environmental design of the designated products. The Minister maintains the discretionary authority to require a revised proposal based on information received from a brand owner. The Minister may also ban the sale in Nova Scotia of any electronic products belonging to a brand owner that fails to comply with the Environment Act or the Amended Regulations.