

Clause 11 in Report No. 4 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on March 29, 2018.

11

Update on moving towards Full Producer Responsibility under the *Waste-Free Ontario Act*

Committee of the Whole recommends adoption of the following recommendation contained in the report dated February 16, 2018 from the Commissioner of Environmental Services:

1. The Regional Clerk circulate this report to the local municipalities.
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Report dated February 16, 2018 from the Commissioner of Environmental Services now follows:

1. Recommendation

It is recommended that:

1. The Regional Clerk circulate this report to the local municipalities.

2. Purpose

This report provides an update on the *Waste-Free Ontario Act, 2016* regarding early transition of the blue box program from the municipal sector to full producer responsibility, in an effort to reduce the financial burden on taxpayers.

3. Background and Previous Council Direction

Municipalities and other stakeholders in the waste sector continue to advocate for improvements to Blue Box Program

Municipalities and other stakeholders have been advocating for full producer responsibility as it relates to the Blue Box Program for a number of years. Table

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1 summarizes communications to Council over the last five years on the evolving waste management legislation.

**Table 1
Communications to Council on Provincial Waste Management Legislation**

Date	Communication
September 2013 Report	Review of Bill 91, Proposed <i>Waste Reduction Act, 2013</i>
June 2015 Report & Presentation	Pending Waste Reduction and Resource Recovery Framework Legislation Update
February 2016 Report & Presentation	Waste-Free Ontario Act – Update on Proposed Waste Management Legislation
June 2016 Memorandum	Update on Waste-Free Ontario Act
June 2017 Report & Presentation	Update on moving toward full producer responsibility under the <i>Waste-Free Ontario Act</i>
January 2018 Memorandum	Update on Consultation Timelines for Amending the Blue Box Program Plan towards Full Producer Responsibility
February 2018 Memorandum & Presentation	Update on Proposed Amendment to Blue Box Program Plan

***Waste-Free Ontario Act* will have major impact on municipal waste management, particularly the diversion programs**

In November 2016, the *Waste Diversion Act, 2002* was repealed and replaced by the *Waste-Free Ontario Act*. This new legislation will have a major impact on municipal waste management and waste diversion programs in Ontario, including the Blue Box Program, tires, electronics and household hazardous wastes.

As shown in Figure 1, the Act shifts the current system to one of full producer responsibility.

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**Figure 1
Overview of the *Waste-Free Ontario Act, 2016***



Minister triggers process to shift used tire and electronic diversion programs to full producer responsibility

The Province's Strategy for a Waste-Free Ontario identified a high level timeline for transitioning diversion programs for materials currently designated under the *Waste-Free Ontario Act*. The timeline targets 2020 as the year that designated materials such as tires, waste electronics and household hazardous waste materials will complete transition to full producer responsibility under the *Resource Recovery and Circular Economy Act*. The Province targeted completing transition of the Blue Box Program by 2023 due to the additional complexities associated with this program.

To initiate the process to transition a diversion program, the Minister must issue a direction letter to the organization representing producers (e.g. Ontario Tire Stewardship representing tire producers), requesting that the organization wind-up operations to move to full producer responsibility. In February 2017, the Minister issued a direction letter to wind-up the Used Tire program. The Used Tire program is the first diversion program to undergo transition to full producer responsibility. The Region currently collects used tires at our depots and will be impacted by future regulations accompanying transition of this program.

Over the past year, Region staff have been engaged throughout the wind-up process to ensure municipal interests are represented. To date, staff understand that the new tire regulations will require tire producers to be environmentally accountable and financially responsible for recovering used tires and reducing waste. During this wind-up process and discussions, producers have not signaled if they intend to include municipal depot programs for collection of tires

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or elect to use point-of-sale locations for collection. In 2017, the Region collected approximately 170 tonnes of used tires and recovered \$14,000 from Ontario Tire Stewardship for this work.

On February 8, 2018, the Minister issued a direction letter for electronic waste however details on how this program will be transitioned including timing have not been released at this time. In 2017, the Region collected about 1,350 tonnes of electronic waste and recovered \$600,000 for delivering this service.

Ontario municipalities can save up to \$130 million per year by accelerating transition of the Blue Box Program to full producer responsibility

The cost to operate the Blue Box Program is currently supposed to be split 50/50 between municipal governments and the companies that produce the packaging and paper products placed in the blue box for recycling. The new legislation will make producers, such as Coca Cola, Unilever and Loblaws amongst the hundreds of registered stewards in Ontario, fully responsible for the end-of-life management of their products and packaging.

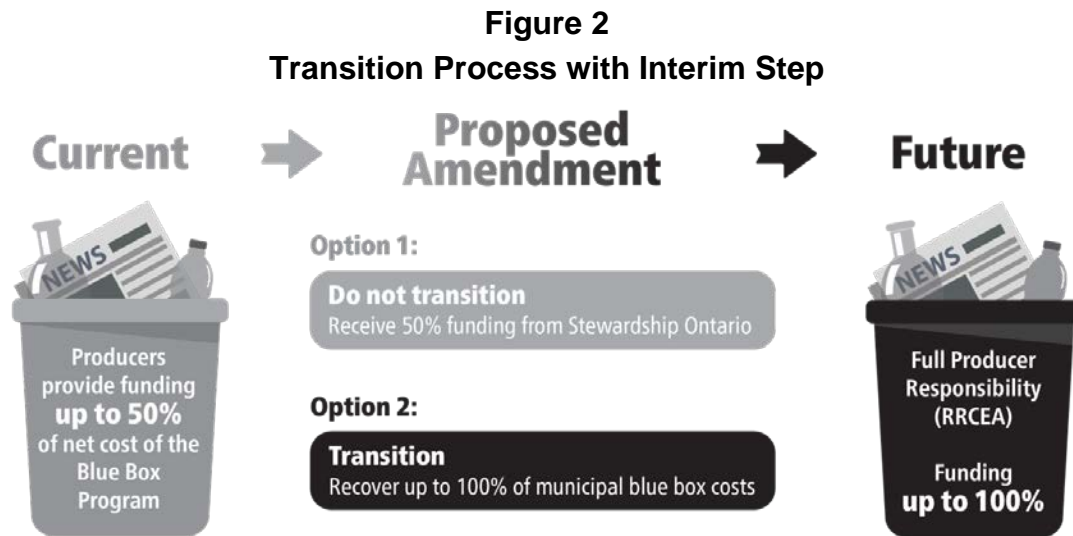
The Province has targeted 2023 to transition the blue box program to the new framework under the *Resource Recovery and Circular Economy Act*. Municipalities advocated initiating transition prior to 2023 to realize cost savings sooner. Accelerating transition is in the best interest of municipal governments as the current model costs Ontario municipalities an estimated \$130 million a year to operate.

Municipalities formed a collaborative and worked with Stewardship Ontario to accelerate transition to full producer responsibility

The Association of Municipalities of Ontario, Municipal Waste Association, Regional Public Works Commissioners of Ontario and the City of Toronto formed the Municipal Resource Recovery and Research Collaborative (the Municipal 3Rs Collaborative) in 2017 to advocate for a smooth and timely transition to full producer responsibility before 2023. The Municipal 3Rs Collaborative began discussions with Stewardship Ontario and established some common ground to transition early. An amended Blue Box Program Plan approach was developed as an interim step to a full transition. Given the scale of the changes required, an amended plan offers an opportunity to enable an orderly transition from a municipally owned and operated system to a system whereby producers are fully responsible for the blue box program.

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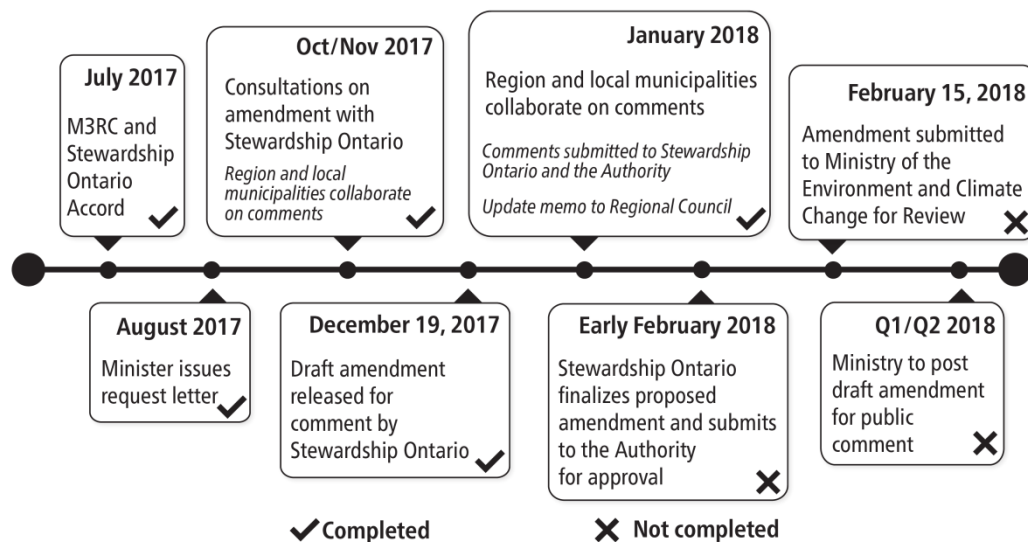
As shown in Figure 2, municipalities have two options under the proposed amendment. One option is that municipalities can choose not to transition in which case they would continue to receive about 50 per cent of their blue box funding from the Stewards. The other option is for the municipality to transition to full producer responsibility. In the latter case, municipalities would recover up to 100 per cent of their costs to operate the Blue Box Program.



In July 2017, a joint letter (the Accord) was issued by Municipal 3Rs Collaborative members along with Stewardship Ontario requesting that the Minister amend the current Blue Box Program Plan (herein referred to as the proposed amendment). The Minister subsequently directed the new Resource Productivity and Recovery Authority (the Authority) to work with Stewardship Ontario to consult with affected stakeholders regarding changes to the Blue Box Program Plan based on the shared principles outlined in the Accord. Figure 3 demonstrates the consultation timelines forecasted and actions completed to amend the Blue Box Program Plan as per the Minister's request.

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**Figure 3
Consultation Timeline for Proposed Blue Box Program Plan Amendment**



**Proposed Blue Box Program Plan amendment fails to satisfy
Minister’s direction and Municipal interests**

On January 15, 2018, staff submitted comments in response to Stewardship Ontario’s proposed amendment to the Blue Box Program Plan (Attachment 1). Staff comments were coordinated with local municipal partners and align well with key issues that the Municipal 3Rs Collaborative and other stakeholders raised in their response (Attachment 2). Staff comments express disappointment in first iteration of the proposed amendment to the Blue Box Program Plan, which does not reflect the principles agreed upon in the Accord nor does it reflect the direction provided in the Minister’s response letter (Attachment 3). The following summarizes key concerns raised by municipalities and included in staff comments provided to Stewardship Ontario.

- Timelines must reflect early transition of the Blue Box Program Plan prior to the provincial target of 2023
- Decision-making criteria must be clearly laid out, transparent and include mechanisms to incorporate stakeholder feedback and resolve disputes
- There must be no backsliding on the list of accepted blue box materials collected and mechanisms must be included to address problematic packaging (e.g. creation of end markets for recycling, disincentives for producing this type of packaging, etc.)

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- Customer service standards must be included ensuring there is no disruption in service to residents

Stewardship Ontario plans to revisit consultation process and request extension

On [February 15](#), staff advised Council that Stewardship Ontario did not submit a plan as scheduled. Stewardship Ontario has now indicated their intention in a letter to the Municipal 3R's Collaborative proposing a new engagement approach with municipalities. In response, the Municipal 3R's Collaborative supports the opportunity to continue working with Stewardship Ontario to define a collaborative process grounded in the principles outlined in the Minister's request letter. The Municipal 3R's Collaborative reiterated five main concerns with the proposed amendment to the Blue Box Program Plan. These remain fundamental issues for municipalities and need to be addressed early in order for meaningful progress to be made (Attachment 4).

Authority agrees more time required to develop a plan which meets the Minister's direction and addresses concerns of all stakeholders

On February 15, the Authority notified the public that in light of comments received on the proposed amendment to the Blue Box Program Plan, Stewardship Ontario and the Authority have determined that more time is needed to address comments received. Furthermore, the Authority stated that:

“As the Minister directed that the proposal for an amended Blue Box Program Plan be developed collaboratively with municipalities, stewards and affected stakeholders, the Authority is committed to engaging with all parties to support the development of a proposal for an amended Blue Box Program Plan that is consistent with the Minister's direction.”

As of writing this report, staff have not heard if any decision has been made by the Minister to grant an extension. The following sections provide analysis on the potential future impacts to the Region's integrated waste management system, recognizing that the process for amending the Blue Box Program is changing and continues to evolve.

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4. Analysis and Implications

Proposed amendment identified several transition options for municipalities

The proposed amendment offered municipalities the option to choose whether or not to transition their Blue Box Program early to Stewardship Ontario or wait until the Minister directs transition to full producer responsibility under the *Resource Recovery and Circular Economy Act*. Furthermore, different options and roles for the Region and local municipalities were proposed for those who chose to transition. Table 2 outlines the options for local municipalities and the Region under the conditions proposed by Stewardship Ontario. However, at this time, it is difficult to determine if these options will be realized should Stewardship Ontario be granted an extension and a revised consultation process proceeds.

**Table 2
Transition Options Previously Proposed by Stewardship Ontario**

Option	Local municipal impacts (collection)	Region impacts (processing)
Do not transition under previously proposed amendment	Continue to operate collection system and receive 50% funding. Minister triggers transition to full producer responsibility under the <i>Resource Recovery and Circular Economy Act</i> by 2023.	Continue to provide Blue Box processing and receive 50% funding. Minister triggers transition to full producer responsibility under the <i>Resource Recovery and Circular Economy Act</i> by 2023.
Transition blue box program to Stewardship Ontario under previously proposed amendment	Option A: Amend/tender collection contract using Stewardship Ontario terms and conditions and act as a contract manager. Producers fund up to 100 per cent. Option B: Hand over delivery of the Blue Box to Stewardship Ontario. Municipality no longer pays for Blue Box Program.	Transfer and processing of Blue Box material become the responsibility of Stewardship Ontario. Region would no longer provide blue box processing and a decision would need to be made about future of the Region's Materials Recovery Facility.

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**After transition, it is likely that York Region would no longer have
a role in the transfer and processing of blue box materials**

As outlined above, the proposed amendment identified that once the Region transitions, it would no longer be involved in transfer or processing of blue box materials. Unlike collection, there is currently no option for first right of refusal for municipalities to act as a contract manager for processing.

**Uncertainty around the future of blue box processing make it
difficult to implement improvements to program and services**

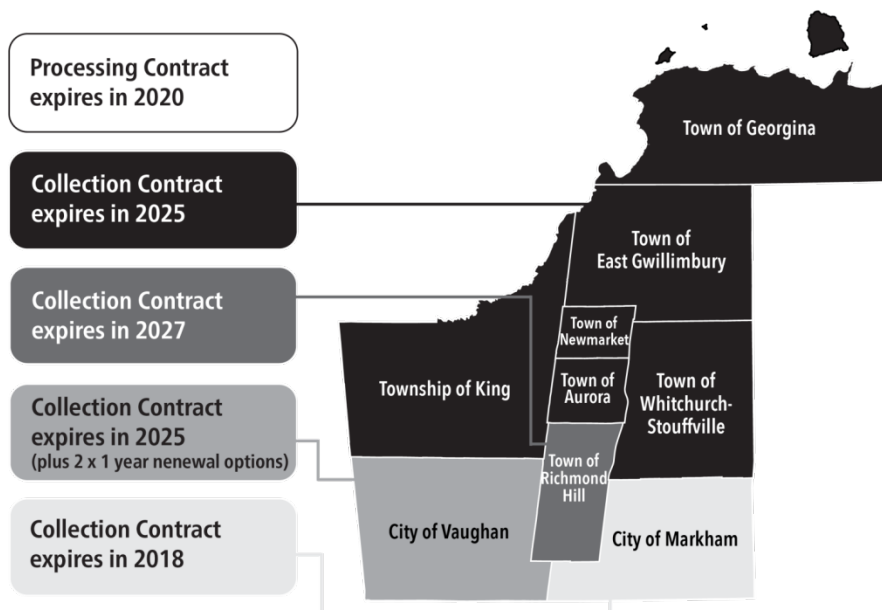
Uncertainty around the future of the Materials Recovery Facility makes it difficult to invest in upgrades such as installation of a bag breaker at this time. Similarly, staff recommend deferring consideration of a bylaw banning plastic bags until more certainty is known about transition of the Blue Box Program. Staff will continue to discuss with local municipal partners potential solutions for minimizing blue box litter on windy days and managing problematic materials such as plastic bags. Staff will also advocate for incorporating solutions to address blue box litter and diverting problematic materials in the proposed amendment and future regulation.

**Obligations under the Municipal Act create complexities for two-
tier municipalities to transition Blue Box Program**

York Region and its local municipal partners jointly deliver the integrated waste management system as governed under the *Municipal Act, 2001*. As a result, waste management services are operated through multiple collection contracts with a common Regional processing arrangement. The proposed amendment transition process poses challenges that may result in higher costs through the transition period. One example of this complexity is that local municipal collection contracts and the Regional processing contract expire at different times as depicted in Figure 4.

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**Figure 4
Map of Waste Contract Expiry Dates in York Region**



Due to varying contract expiration dates, the Region and several local municipalities could seek to transition at the earliest possible window, while others may choose to wait. If that is the case, under the *Municipal Act, 2001*, upper-tier municipalities have exclusive jurisdiction for all aspects of waste management, except collection. There is currently no provision in the Act to transfer these powers to the lower-tier municipality. Accordingly, the Region included comments to recommend that the *Municipal Act* be amended to provide autonomy to local municipalities to provide them with jurisdictional responsibility to manage post collection of materials if they choose not to transition.

5. Financial Considerations

The Region's 2018 operating budget for processing blue box materials is approximately \$6.6 million net of blue box revenue. As a comparison, 2018 source separated organics processing budget is \$17.8 million and residual waste is \$16.5 million. Regardless of any outcome of the blue box transition process, source separated organics and residual waste streams will continue to be funded through the tax levy.

Intent of Waste-Free Ontario Act is to shift responsibility and costs from municipalities to producers

The Waste-Free Ontario Act intends to shift the costs and responsibility associated with managing designated materials such as the Blue Box Program from municipalities to producers. The municipal sector will continue to work with

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the Authority, Stewardship Ontario and the province to better understand how municipalities will transition, timing and associated costs with continuing to manage the program in the interim. Furthermore, indirect impacts to municipal costs of managing other streams would need to be considered if the transitioned Blue Box Program managed by producers results in materials leaking into municipal organics and garbage streams at a cost to taxpayers.

6. Local Municipal Impact

Region and local municipal staff collaborating during consultation process for the proposed amendment

The Region hosted a series of special meetings to discuss issues relevant to the whole system and ensure local feedback was captured in joint comment submissions. A number of local municipalities have also been making their own submissions to reiterate key messages and address any additional concerns outside the scope of joint submissions. Given the recent developments and request by Stewardship Ontario to initiate a revised extended consultation, Region staff will continue to engage local municipal staff to seek input and represent concerns as the process unfolds.

7. Conclusion

Region and local municipalities remain engaged as the process for transitioning the blue box continues to evolve

Staff will continue to engage our municipal partners and other stakeholders to advance the municipal perspective on issues related to the *Waste-Free Ontario Act*. Staff will ensure the Region's and local municipal interests are well represented through the Municipal 3Rs Collaborative. Although there has been no information provided to date as to whether the Minister will approve the extension, staff will remain close to the process to determine next steps. Next steps will be informed by the Minister's response to granting the extension requested by Stewardship Ontario, Staff will update Council regarding progress related to transitioning to full producer responsibility as new information becomes available.

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For more information on this report, please contact Laura McDowell, Director,
Environmental Promotion and Protection at 1-877-464-9675 ext. 75077.

The Senior Management Group has reviewed this report.

February 16, 2018

Attachments (4)

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Accessible formats or communication supports are available upon request

Summary of proposed amendment and staff recommendations

Minister's direction	Stewardship Ontario proposal	Staff recommendations
Implement amendment prior to Provincial target date of 2023 for full producer responsibility.	7 year transition: 2 years of planning and 5 year phased transition. Completed in 2025 at the earliest.	Five-year timeline to transition all municipalities starting once the proposed amendment is approved.
Develop a protocol for managing issues in a fair, efficient and equitable way.	Stewardship Ontario has unilateral decision-making powers over key elements of transition (e.g. terms of service agreements, transition timing, benchmarking of costs).	Clearly lay out decision-making criteria, how stakeholder feedback will be transparently addressed and a process for dispute resolution.
Expand and harmonize list of materials to improve environmental outcomes.	Proposes some reductions in the scope of materials collected currently by York Region (e.g. empty aerosol and paint cans).	No backsliding on materials currently collected in municipal programs.
Develop approach to address waste reduction; include composting to produce nutrients as an end-market.	Some designated materials not targeted for collection (e.g. film, polystyrene); steward fees support research with no timeline to manage these materials. No funding mechanism for green bin program to manage branded organics (paper towels, compostable packaging).	Stewards fund management of problematic materials and include alternatives to curbside (e.g. depot collection, retail takeback); fund processing of paper, packaging and branded products managed in green bin programs.
Consider servicing parks, and public spaces currently serviced by municipalities	No firm commitment to expand to non-commercial IC&I sources in communities not currently offering this service; municipalities will have to pay for collection service to Business Improvement Areas.	Include sources already being serviced by municipalities. Expand services to communities not currently offering them to ensure equal access across the Province.
Avoid stranded assets; fair approach to newspaper contributions; 50% of net verified costs for non-transitioned municipalities	No clear commitment to address stranded assets; non-transitioned municipalities to be paid in-kind; backsliding on use of verified costs through data call process as basis for funding non-transitioned municipalities.	Eliminate in-kind compensation from newspapers; Avoid stranded assets by including incentives in procurement process; commit to using data call process to establish funding.
Meet material specific targets, reduce use of problem materials, provide effective education	No tracking of targets until full transition; contamination management process relies on curbside enforcement; no link to effectiveness of steward-led promotion and education or product design.	Material specific targets achieved within 5 years of amendment approval; 2 years for achieving the 75% target; address contamination through education, clear labelling and better. packaging design
Ensure no disruption in service through transition	Customer service standards missing from draft amendment	Robust customer service standards that ensure no disruption in service

January 15, 2018

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Dear Mr. Denton and Mr. Pearce:

Re: York Region response on the proposed draft amendment to the Blue Box Program Plan

This response letter comprises feedback from The Regional Municipality of York (York Region) and its local municipal partners on the draft amendment to the Blue Box Program Plan circulated by Stewardship Ontario on December 19, 2017 (herein referred to as the proposed amendment). Our recommendations also align with Regional council-endorsed positions on the transition of the Blue Box program to a system of full producer responsibility under the *Resource Recovery and Circular Economy Act, 2016*.

York Region has been actively involved in consultations on this process and as part of the Municipal 3R Collaborative (M3RC). The M3RC will be submitting comments under a separate cover and it should be noted that this submission aligns with the response being submitted by M3RC. We remain optimistic that a balanced, fair approach to transition that works for all stakeholders and improves environmental and economic outcomes can be achieved with further dialogue and revisions to some key elements of this proposal. Principles outlined in the Accord that initiated this process and the Minister's direction letter can guide us towards a more equitable solution.

Proposed amendment does not meet Minister's direction and fails to address key municipal and stakeholder concerns

The following recommendations address key concerns of York Region and its nine local municipalities. These concerns have not been adequately addressed in this first iteration of the amendment and include the following:

- Transition timelines are unacceptable
- Balanced approach for decision-making and dispute resolution needed
- Expanded and harmonized list of Blue Box materials falls short of improving environmental outcomes
- Waste reduction and diversion of problematic materials are not addressed
- More clarity and depth on eligible sources required
- Legacy issues on funding and minimizing stranded assets are not addressed
- Contamination management must be a shared responsibility
- Customer service standards are not addressed
- Lack of transparency on tracking and reporting on targets

Additional detail and recommendations on each of these areas of concern is provided below.

Lengthy timelines for transition are unacceptable

The timeline proposed in the amendment is seven years to transition municipal programs over to Stewardship Ontario and nine years until any targets are to be achieved. This is four years beyond the provincial timeline of 2023 set out in the *Strategy for a Waste-Free Ontario, 2017*, and stretches over three provincial and municipal election cycles. This is not an acceptable timeline for a process intended to be an interim step to accelerate change. Instead, the proposed amendment and its associated timeline potentially entrench the existing structure and hinder the transition to the *Resource Recovery and Circular Economy Act*. There is no process identified within the proposed amendment for an ongoing assessment and no mechanism to prompt the Minister to move to transition to the *Resource Recovery and Circular Economy Act*. While the Minister cannot be forced to make a decision on developing a regulation, the proposed amendment should include a formal review or sunset clause to avoid a situation where the interim state continues indefinitely.

Recommendations:

The Region and local municipal partners agree with the M3RC's recommended five-year implementation timeline to transition all municipalities and to start once the proposed amendment is approved. Given that there is already sufficient processing/transfer capacity in Ontario today and a robust collection system in place, a five year transition period is a reasonable timeline.

Proposed amendment must define a balanced and transparent process for decision-making and dispute resolution for all stakeholders

Direction in the Minister's letter specifically states that the proposed amendment should "develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner

York Region response on the proposed draft amendment to the Blue Box Program Plan

during the implementation of the amended plan..." In its current form, the proposed amendment gives unilateral decision-making powers over key elements of the transition to Stewardship Ontario that affect municipal and other business interests. Key elements of transition such as catchment timing, terms of master service agreements, benchmarking costs and contamination management protocols have significant impacts on municipal contracts, budgets and customer service standards. Until the current municipally-operated Blue Box program can be successfully transitioned to individual producer responsibility, more balanced controls are necessary to protect all stakeholders. These controls must protect the interests of not only individual stewards and service providers, but also the interests of the Province, taxpayers and municipal governments.

Recommendations:

Staff appreciate that timing for this proposed amendment does not allow for full development of all components of the transition process; however the proposed amendment must clearly lay out key elements to provide future consultation and key deliverables to help inform municipal decision-making taking into account municipal council elections. The proposed amendment should also include decision-making criteria, how stakeholder feedback will be transparently addressed and a process for resolving any disputes.

During the consultation process, M3RC provided a recommended protocol to be included. Staff support inclusion of that specific language into the proposed amendment to provide a clear commitment to work collaboratively and transparently with all stakeholders.

Expanded and harmonized list fails to improve environmental outcomes

Environmental outcomes of the proposed amendment and development of a circular economy for Paper Products and Packaging (PPP) will be largely determined by what materials are obligated, which of these are collected, how they are managed, and which generators of these materials will be serviced under the program. The Minister's Direction Letter and the Accord clearly articulated the need to improve environmental outcomes by expanding and harmonizing the list of materials and incenting waste reduction through measures such as increased recyclability/reusability of packaging and reducing/eliminating use of problematic materials. The proposed amendment as drafted does not progress the system beyond current Blue Box programs and actually proposes some reductions in the scope of materials collected currently by York Region (e.g. aerosol and paint cans). This runs contrary to the Minister's direction to expand the harmonized list and avoid service disruptions to Ontario residents.

Recommendations:

Staff strongly believe there must be no backsliding on materials currently collected in municipal programs. Stewardship Ontario must not promote harmonization by reducing the range of obligated PPP targeted for collection. Where transitioned municipalities are not currently accepting the widest range of materials today, they should expand their list of collected materials prior to transitioning to *Resource Recovery and Circular Economy Act*.

Amendment approach to obligated and targeted materials does not advance waste reduction or diversion of problematic materials

The proposed amendment expands the list of obligated materials for stewards' funding however this does not translate into an expansion in the list of materials managed through the collection program in transitioned communities. The proposed amendment identifies targeted materials (easily divertible with end-markets) and non-targeted materials for which stewards will pay fees but no diversion program will be offered. This results in increased revenue generated through Steward member fees but reduces costs to Stewards as a result of reducing the amount of materials targeted for collection and processing in the Blue Box program.

The proposed amendment does not contain a clear rationale for why some products currently collected through diversion programs (#3 & #7 plastics, and empty aerosol cans) are not included as targeted materials. Nor does it provide any channels for the capture and management of obligated, non-targeted materials either through return-to-retail programs by individual producers or through funding for municipal green bin programs. Municipalities are left to manage these materials at taxpayer expense while stewards fund research to identify end markets with no set timeframes to achieve viable diversion end-markets. Non-targeted PPP may also end up in the Blue Box as contamination, potentially resulting in additional penalties for municipalities or service providers.

Recommendations:

Obligated materials not targeted for collection are funded from the municipal tax base to manage in other streams. The following recommendations must be included in the proposed amendment to ensure the full life cycle cost of managing PPP is considered when stewards make packaging design choices.

- Rationale for excluding specific materials must be presented with clear criteria and transparent decision-making process. Consultation with affected stakeholders must be carried out and approval sought from Resource Productivity and Recovery Authority regarding any exclusion of materials.
- Timelines should be set for completion of research initiatives to ensure viable end-markets are achieved.
- Steward fees can be directed to research for a set period of time after which the specific material must be added to the targeted list or the Steward fees be directed to municipalities as compensation to offset costs of managing these materials outside of the Blue Box program.
- Where obligated PPP cannot be included in Blue Box collection programs alternative management options for these materials should be implemented and paid for by stewards.
- The amendment should also include an expanded definition of obligated PPP that encompasses paper and plastic products managed in organics ("green bin") programs with funding provided to municipalities to support capital investment, processing and data collection costs.

Provide list of eligible sources with consideration to including non-commercial facilities typically serviced by municipalities

Staff acknowledge that Stewardship Ontario has incorporated a timeframe of one year to expand servicing to multi-residential buildings in transitioned communities. It would be beneficial to see a more definitive explanation of how the process will be undertaken, particularly in privately serviced buildings.

Staff would also like to see more commitment to address the Minister's direction to consider public spaces, schools and other locations where PPP generated is consistent with residential but consumed while away from home. For example, a pop can is still a pop can regardless if it is consumed at home, at school or in the park. Consistent programming at these types of sites helps to reinforce promotion and education messaging about the importance of recycling and types of materials accepted as well as reduce contamination.

Recommendations:

Staff recommend inclusion of the list of the following eligible sources proposed:

- Permanent or seasonal single and multi-family households;
- Senior residences and long-term care facilities;
- Public space recycling containers in residential areas, elementary & secondary schools and parks;
- Municipally operated or contracted services to collect PPP similar to that generated by households (i.e. parades, sporting events, festivals and special events);
- Municipally owned and operated campgrounds with permanent and seasonal households;
- Publicly owned and operated buildings accessible to the public for community, recreational or educational purposes (i.e. libraries, arenas);
- Places of worship;
- Buildings that are currently being serviced by municipalities with mixed commercial and residential units.

Transition process must fairly address legacy concerns about funding, minimizing stranded assets, and the role of upper-tier municipalities

There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the proposed amendment. This includes agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets. Establishing payments for non-transitioned municipalities was agreed to in the Accord. Establishing payments as 50% of the net costs going forward avoids the acrimonious and litigious process that led to arbitration in 2014 and continues to inhibit progress in the industry. In-kind funding for managing newspapers is not a satisfactory arrangement for municipalities; limitations on when and how in-kind advertising can be used as well as declining readership in many local papers continues to severely impact its value as a promotion tool. Stranded assets are of concern for both York Region and its local municipalities as we have invested significant capital in our materials recovery facility and collection bins for managing Blue Box material. York Region has continued to invest in its processing infrastructure to maintain our leadership in diversion in the Province.

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The proposed amendment does not fully address the respective jurisdictions of lower- and upper-tier municipalities in a two-tier system. Under the *Municipal Act, 2001*, upper-tier municipalities have exclusive jurisdiction for all aspects of waste management, except collection. There is no provision in the Act to transfer these powers to the lower-tier municipality. Accordingly, the Region would remain responsible for processing of waste generated by a non-transitioned municipality. This concern is shared by the Region's local municipal partners. Furthermore, Regional staff are concerned that the proposed amendment does not adequately address transition of waste processing contracts currently managed by the Region. There is no analysis in the proposed amendment that corresponds to the alternatives that are set out for the assignment of collection contracts at the local level.

Recommendations:

York Region staff align with solutions provided by M3RC during the consultation process, and recommend the following to address these considerations:

- Use of definitions of eligible costs based on the current RPRA Datacall User Guide, as previously agreed to in the Accord. An effort by Stewardship Ontario to modify those terms and introduce cost containment measures is not supported by Region staff;
- Compensation for management of newspaper be provided in cash rather than in-kind, for both transitioned and non-transitioned communities;
- Procurement processes for post collection services that incent the use of existing capital infrastructure to get full value out of assets; and
- Legislative amendments to empower non-transitioned municipalities to enter into contracts for processing of their PPP post-collection.

Contamination management should reflect shared accountability for promotion, education and packaging design not just curbside enforcement

Region and local municipal staff have concerns about the accountability proposed for contamination management. The proposed process places responsibility for eliminating contamination squarely on the collection service provider/contract manager without recognition that many factors influence what gets put out to the curb for collection. While promotion and education material is vital to inspiring participation and clarifying what can go in to the program, the greatest opportunity to reduce waste and contamination lies with the producers. Producers have the greatest opportunity to affect change in the design of their products and packaging that enter the market.

Recommendations:

The proposed amendment should:

- Link tracking of common contaminants across the Province with continuous improvement of communication materials.
- Ensure program design is effective and convenience for participation is maintained or improved.
- Provide an inclusive program that captures packaging types popular in the marketplace.
- Provide clear labelling on packaging rather than current "recyclable where facilities exist" terminology is another way stewards should be required to support reduction in contamination and shifting consumer purchasing habits.

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- Penalize stewards producing packaging that often ends up as a contaminant in the stream to incent reduction efforts, better packaging design as well as improve the contamination management process.

Customer service standards missing from draft amendment

Customer service is a crucial component of the Blue Box program. York Region municipalities field thousands of calls and curbside questions each year from residents in support of program delivery. As municipalities will now have the opportunity to opt out of delivering and managing the Blue Box program it is unclear what customer service standards will be maintained to not negatively affect Ontarians recycling experience.

Recommendations:

The proposed amendment must outline customer service standards for communities where stewards will deliver the service directly to communities. Standards should maintain or exceed current standards to ensure no disruption in service levels as a result of the transition.

Requirements for transparency and timely reporting on targets lacking in proposed amendment

The proposed amendment must clearly outline how targets are set, how progress towards recycling targets will be measured, how key terms are defined, when targets will be achieved, and how they will be independently verified. Timely tracking of targets in transitioned communities is key to continuous improvement of the process. Region staff align with M3RC's concerns about tracking and targets proposed in the amendment including:

- Proposed points of measuring recycling rates that differ from those presented in the Stewardship Ontario consultation sessions. During consultation, Stewardship Ontario originally proposed measuring the recycling rate at the point where recovered PPP is actually reincorporated into new products once residue is removed. This would have represented a significant step forward.
- The proposed target date of "two years following transition of all Communities" is unacceptable. On the basis of the proposed amendment, this date would fall at best 9 years after the assumed approval date for the amendment, which is well beyond the 2023 date set in the *Strategy for a Waste-Free Ontario* established by the Ministry. It is also entirely possible that some communities may not have transitioned by this date and therefore these targets would not apply.
- Proposed material specific targets under the amendment are limited to just four broad categories of materials (paper, plastic, metal, glass) although stewards are required to report PPP supplied into Ontario for at least 34 categories and municipalities and service providers are required to report in much finer detail on the types of PPP they collect and process.
- No mechanism established to track or incent the reduction of PPP or discourage use of problematic materials. Waste reduction efforts outlined in Section 11 of the amendment focus exclusively on removing barriers to recycling existing obligated materials not on measurable reduction in amounts of packaging waste through product redesign.

York Region response on the proposed draft amendment to the Blue Box Program Plan

Setting targets is an integral part of the Minister's direction to achieving progress towards the *Resource Recovery and Circular Economy Act* and improving environmental outcomes. Municipalities must see aggressive targets accompanied by the necessary oversight to ensure these targets are being met, to prevent leakage of designated materials into other municipally managed waste streams. Should stewards not achieve targets, consequences must be implemented effectively to ensure performance and continuous improvement of the program.

Recommendations:

The M3RC made a number of recommendations on calculating PPP recovery rates and supporting reduction in earlier submissions. These recommendations must be included in the proposed amendment. Key items include:

- Maintaining performance in non-transitioned communities
- Tracking recovery rates in transitioned communities beginning in the year following transition with a timeline for achieving the 75% target two years after each community transitions; material specific targets should be achieved within five years of approval of the amendment.
- Establishing a mechanism for the Authority to review data on an ongoing basis and set additional material-specific targets as warranted during the life of the amendment
- Process for tracking waste reduction efforts, not just increased recycling

Thank you for the opportunity to provide feedback on this first draft of the amended Blue Box Program plan. There has been a significant amount of consultation and progress amongst stakeholders and Stewardship Ontario including development of the Accord. Continued collaboration is critical to ongoing success of the blue box program in Ontario. Municipalities and service providers can share their expertise with Stewardship Ontario to collaboratively develop an amended plan that reflects the interests of communities in Ontario and achieve the Province's vision for a waste free Ontario. The Region and its local municipal partners look forward to continued discussions and progress towards our common goals. If you have any questions on this submission, please contact Laura McDowell, Director, Environmental Promotion and Protection at laura.mcdowell@york.ca.

Regards,



Erin Mahoney, M. Eng.
Commissioner, Environmental Services
The Regional Municipality of York

#8089994

Copy to: Usman Valiante
Dave Gordon, AMO
Jennifer James, Stewardship Ontario
Dianne Saxe, Environmental Commissioner of Ontario



January 15, 2018

Ms. Glenda Gies, Chair
Resource Productivity and Recovery Authority
4711 Yonge Street, Suite 408
Toronto, Ontario
M2N 6K8

Dear Ms. Gies,

RE: Draft Amended Blue Box Program Plan

The Municipal Resource Recovery & Research Collaborative (comprised of representatives from the Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO), the Municipal Waste Association (MWA), and the City of Toronto), the Ontario Waste Management Association, the Recycling Council of Ontario, the Toronto Environmental Alliance; Citizens' Network on Waste Management, Environmental Defence, Canadian Environmental Law Association, and Waste Watch Ottawa wish to bring to the attention of the Resource Productivity and Recovery Authority (RPRA) our shared views on the draft a-BBPP prepared by Stewardship Ontario (SO).

Our organizations have fully participated in the SO led consultation process and we have reviewed the proposed a-BBPP in detail. The proposed a-BBPP does not reflect or incorporate the many recommendations that we have submitted to SO throughout this process. Nor does it meet the requirements of the Minister's Direction Letter. We have collectively identified key elements of the proposed a-BBPP that must be revised or added to ensure a smooth, fair and timely transition of the Blue Box program to full producer responsibility that will improve environmental outcomes, while ensuring that Ontarians continue to experience a high standard of Blue Box services.

Our organizations support the *Waste-Free Ontario Act, 2016* and the [Strategy for a Waste-Free Ontario](#). These policy advancements are bold and courageous steps forward for the Province of Ontario and reflect leading edge thinking on how to build upon the success of Producer Responsibility. Together they seek to focus on outcomes and provide a pathway to move past the problems of the current framework and to improve environmental and economic outcomes.

With comprehensive legislation and a sound policy framework in place Ontario is well-placed to become a successful example for other jurisdictions to follow. This has helped, after years of dispute, to bring key stakeholders together with government to agree on a path forward to begin building a circular economy for paper products and packaging (PPP).

The joint letter from SO and municipalities to the Minister of Environment & Climate Change on July 7, 2017 ([the Accord](#)), which initiated this process, addressed the main concerns for these two stakeholder groups on how best to support the transition of the existing shared responsibility program



to individual producer responsibility under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

Producers and municipalities recognized the need to work together and in collaboration with other key stakeholders, to ease the transition of over 200 separate municipal programs, each potentially with their own infrastructure and/or contracts. Amending the Blue Box Program Plan would allow this transition to occur in a more orderly, smooth and predictable manner.

The Minister's stated expectation in his letter ([Minister's Direction Letter](#)) was that this proposal would outline the first phase for the transition for the Blue Box under the *Waste Diversion Transition Act, 2016* (WDTA), and **would set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA in a timely manner** (emphasis added). The Minister's Direction Letter provided guidelines for developing the proposal and set out specific requirements to be included.

We believe that a successful transition to the RRCEA can be accomplished only through transparent and collaborative decision-making involving all key stakeholders, clear timelines to ensure a timely and predictable transition, progressive measures to support Program expansion, mechanisms to improve environmental outcomes and a platform to facilitate a competitive market place. Instead, the proposed a-BBPP offers an extremely slow and uncertain transition timeline, little in the way of mechanisms to drive program improvement in environmental outcomes and program expansion, and insufficient details from which to judge its ability to be fair and transparent through a governance and decision-making structure that allows SO to make unilateral decision-making. In our assessment the a-BBPP does not conform with the Minister's Direction Letter and should not be approved in its current form.

Our concerns can be grouped into five core areas:

- **Move to Individual Producer Responsibility** – The objective of the a-BBPP as set out in the Minister's Direction Letter was to set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA in a timely manner. The key stakeholders understood the current system was not progressing and a move to the new legislative framework could resolve key problems. One significant improvement the RRCEA affords is allowing individual stewards the opportunity to choose how best to meet their obligations under the new Act. Under this Minister's Directive we expected the a-BBPP would provide an interim step to ease transition from a municipally-operated Blue Box system to direct steward management. This was not meant to be the end point of this process.

The proposed a-BBPP and associated timeline potentially entrench and further invest in the existing structure, potentially hindering the transition to the RRCEA. The timeline proposed is seven years to transition municipal programs fully over to SO and nine years until any targets are to be achieved. This is four years beyond the target of 2023 set out in the Strategy for a Waste-Free Ontario. This is not an acceptable timeline.

- **Need for good governance and balanced decision-making** – The a-BBPP would give unilateral decision-making powers over key elements of the transition and operations of the Program before the move to individual producer responsibility. In effect, the proposed a-BBPP



would grant unilateral control to SO well before full producer responsibility is achieved. Until the current municipally-operated Blue Box system can be successfully transitioned to individual producer responsibility, more balanced controls are necessary for the protection of all stakeholders. This resulting decision-making structure is unacceptable and should be revised to ensure the decision structure includes a strong role for the Authority in the transition framework.

- **Ensuring Transparency** – Transparency and fairness is the cornerstone of the transition. Details regarding scope, material and performance definitions, measurement methodologies and verification protocols are essential for all stakeholders to judge its merit. As drafted the a-BBPP delays the development of critical contractual templates including Statements of Work, Master Service Agreements, collection service requirements and contamination protocols only after approved. The lack of details and transparency around these key items undermine the legitimacy of the Program.
- **Environmental outcomes** – Advancing environmental gains achieved through the a-BBPP and the development of a circular economy for PPP is its purpose. The proposed a-BBPP does not offer clearly defined preferred management options or show how they will be measured, reported and verified. It also does not address the Minister’s Direction Letter to establish methods to facilitate the reduction of PPP and to discourage the use of non-recyclable and problematic materials. It appears the a-BBPP is purposely vague and noncommittal on these issues even dropping details provided during consultations from the final draft Program. The ability of Stewardship Ontario to unilaterally choose what materials are collected based on market conditions runs counter to the very purpose of EPR. Market conditions should act as levers and incentives to prompt different packaging and material choices. Without oversight, this simply offloads the financial and environmental consequences of poor material choices back to municipalities.

The proposed a-BBPP is deficient on the issue of problematic and non-targeted material, and the necessary incentives to promote innovation and redesign. Difficult to recycle materials, those that cause contamination for other materials, and materials with toxic ingredients cause significant environmental harm, however the draft a-BBPP only outlines possible actions without clear timelines or assurance that problematic materials will be addressed.

- **Legacy Concerns** – There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the proposed a-BBPP or the Program Agreement. These include agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

Together, we have identified specific measures that can be incorporated into the a-BBPP to address each of the above core areas. Our comments are listed in detail in the following sections. We note that these comments have evolved throughout this process given some concepts and proposals presented by SO during the stakeholder consultations are not reflected in the proposed a-BBPP.

These proposed changes do not affect SO’s ability to manage the program effectively and efficiently and we recognize the need for operational decisions to be made over time by SO as the program manager. However, a successful a-BBPP must reflect the interests of all affected stakeholders. We



believe that we are offering solutions that support the original objectives of the RRCEA, the Strategy for a Waste-Free Ontario and the Minister's Direction Letter, and are consistent with the spirit in which key stakeholders began this process. It is our view that these gaps can be bridged if all stakeholders work together in good faith.

Together we are asking that RPRA not approve the proposed a-BBPP in its current form and furthermore that RPRA lead a collaborative process to make the needed amendments to the proposed plan. We request to meet with the RPRA Board at their earliest convenience to discuss these issues further.

Further, submissions from each of the signatories has been appended with more detail on our specific recommendations.

Dave Gordon
Senior Advisor, Waste
Association of Municipalities of
Ontario

Richard Lindgren
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Canadian Environmental Law
Association

John Jackson
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Citizens' Network on Waste
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Jim McKay
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Karyn Hogan, BA, MLIS, MA
Chair
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Robert Cook
Chief Executive Officer
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Jo-Anne St. Goddard
Executive Director
Recycling Council of Ontario

Fred W. Jahn, P.Eng
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Toronto Environmental
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Over-Arching Comments on Draft Amended Blue Box Program Plan

1. Move to Individual Producer Responsibility

Background

The Minister's Direction Letter to Stewardship Ontario and the Resource Productivity and Recovery Authority (RPRA) asked for a revised plan that outlines the first phase of transition for the Blue Box and will set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA.

Stakeholders understood that moving to the new legislative framework could improve environmental and economic outcomes, would help resolve persistent problems for key stakeholders, and would allow individual stewards the opportunity to self-determine how best to meet their obligations under the Act.

While an interim step of revising the existing BBPP would allow all stakeholders to ease the transition from a municipally-operated Blue Box system to direct steward management, a revised-BBPP under the WDTA was not meant to be the end point to this process.

It was also not about driving short-term efficiencies or outcomes, especially if they came at the expense of longer-term benefits that the RRCEA will afford (e.g. steward choice, improved and clearer environmental outcomes, market growth and innovation, improved oversight and accountability).

Solutions

- In mapping out timeframes to complete the transition from Phase 1 (WDTA) to Phase 2 (RRCEA) we suggest the a-BBPP include;
 - Timelines should be reduced to five-years to allow for all municipalities to have the opportunity to transition. This helps to prevent entrenchment of a system that might hinder the transition to the RRCEA. It also puts it in line with the Waste-Free Ontario Strategy.
 - Require annual reporting against the Minister's Direction Letter.
- Require RPRA to complete a review and evaluate the transition under the a-BBPP and make recommendations on full transition to the RRCEA in the fourth year of an approved a-BBPP to be delivered in the beginning of the fifth year. This would help facilitate the transition to the RRCEA.
- An independent body should be established as a clearinghouse for individual producers and collective management organizations to ensure fair access to obligated PPP under existing collection and processing contracts through the transition to individual producer responsibility.
- Section 7.4 and Section 7.7 of the a-BBPP should be consistent with the principle to avoid barriers to competition in the second phase of transition that will result in individual producer responsibility under the RRCEA and uphold a healthy competitive marketplace.

- A specific reference should be included that any intellectual property, capital and other assets resulting from research and development investment should be vested with the operators, technology providers and companies who are developing and/or implementing the improvements. Neither Stewardship Ontario nor Canadian Stewardship Services Alliance (CSSA) should have control and ownership of any property, operation, or technology, and that could ultimately provide any competitive advantage in a future individual producer responsibility market.

2. Good Governance and Balanced Decision-Making

Background

The Minister's Direction Letter specifically states that the proposal shall “*develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan...*”

It is in all stakeholders' interests to ensure that good governance and balanced decision-making occurs during the transition and beyond. The proposed a-BBPP gives unilateral decision-making powers over many key elements of the transition and implementation to Stewardship Ontario. Clearer and more inclusive decision making and balanced controls are necessary for the protection of all stakeholders.

Solutions

- Description, budget estimations and implementation details to acquire internal capacity and resources required by SO to implement the a-BBPP. A budget should be part of the approved plan and considered a material part of the Plan, reviewed by RPRA.
- Clear processes on decision-making that include how and when stakeholders will be involved. In particular section 7.5 to 7.10 are areas that could affect business or organizational interests, and as a result, could impact the principles of the Waste-Free Ontario Act and potentially the ability to transition to the RRCEA. This includes issues such as the management of incentives that could impact the stability of the market including contracts and investments.
- A detailed process on how criteria will be set to develop a standardized list of materials and how stakeholders will be involved in that process should be included.
- The Plan should include a governance structure and contemplate independent directors.
- As is referenced in the Program Agreement, clarity on the roles and relationships between Stewardship Ontario and CSSA as it relates to the a-BBPP. The ability for Stewardship Ontario to unilaterally change the standardized list of materials is not in keeping with the Program Agreement and not in the interests of any of the stakeholders. References in Section 7.10 and in Appendix B should be removed.
- Section 9 should be re-written based on Municipal 3Rs Collaborative's [Service Compensation and Dispute Resolution Mechanism](#) paper that was submitted.



- A collaborative approach should be initiated wherever decisions could impact the market that could hinder future outcomes under the RRCEA, including the development of catchments, terms and conditions for collection services, how incentives will be set or changed and associated timelines related to service transition (i.e. processing and collection).

Additional comments will be provided on the Program Agreement from our organizations but clear ties should be made between the a-BBPP and the Program Agreement.

3. Improving Environmental Outcomes

Background

The Minister’s Direction Letter and the Accord both clearly articulated the need to improve environmental outcomes. The Minister’s Direction Letter specifically included the following:

- *“Ensuring a seamless transition of the Blue Box program, specifically not negatively affecting Ontarians experience with and access to Blue Box services;*
- *Provide for continuous improvement of environmental outcomes by expanding and harmonizing the list of materials in the existing Blue Box program accepted from Ontario residents;*
- *... an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP;*
- *Maintain convenience and accessibility standards, including:*
 - *Curbside collection for households where currently provided by these municipalities and indigenous communities;*
 - *Collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities...*
- *Provide effective economic methods to incent behavior changes leading to waste reduction of PPP ...which may include:*
 - *Increase of the product's or packaging's reusability and recyclability,*
 - *Reduction or elimination of any impact the material may have on the recyclability of other materials;*
 - *Reduction of the amount of waste generated at the end of the product's or packaging's life;*
 - *Reduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability, and/or increase of the use of recovered resources in the making of the material;*
 - *Use means to discourage the use of materials that are difficult to recycle and have low recovery rates...; and,*
 - *Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.”*

The primary purpose of the a-BBPP is to advance environmental gains and develop a circular economy. The environmental gains will be largely determined by what materials are obligated, which of these are collected and how they are managed, and which generators of these materials will be serviced under the program.

The proposed a-BBPP does not offer clearly defined preferred management options or show how they will be measured, reported and verified. It also does not address the Minister's Direction Letter to establish methods to facilitate the reduction of PPP and to discourage the use of non-recyclable and problematic materials. It appears the a-BBPP is purposely vague and noncommittal on these issues even dropping details provided during consultations from the final draft.

Despite having a broader list of obligated materials, the a-BBPP proposed to scope down the standardized list of targeted materials for collection. No details of the obligated or standardized list of materials collected or rationale for the delta between the two is provided.

Stewardship Ontario should not have unilateral decision-making authority to make changes to the list of materials targeted for collection as outlined in Appendix C on page 46 of the a-BBPP. This undermines Section 3.1 (i) of the draft Program Agreement requiring Stewardship Ontario to submit documents and information for RPRA's approval in regards to proposed changes to the BBPP.

Obligated Materials

Solutions

- The a-BBPP should include an expanded definition of obligated PPP which encompasses paper and plastic products managed in organics ("green bin") programs.
- Clarity should be provided as to whether some products highlighted in the consultation process (such as coffee pods, plastic coated drink cups, etc.) are obligated under the program.
- Rationale should be provided in the document for any of the proposed exclusions (from obligation and collection). They seem arbitrary and counter to the Strategy for a Waste-Free Ontario (e.g. Food and Organic Waste Framework).
- Obligated PPP should be based on the RRCEA definitions for products, primary, convenience and transport packaging in a manner which does not strictly limit the obligation to "household" materials to allow for payment for an appropriate share of PPP that are indistinguishable from "household" materials but are consumed and generated away from home. This would be consistent with the Minister's Direction Letter *"to consider accommodating associated public spaces, parks and other related services provided by these municipalities"*.
- There must be a clear nexus established between the obligated PPP and the services provided under the proposal a-BBPP to ensure that it will pass legal review. This includes the proposal to continue to charge steward fees under the existing Stewardship Ontario fee setting methodology for PPP (such as aerosol containers; disposal fibre dishware but not disposable plastic dishware; etc.) that Stewardship Ontario states in Appendix B would be dropped from the initial list of PPP targeted for collection.

Standardized List of Targeted Materials for Collection:

Solutions

- Stewardship Ontario should provide documents to RPRA for *approval* on:
 - “Quantity recycled in relation to quantity supplied for all categories reported by stewards under the Rules for stewards”;
 - “Collected tonnes”; and
 - “Processed tonnes”.
- There should be no backsliding on materials currently collected in municipal programs. Stewardship Ontario should not be promoting harmonization by reducing the range of obligated PPP targeted for collection. This will only increase contamination rates.
- Transitioned communities not currently accepting widest range of PPP today (i.e. in the GTA communities) should expand collection to this standardized list over the life of the program.
- Criteria should be provided that informs the standardized list. How is marketed and stabilized defined? What processes will be undertaken to put on and take off PPP, how will stakeholders be involved and how will this information be made public. Clarity should be provided to ensure one can determine from initial list of targeted materials what is and is not included (e.g. coffee pods, poly-coated cups, etc. not specifically addressed in the a-BBPP although referenced during consultation). SO should provide information on which of the obligated PPP has a ‘stable’ market and this should be part of regular reporting. Some of the fastest growing packaging types (i.e. films, squeeze tubes, multi-laminated pouches, etc.) are excluded from the initial targeted collection list. There should be some provision in the a-BBPP for the collection and management for all obligated materials paying fees to Stewardship Ontario.
- Where obligated PPP cannot be included in Blue Box collection programs alternative management options for these materials should be implemented and paid for by stewards.
- Stewardship Ontario should not have the unilateral authority to determine the list of materials to be collected through supply chain procurement documents.
- More detailed recommendations on how to Expand and Harmonize the List of Materials Collected were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario’s consultation.

Eligible Sources

Solutions

- Collection in transitioned communities should include all privately serviced residential buildings and other sources that generate PPP similar to that generated in households.
- Amend the eligible sources to include privately serviced residential buildings and other sources that generate PPP “supplied to consumers” which is similar to that generated in residences including:
 - Permanent or seasonal single and multi-family households;

- Senior residences and long-term care facilities;
 - Public space recycling containers in residential areas, elementary & secondary schools (especially as these municipal and school spaces play a key role in promotion & education), and parks;
 - Municipally-operated or contracted services to collect PPP similar to that generated by households (i.e. parades, sporting events, festivals and special events)
 - Municipally owned and operated campgrounds with permanent and seasonal households;
 - Publicly owned and operated buildings accessible to the public for community, recreational or educational purposes (i.e. libraries, arenas); and,
 - Places of worship.
- Over the life of the program expand Blue Box collection across the Province to allow households to receive Blue Box collection to at least the same level as garbage collection (e.g. depot, curbside).
 - More detailed recommendations on Eligible Sources were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario's consultation.
 - Include in the a-BBPP an intent to recognize and reward stewards that self-managed obligated materials, as long as it is in keeping with required performance standards and provide a mechanism for credit toward their producer pay-in fees.
 - Appendix C – Sample terms and Conditions states that: "Pick-up in Scope PPP placed by Customers at the Curb along the Collection vehicle route which may be a Public Street or Private Road where service vehicles can navigate the Private Road and the owners have agreed to allow service vehicle access" may significantly limit the number of multi-family households receiving Blue Box collection services. This should be clarified.

4. Ensuring Transparency

Background

Transparency and fairness is the cornerstone of the transition. Details regarding scope, material and performance definitions, measurement methodologies and verification protocols are essential for all stakeholders to judge its merit. As drafted the a-BBPP delays the development of critical contractual templates including Statements of Work, Master Service Agreements, collection service requirements and contamination protocols only after approved. The lack of details and transparency around these details undermines the legitimacy of the Program.

- Issue regarding transparency are experienced in PR programs around the world. A recent study undertaken by the European Union DG Environment concludes:

It is difficult to conceive an EPR scheme where there is no incentive to mis-report. So for all organisations, such as PROs, and the producers who may report to them, there is a need for random checks on those that may have an incentive (financial, or reputational) to

mis-report. The oversight of industry practices ought to be carried out by independent bodies. Those carrying out audits should not be funded directly by those who are being audited, to ensure there is no incentive for the auditors themselves to turn a blind eye to mis-reporting. However, audits should, ultimately, be funded by the industry. This should be managed through contributions from producer fees, where data relates to EPR, or from those operating municipal waste management services. The funds and audits would be managed by the national competent authorities.” (Reference: Study on Waste Statistics – A comprehensive review of gaps and weaknesses and key priority areas for improvement in the EU waste statistics. Final Report for DG Environment 2013)

Solutions

- Detailed recommendations on Calculating PPP Recovery Rates and Supporting Reduction: Reuse, Recycling and Reintegration of PPP into the Economy were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario’s consultation. These recommendations should be reflected in the proposed a-BBPP.
- In order to ensure that the a-BBPP:
 - is compliant with the WDTA and its regulations;
 - is consistent with the Minister’s direction;
 - having regard for the provincial interests set out in the RRCEA; and
 - takes into consideration the views of stakeholders and Indigenous Peoples.
- The following amendments should be made:
 - Transparent calculation and definition of collection, diversion, recycling rates and all other applicable performance metrics must be included in the a-BBPP and referenced in the Program Agreement. This includes defining “recycling” and a number of other terms associated with measurements in Section 10.2 “Managed”, Section 10.3.1 “other activities in Diversion End Markets”, Section 10.4 “directed to” and “households”;
 - "Recycling efficiency rates" referenced in 3.1 (c) of the Program Agreement should be defined in a-BBPP;
 - Stewardship Ontario should provide ongoing performance reports to RPRA on:
 - “Quantity recycled in relation to quantity supplied for all categories reported by stewards under the Rules for stewards”;
 - “Collected tonnes”; and
 - “Processed tonnes”.
 - The timeline for achieving the 75% PPP “basket of goods” target for transitioned communities should be two years after the transition of that community to full producer responsibility;
 - The timeline for achieving the (expanded) material specific targets should be five years after a-BBPP approval;

- The proposed plastics target of 50%, while an improvement, is not sufficient considering the environmental impact of unrecovered plastics and the fact that the most problematic plastics are not even targeted. Further, the proposed improvement in paper, metal and glass is insufficient considering the time period. For example, very modest improvements are proposed for the diversion performance for paper (+1.1%), metals (12.1%) and glass (2.7%) over the proposed for 2027 (as listed for Figure 9 Section 10.3.1.1). These should be improved.
- Targets for printed papers and paper packaging should not be combined into a single target for “paper” when detailed information on quantities supplied and quantities collected will be available to Stewardship Ontario and RPRA.
- For transitioned communities, Stewardship Ontario should be required to report on collection and recycling rate performance for all obligated materials after the first year of transition in categories which closely match the categories in which stewards’ report obligated PPP and the list of PPP that Stewardship Ontario has targeted for collection.
- At a minimum, these categories should include:
 - ONP and magazines
 - Other printed papers
 - OCC and boxboard
 - Aseptic and Gable Top cartons, polycoat containers and cups
 - Other paper products
 - Plastic 1 (PET bottles, jars and packaging)
 - Plastic # 2 (HDPE bottles, jars and films)
 - Plastic #4 (LDPE bottles, jars, packaging and film)
 - Plastic #5 (PP bottles, jars and packaging)
 - Plastic #6 (Rigid PS and expanded polystyrene)
 - Steel food and beverage containers
 - Steel paint containers
 - Other steel packaging
 - Aluminum food and beverage containers
 - Other aluminum packaging (aluminum foils, trays and plates)
 - Glass packaging
- PPP diversion targets for non-transitioned communities should, at a minimum, maintain current material recycling rates;
- Performance indicators to measure progress towards all Stewardship Ontario targets should be included in the a-BBPP and reported annually beginning one year after plan approval;

- Clear methods to promote waste reduction as defined in the Minister's Direction Letter should be set out in the a-BBPP with a regular public reporting requirement;
- Development of RPRA's Program Performance Protocol should be multi-stakeholder process including municipalities, service providers and public interest groups;
- The methodology presented by Stewardship Ontario in consultation on measuring recycling at point of material used in making new products should be included in the draft a-BBPP; and,
- Audit protocols and processes need to be clearly defined. A requirement for independent third-party audits should be included in a-BBPP and in the Program Agreement with regular frequency.

5. Legacy Concerns

Background:

There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the a-BBPP or the Program Agreement. This includes agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

Stranded Assets

Solutions

- A submission was made by Municipal 3Rs Collaborative titled [Avoiding Stranded Assets](#) during Stewardship Ontario's consultation which discussed how the parties could work to avoid stranded assets by incenting proponents to include use of existing assets in their proposals for post-collection services.
- Further, in order to minimize impacts on smaller capital components, municipal governments recommend that Stewardship Ontario should commit to keep collection systems intact until all capital costs (including carts, bins trucks etc.) are fully amortized to avoid creation of further stranded assets.

Determining Eligible Costs for Non-Transitioned Municipalities

- Establishing payments for non-transitioned municipalities was a key component of the parties being able to reach the Accord. Setting these annual payments drives an increasingly escalating and toxic dispute between municipal governments and stewards that went to arbitration in 2014 and continues to inhibit progress in the industry.
- During the discussions on the Accord the parties agreed to end this dispute by agreeing that Stewardship Ontario would pay the applicable percentage of stewards' contribution on the basis

of their verified net costs as determined through the Datacall without contentious deductions for cost containment. The parties agreed to “ring fence” the payments so that costs associated with transition would not be eligible and stewards would have assurances from exponential cost increases due to municipal decision making around excessive service enhancements. The parties agreed to use the definitions of eligible costs based on the current [RPRA Datacall User Guide](#).

- The proposed a-BBPP includes numerous items that were not agreed to and municipalities cannot support. Some examples include, but are not limited to:
 - We do not accept Stewardship Ontario’s proposal that costs related to “penalties or fees incurred by Communities as levied by service providers resulting from service level failures (e.g. contamination in materials in-bound to processors) or other deficiencies in Community performance as in terms of their agreements with service provider” are ineligible costs. In non-transitioned municipalities the program remains a shared responsibility between the parties and with it comes shared risks.
 - Calculated Administration Costs is defined as the lesser of reported Administration Costs or 5% for programs who provide service directly and 3% for programs who contract out service delivery. This would enable Stewardship Ontario to pay nothing if a program does not break out actual administration costs in the Datacall. Many municipalities do not do this given the relatively small size of the program. The 3% and 5% estimates were set for this reason.
 - Section 6.1 of the draft a-BBPP requires non-transitioned municipalities to provide access to data and facilities to Stewardship Ontario. This has not been agreed with municipalities and service providers. Furthermore, RPRA has proposed in 2.2 (g) to use reasonable efforts to facilitate the collection of relevant information in its oversight role of the Datacall. It is recommended that municipalities provide aggregate data on municipal facilities to RPRA but not individual facility data.
 - The two-year lag between municipal costs being incurred and Stewardship Ontario’s payment of the Steward Obligation is problematic. There needs to be reconciliation of municipal costs incurred in the two years prior to transition. This will be particularly important if a municipality has to alter their contracting and incur premiums to line up expiry of their contracts with the timing of their catchment. These premiums cannot solely be a municipal responsibility.

Solution:

- Use the 2016 RPRA Datacall User Guide methodology to calculate payments to non-transitioned municipalities.



Funding for Management of Newspapers

- The Accord states that *“the plan should establish the arrangement with Stewardship Ontario by which the Canadian Newspaper Association and Ontario Community Newspapers Association will meet their member’ EPR obligations for old newsprint in such a manner that is without cost to transitioned municipalities.”*
- There is no specific mention of this in Stewardship Ontario’s proposed a-BBPP.

Solutions

- The amended BBPP need to clearly reflect this agreement as follows:
 1. Newspapers will continue to be collected throughout the life of the a-BBPP
 2. Municipalities and service providers will be compensated in cash for any services provided to recover newspapers.

Ministry of the Environment
and Climate Change

Ministère de l'Environnement
et de l'Action en matière de
changement climatique



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August 14, 2017

Ms. Glenda Gies
Chair
Resource Productivity and Recovery Authority
4711 Yonge Street, Suite 408
Toronto ON M2N 6K8

And

Mr. John Coyne
Chair
Stewardship Ontario
1 St. Clair Ave. West, 7th Floor
Toronto ON M4V 1K6

Re: First Phase Transition – Direction for Proposal for an Amended Blue Box Program Plan

Dear Ms. Gies and Mr. Coyne:

Ontario's Blue Box Program is well-recognized as a North American leader that provides services for residential paper products and packaging (PPP).

Pursuant to Section 13 of the *Waste Diversion Transition Act, 2016* (WDTA), I am writing to direct the Resource Productivity and Recovery Authority (the Authority) and Stewardship Ontario (SO) to develop a proposal for an amended Blue Box Program Plan (BBPP). This proposal is to be developed collaboratively with municipalities, stewards and affected stakeholders as required by subsection 13(2) of the WDTA.

My expectation is that this proposal will outline the first phase of transition for the Blue Box Program under the WDTA, and will set the stage for a second phase of transition that will result in individual producer responsibility under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

It is also my expectation that the proposal for an amended BBPP will build on the accord outlined in the joint letter sent to my predecessor, Glen Murray, on July 7, 2017 from the Association of Municipalities of Ontario, City of Toronto, Regional Public Works Commissioners of Ontario, Municipal Waste Association and SO.

It is in the public interest that the proposal for an amended BBPP is consistent with the following principles:

- Ensuring a seamless transition of the Blue Box Program, specifically:
 - Not negatively affecting Ontarians' experience with and access to Blue Box services,
 - Incorporating clear rules to support residents' participation including standardized materials and services, and
 - Improving program performance;
- Working towards the circular economy by supporting reduction, reuse, recycling and reintegration of PPP materials into the economy;
- Providing for continuous improvement of environmental outcomes by:
 - Expanding and harmonizing the list of materials in the existing Blue Box program that are accepted from Ontario residents,
 - Establishing clear and measurable collection and management standards with a high level of environmental protection, and
 - Developing methods to support waste reduction;
- Providing effective economic methods to incent behavior changes leading to waste reduction of PPP;
- Driving innovation through collaborative and competitive efforts by:
 - Supporting cooperation among parties, including stewards, municipalities, waste management industry, and other affected parties, to bring complementary abilities to deliver better results, and
 - Promoting competition by ensuring a fair and open marketplace for Blue Box services under the WDTA and not creating barriers to competition when the program transitions to individual producer responsibility under the RRCEA;
- Avoiding stranded assets to the extent possible in a collaborative manner;
- Providing choices for municipalities where SO is to provide Blue Box services (i.e. transitioned municipalities):
 - These municipalities will decide whether they wish to act on behalf of SO for the procurement and contract oversight of PPP collection services, and
 - These municipalities should also have an opportunity to participate in the post-collection management of PPP collected; and,
- Addressing issues related to the in-kind contribution from the newspaper industry in a manner that is without cost to the transitioned municipalities.

The Authority and SO shall have regard to the provincial interest described in Section 2 of the RRCEA when developing the proposal for an amended plan.

As producers assume the 50 per cent of costs currently borne by municipal taxpayers, it is my expectation there will be a clear and transparent process by which municipalities demonstrate the benefit their taxpayers will receive.

The Authority and SO shall develop a communication and issues management plan. The plan shall identify issues that may arise during the development of the proposal for the amended BBPP, outline the steps to manage these potential issues and set out the process by which the Authority and SO will provide information to affected stakeholders and the public on a regular basis.

During the development of the proposal for an amended plan, the Authority and SO shall ensure meaningful consultation and communication with representatives of municipalities, stewards and other affected stakeholders.

Together with the submission of the proposal for an amended BBPP, the Authority and SO shall submit a report to the Ministry outlining how the Authority and SO have met the consultation requirements under the WDTA, including:

- A list of the stewards, municipalities, service providers and other affected stakeholders that were consulted during the development of the proposal;
- A summary of the comments received by the Authority and SO from affected stakeholders; and,
- A report of how the comments were considered by the Authority and SO.

The Authority and SO shall report to the Ministry each month on their progress in developing the proposal for an amended BBPP.

An addendum to this letter has been attached which provides additional direction for amending the BBPP.

The proposal for an amended BBPP shall be developed in accordance with this letter and the enclosed addendum and the WDTA.

If approved by the Authority, the proposal for an amended BBPP shall be submitted to me for approval by February 15, 2018, or on such later date that I provide in writing. The submission shall include particulars of any matters that are unresolved at the time of the submission.

It is my expectation that, upon my approval, and subject to any necessary amendments to relevant regulations being approved by the Lieutenant Governor in Council, this amended plan will replace the current plan in its entirety.

Ms. Glenda Gies
Mr. John Coyne
Page 4.

If it is in the public interest to do so, I will provide further direction at a later date related to the matters set out in this requirement, or to provide clarification related to amending the BBPP.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Ballard". The signature is written in a cursive style with a large, looping initial "C".

Chris Ballard
Minister

Cc: Paul Evans, Deputy Minister
Ministry of the Environment and Climate Change

ADDENDUM TO THE MINISTER'S DIRECTION LETTER FOR AN AMENDED BLUE BOX PROGRAM PLAN

Pursuant to an agreement being reached between SO and each transitioned municipality (see definition below) and subject to necessary amendments to relevant regulations being made by the Lieutenant Governor in Council, SO would provide services for residential paper products and packaging (PPP) supplied by stewards to Ontario residents and covered under the Blue Box Program.

NON-TRANSITIONED MUNICIPALITIES:

Non-transitioned municipalities are those that have not entered into an agreement with SO and SO is not delivering Blue Box collection and management services for these municipalities.

The proposal for an amended BBPP shall address payments to the non-transitioned municipalities under Section 11 of the WDTA based on the municipality's verified net cost of operating its existing Blue Box program:

- The plan shall define the eligible costs to be included in calculating the net cost; and,
- The plan shall also describe any agreements among the Authority, SO, and recipient municipalities for the reporting and verification of costs by municipalities.

TRANSITIONED MUNICIPALITIES:

Subject to necessary amendments to relevant regulations being approved by the Lieutenant Governor in Council, transitioned municipalities are those that have entered into an agreement with SO and SO is delivering Blue Box collection and management services.

The proposal shall outline when and how the responsibility for the collection and management of PPP will be transferred smoothly from these municipalities to SO.

The proposal for an amended BBPP shall include the following:

Defined Materials Covered in BBPP:

- Include an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP;
- The materials shall include:
 - paper products,
 - primary packaging,
 - convenience packaging, and
 - transport packaging;
- For purposes of primary, convenience and transport packaging, refer to the RRCEA for definitions; and,

- When defining the materials, SO and the Authority will also consult with stewards of packaging who are regulated under deposit-return programs (e.g., stewards of milk containers).

Defined Stewards:

- Define obligated stewards.

Defined Responsibility for Waste Reduction and Resource Recovery:

Waste Reduction

The proposal for an amended BBPP shall:

- Establish methods to facilitate the reduction of waste generated related to defined PPP materials. The methods may include activities to support:
 - increase of the product's or packaging's reusability and recyclability,
 - reduction or elimination of any impact the material may have on the recyclability of other materials,
 - reduction of the amount of waste generated at the end of the product's or packaging's life,
 - reduction or elimination of the use of any substance in the material that compromises the material's reusability or recyclability, and/or
 - increase of the use of recovered resources in the making of the material;
- Use means to discourage the use of materials that are difficult to recycle and have low recovery rates. The means include, but are not limited to, rules for stewards, fee setting methodology, and compiling information to measure stewards' initiatives to reduce waste; and,
- Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.

Collection and Management of Materials

The proposal shall set clear standards for SO's collection and management, including:

- Support clear service standards to enable resident participation;
- Increase the diversion target for the Blue Box Program to 75 per cent of the PPP supplied by stewards to transitioned municipalities' households;
- Establish material-specific management targets for PPP supplied by stewards to transitioned municipalities' households;
- Identify geographically-based collection and management standards, including rural, northern, and remote areas;
- Maintain convenience and accessibility standards, including:
 - curbside collection for households where currently provided by these municipalities and indigenous communities,
 - collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities, and
 - depot collection services currently provided by these municipalities and indigenous communities;
- Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities, within an identified timeframe;

- Consider accommodating associated public spaces, parks and other related services provided by these municipalities;
- Consider expanding Blue Box collection services over time; and,
- The methods for managing the materials shall allow for the material or part of the material to be, in accordance with Ontario standards and regulations:
 - reused,
 - used in the making of new products, packaging or other activities in end-markets, or
 - used as a nutrient for improving the quality of soil, agriculture or landscaping.

Promotion and Education

For the purpose of increasing resource recovery and reducing Blue Box waste materials, the proposal shall establish an effective promotion and education program, including promoting awareness of the program activities to residents and other targeted audiences and engaging audiences to elicit feedback.

Registration, Reporting, Record Keeping and Auditing

The proposal will include an appropriate approach for registration, reporting, record keeping and a third-party audit to ensure an effective and efficient system.

ESTABLISH ISSUE MANAGEMENT APPROACHES:

The proposal shall:

- Develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan, if approved;
- Develop a plan to avoid stranded assets to the extent possible in a collaborative manner; and,
- Establish an arrangement between SO and the newspaper industry (i.e., the Canadian Newspapers Association and Ontario Community Newspapers Association) in order to meet members' obligation for old newsprint in such a manner that is without cost to transitioned municipalities.

PROMOTE COMPETITION:

The proposal shall:

- Establish a mechanism to support a fair and open marketplace for Blue Box services under the WDTA;
- Not create barriers to competition in the second phase of transition that will result in individual producer responsibility under the RRCEA; and,
- Describe how contracts held by SO for the collection and management of PPP will be managed upon wind up of the Blue Box Program to enable competition once materials are regulated under the RRCEA.

PERFORMANCE INDICATORS AND REPORTING:

- The proposal shall include performance indicators to measure whether SO has fulfilled the resource recovery obligations and established waste reduction methods as set out in the amended plan; and,
- In addition to the requirements set out in Section 30 of the WDTA, SO's Annual Report shall include:
 - a description of whether and how SO has fulfilled resource recovery obligations set in the amended plan,
 - a description of how SO has supported waste reduction methods set in the amended plan, and
 - a third-party audit of SO's collection and management services and outcomes.



February 13, 2018

Mr. Dave Gordon
Association of Municipalities of Ontario
200 University Avenue, Suite 801
Toronto, ON M5H 3C6

Via email DGordon@amo.on.ca

Dear Dave:

Thank you for taking the time to meet with us to discuss how Stewardship Ontario and municipalities can move forward to complete the work initiated by the Accord partners last Spring and under the terms set in the Minister's Program Request letter of August 14th, 2017.

As we indicated in our meeting, Stewardship Ontario and the stewards are committed to completing an amended Plan as a means to transition to the RRCEA. As our partners, you will play an integral role in the transition to full producer responsibility. We are grateful for all of the efforts of the municipal sector in contributing to Plan development so far.

However, as we all know, our joint work is not finished and key elements require more discussion and alignment.

With all of this in mind, the Stewardship Ontario Board meeting on January 25 considered three options for action:

1. Abandon this process entirely and immediately and signal that Stewardship Ontario will not be able to fulfil the Minister's instruction.
2. Approve the draft plan with changes considered over the period of consultation and submit the draft to RPRA.
3. Seek out a new process and a potentially more agreeable outcome directly with the municipal sector.

In its deliberations, the Board considered that:

- First, Stewardship Ontario and the stewards have signaled support for producer responsibility and the RRCEA so an abandonment of the draft plan would be inconsistent with the position taken to date.

- Second, merely approving a plan in the face of serious municipal concerns and the need of that community for more information would be both disrespectful to the municipal sector and would reflect poorly on the consultative process attempted in these intervening months, and
- Third, success for all parties can only be assured by a greater degree of patience, clarity of intent and strategic candour and a vigorous yet disciplined exchange of meaningful operational ideas between the two principle parties structured so as to better address their respective concerns.

The Board has elected not to abandon the process nor to submit a plan that does not have sufficient municipal support. Rather, the Board determined that the most prudent and respectful course of action would be to propose a new, different engagement with the municipal sector consistent with the support for producer responsibility signaled by the steward community and Stewardship Ontario with a view to completing the transition under the WDTA in accordance with the requirements of the Minister's August letter and the Act.

We recognize the problems inherent in the consultation process followed to this point. That approach, similar to what is used in government policy development, has Stewardship Ontario propose initiatives or ideas while requiring stakeholders to either agree or oppose. It is not sufficiently iterative to work through matters of more complex operational detail nor does it allow for the more fulsome discussions around policy issues that are often intertwined. In effect, given the history between the parties, the current process hinders Stewardship Ontario and the Accord participants' ability to complete the work necessary to agree on critical operational details in support of the plan. Our joint work is not finished and regretfully, the process utilized may be contributing to discord and suspicion.

As a result, we would very much like to engage the municipal sector in a joint process that will allow us to work out our transition blueprint with the detail necessary to establish clarity about how the transition will proceed.

We will need to work together to develop these details through a collaborative decision-making process that enables us to resolve any issues and concerns in real time. That process starts first and most importantly with a different governance model on how the Blue Box transition implementation will take place. That model



Stewardship Ontario

should last for so long as there continues to be the need to balance the needs of the people who resolve issues and those who design solutions throughout the effort, and is one which provides for joint, iterative working groups of municipal and steward representatives supported as appropriate by other relevant, affected stakeholders.

We certainly welcome your views and the views of others on how most effectively to resource the various task areas and should you agree to join us on this journey, we would need to engage in a more practical discussion about process, people, the work that will be undertaken, the level of commitment required and the estimated time to finish the work.

We would like to enlist your support to allow this process to unfold in ways that will allow both Stewardship Ontario and the municipal sector to put their best work forward so we can move on with the transition to full producer responsibility in the province of Ontario.

As we indicated, the draft Plan is not yet complete and continues to be a work in progress. Our intention is to share this draft with stakeholders in the next few weeks. We will work with RPRA to develop the stakeholder engagement plan that will flow from that draft. We will want to work with the municipal sector to ensure that the stakeholder engagement plan coincides with our efforts in this new emerging process in order to properly deal with policy issues and operational issues, all with a view to moving us all to an approvable plan.

We look forward to continuing our dialogue on the proposal for moving forward. We would like to discuss this framework with the Accord participants as a logical next step to our conversation of this morning. Let us know if that would be acceptable to your constituency.

Yours sincerely,

John D. Coyne
Chair,
Stewardship Ontario

February 16, 2018

Mr. John Coyne
Chair, Stewardship Ontario
1 St. Clair Ave. West, 7th Floor
Toronto, ON M4V 1K6

Via Email: john.coyne@unilever.com

Dear John:

Re: Process to Amend the Blue Box Program Plan

Thank you very much for your presentation of Stewardship Ontario's proposal and your letter of February 13, 2017 to establish a collaborative process to amend the Blue Box Program Plan (a-BBPP). Specifically we appreciate your commitment included in your letter that states, *"We will need to work together to develop these details through a collaborative decision-making process that enables us to resolve any issues and concerns in real time."*

We welcome the opportunity to work closely with you to define a process by which the policy and operational issues we have raised with the existing draft of the a-BBPP can be addressed.

As you know, the five main concerns municipal governments have with the current draft of the a-BBPP are:

1. **Move to Individual Producer Responsibility** – The objective of the a-BBPP as set out in the Minister's Program Request Letter was to set the stage for a second phase of transition that will result in individual producer responsibility under the *Resource Recovery and Circular Economy Act* (RRCEA) in a timely manner. Under the Minister's Directive we expected the a-BBPP would provide an interim step to ease transition from a municipally-operated Blue Box system to direct steward management, provide mechanisms to assess transition, and determine readiness for moving to the RRCEA.
2. **Need for good governance and balanced decision-making** – The a-BBPP as currently drafted would give unilateral decision-making powers over key elements of the transition and operation of the Program to Stewardship Ontario before the move to individual producer responsibility. In effect, the proposed a-BBPP would grant unilateral control to Stewardship Ontario well before full producer responsibility is achieved. Until the current municipally-operated Blue Box system can be successfully transitioned to individual producer responsibility, more balanced controls are necessary for the protection of all stakeholders.
3. **Ensuring Transparency** – Transparency and fairness are the keys to successful transition. Details regarding scope, material and performance definitions, measurement methodologies and verification protocols are essential for all stakeholders to judge its merits as these key elements are not clearly described in the a-BBPP.

4. **Environmental outcomes**– Advancing environmental gains and promoting the development of a circular economy for paper products and packaging (PPP) is the purpose of the a-BBPP. As currently drafted the a-BBPP does not clearly define preferred management options, or show how they will be measured, reported and verified. It also does not address the Minister’s Program Request Letter to establish methods to facilitate the reduction of PPP and to discourage the use of non-recyclable and problematic materials.
5. **Legacy Concerns** – There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the proposed a-BBPP or the Program Agreement. These include agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

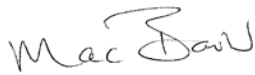
It needs to be emphasized that there are fundamental policy issues that need to be addressed early in this collaborative process in order for real progress to be made. As the first step in this collaborative process, we should meet again to review the challenges before us and to work together to define how we move forward. It would be useful to have the Resource Productivity and Recovery Authority attend as well.

The Accord signed by Stewardship Ontario and municipal governments started this process. The Accord has been superseded by the Minister’s Program Request Letter of August 14, 2017 and that is now the measure by which the amended Plan must be evaluated.

It will be to our mutual benefit to ensure that the amendment process accommodates the interests of all affected parties. Engaging all key stakeholders will also be critical to ensure we emerge from this process with a successful Plan with broad support.

Municipal governments would appreciate the opportunity to discuss with you in more detail how a collaborative process to amend the Blue Box Program Plan can address the policy and operational issues that we have identified.

Best regards,



Mr. Mac Bain, Chair
AMO Waste Task Force



Mr. Jim McKay, General Manager
Solid Waste Management Services
City of Toronto



Mr. Fred Jahn, P.Eng, Chair
Regional Public Works Commissioners of Ontario



Ms. Karyn Hogan, Chair
Municipal Waste Association