



Nov. 29, 2017

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RE: Early feedback on Stewardship Ontario's amended Blue Box Program Plan Proposal

Recycling Council of Ontario (RCO) is a multi-stakeholder, not-for-profit organization committed to minimizing society's impact on the environment by eliminating waste. Members include municipalities, retailers, manufacturers, material management companies, brand owners, industry associations, schools, academics, and individuals. We are an independent organization that develops policy positions based on research, experience and unfettered discussion with stakeholders.

Policy positions are taken with a focus on environmental outcomes based on a hierarchy that prioritizes waste prevention, resource reutilization, and conservation. Our mission is to inform and educate all members of society about the generation of waste, the avoidance of waste, the more efficient use of resources, and the benefits and/or consequences of these activities.

On behalf of RCO I would like to thank Stewardship Ontario for the opportunity to provide feedback on information received during consultations for the proposed amended Blue Box Program Plan (a-BBPP) to date. However, it must be noted that there are significant obstacles that hinder proper feedback and recommendations. While the transition of printed paper and packaging (PPP) under individual producer responsibility (IPR) is an important and overdue policy objective, seeking feedback and support from stakeholders while providing limited detail is problematic. RCO has attempted, in good faith, to provide recommendations and highlight critical elements that require additional attention prior to full evaluation or support for the a-BBPP. To that end, we look forward to reviewing the full draft a-BBPP that Stewardship Ontario has committed to make available on December 22, 2017.

We would also like to preface our comments by recognizing the enormity of the task to transition the existing Blue Box Program that has been led and refined by the municipal sector for more than four decades.

It is our organization's desire to ensure this exercise focuses on transitioning the responsibility of the management of PPP to producers under the *Resource Recovery and Circular Economy Act, 2016 (RRCEA)* with no negative impact to its current performance, and will be evaluating it with that as the main objective.

RCO's comments for consideration were informed by:

1. *Waste Diversion Transition Act, 2016 (WDTA)*
2. *Resource Recovery and Circular Economy Act, 2016*
3. *Strategy for a Waste-Free Ontario: Building the Circular Economy, 2017*
4. The Minister of Environment and Climate Change's letter to Resource Productivity and Recovery Authority and Stewardship Ontario, August 14, 2017
5. Consultations with various stakeholder groups by Stewardship Ontario
6. RCO discussions with other affected and interested stakeholder groups

Setting the Stage for Second Phase of Transition

The Minister of the Environment and Climate Change has invoked Section 13 of the *WDTA* to require an amendment to the Blue Box Program Plan. The overarching purposes of the *WDTA* in Section 1:

- a. to promote the reduction, reuse and recycling of waste;
- b. to provide for the operation of waste diversion programs; and
- c. *to promote the orderly winding up of waste diversion programs and industry funding organizations in order to allow responsibility for waste to be governed under the Resource Recovery and Circular Economy Act, 2016 or otherwise* [emphasis added].

The Minister's August 2017 letter provides direction for an a-BBPP that states:

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)* [emphasis added] (page 1).

While RCO appreciates the necessity to begin this process by shifting operational responsibilities from municipalities to Stewardship Ontario in the short term, the proposal as provided to date seems to solely focus on this objective and does not provide any details on the transition beyond that point.

To that end, Stewardship Ontario has estimated a seven-year timeframe to identify municipalities that wish to transition and complete the contracting with it for collection and processing of PPP.

It has suggested a geographical catchment design to respond to the requirement of providing an orderly transition and suggests pace of one (or two) catchments per year.

Stewardship Ontario Consultation with Stewards – presentation slide 34:

We will know in advance of each program year which communities will be transitioning, and can therefore develop resource plans and budget accordingly.

It is our understanding that part of the suggested timeframe derives from a limitation on how many municipalities Stewardship Ontario can transition at any given time.

It is our understanding that municipalities have indicated that they can transition contracts more quickly than Stewardship Ontario is proposing as long as the terms of existing contracts allow for amendments and the contract offer from Stewardship Ontario is fair.

We are also aware that many municipalities' current service contracts already include provisions that align with elements proposed in the a-BBPP and specific language that accounts for regulatory or policy changes. In addition, the Continuous Improvement Fund has a template clause – available to all municipalities – that is already part of many existing municipal service contracts, and recognizes and requires service providers to expect and adjust to regulatory and program changes: thecif.ca/procurement-2/key-clauses/change-of-law-change-management/

Recommendations and Requests for Additional Detail

1. How the transition plan, as being proposed, will result or facilitate (not just prevent) a timely transition to IPR under the *RRCEA*.
2. Rationale behind the seven-year process, and why the transition timeframe cannot be completed with more expediency (i.e., three- or four-year process).
3. Contract information acquired to inform the suggested transition timeframe; describe how the expiry dates or other contractual conditions have informed the proposed plan; and outline a schedule and corresponding mapping of the transition based on the three criteria (have expired, have been terminated early, self-delivers) used to guide the transition process and timeframe.
4. Rationale for placing limitations on the number of municipalities that can transition at any given time.
5. In mapping out the timeframes to complete the transition from Phase 1 (*WDTA*) to Phase 2 (*RRCEA*) we suggest the a-BBPP include:
 - a. Expiration date that triggers a review of progress toward a-BBPP implementation
 - b. Description, budget estimations, and implementation details to acquire internal capacity and resources required by Stewardship Ontario to implement a-BBPP.
 - c. Estimated timeframe when municipalities can begin to declare their intent to transition and complete the transition process.
 - d. Description and suggested timeframes (i.e., weeks or months) for the internal processes to implement the transition, which includes receipt of municipal declarations; review and offer contracts for services; review catchment areas; bundle services if necessary; issuance of ROI or RFPs, review and reward.

Performance Requirements to Drive Environmental Outcomes

The Minister's letter set out a number of performance requirements (page 2) that includes:

- Working toward the circular economy by supporting reduction, reuse, recycling, and reintegration of PPP into the economy.
- Expanding and harmonizing the list of materials in the existing Blue Box Program that are accepted from Ontario residents.
- Developing methods to support waste reduction.
- Providing effective methods to incent behavior changes leading to waste reduction of PPP.

In addition to the above, the addendum to the Minister's letter specified that the a-BBPP include several measures to improve waste reduction objectives. It is our understanding that Stewardship Ontario predominately relies on a change to the producer pay-in methodology (moving from three-step to a four-step) that enables a higher charge to stewards that choose packaging that poorly perform in the Blue Box (i.e., challenging to recycle, has a low recovery rates, or contaminates other higher performing materials).

RCO agrees that this shift is an important mechanism to align costs to less performing materials, however, no details have been provided as to how the methodology and formula will be changed, nor further details on how, in practice, the change will achieve the desired objective.

Recommendations and Requests for Additional Detail

6. Producer pay-in methodology: how performance is defined; how it will be changed; and the rationale for doing so. In that regard, additional details as to how proposed changes address each of the performance requirements as they have been asked for in the Minister's letter. It would also be helpful for the a-BBPP to demonstrate how the new methodology will treat high- versus low-performing PPP with examples.

Other Mechanisms to Incent Better Performance

Stewardship Ontario has indicated that it will allow stewards to self-manage materials outside of the Blue Box. However, Stewardship Ontario also indicated it will not compensate producers that choose this option. It is our opinion that this compensation should be allowed and implemented through a rebate, credit, or deduction in producer pay-in fees. RCO considers this allowance a direct approach to incenting responsibility and performance. Removing materials from the Blue Box and successfully managing them, in an alternate manner that is in keeping with the required performance measures, should be allowed and rewarded through steward fees.

Recommendations and Requests for Additional Detail

7. Include in the a-BBPP an intent to recognize and reward stewards that manage obligated PPP materials, as long as it is in keeping with the required performance standards and provide a mechanism for a deduction and/or credit system on producer pay-in fees.

Measuring and Reporting Performance: Establish Clear and Measurable Collection and Management Standards with a High Level of Environmental Protection

A central tenet to the a-BBPP is to improve the environmental outcomes through greater PPP management. The Minister's letter specifically calls for the a-BBPP to integrate clear standards for management of PPP materials, including, but not limited to, an overall Blue Box diversion rate of 75 per cent, materials-specific targets, and management standards. While the proposed a-

BBPP commits to the 75 per cent overall diversion target it does not reveal how this target will be measured and reported, nor or a timeframe in which to meet it.

Calculating Blue Box Diversion Rate

At the Minister's request, the a-BBPP is to include an expanded list of material for collection and processing. Simultaneously, Stewardship Ontario proposes to introduce management standards that tracks material collected that are successfully marketed from those that are lost to disposal at all points in the management chain. To that end, only the material that is marketed and reintegrated back into production cycles will count toward the 75 per cent diversion target.

Given that current Blue Box diversion rates are calculated based on net marketed tonnes from municipal Material Recycling Facilities, calculating diversion to include downstream residuals and losses will likely mean an adjustment downward of the Blue Box diversion rate and, therefore, create a new baseline from which to measure performance.

Stewardship Ontario Consultation with Stewards – presentation slide 38:

Expand programs to include materials that have sorting capabilities and stable end markets (e.g. mixed rigid plastics and coffee cups).

Initially exclude materials that do not yet have stable end markets (e.g. coffee pods, plastic laminates, and foam packaging).

RCO strongly supports proper and transparent performance reporting of the Blue Box as a whole, as well as all of the material categories throughout the entire management chain: collection, transport, sorting, and processing. RCO also supports extending reporting requirements that help track materials to their final disposition to ensure what is counted toward the 75 per cent overall or material-specific targets are materials reintegrated into new production cycles.

However, the methodology that will be used to inform that calculation has not been made clear, nor have reporting protocols that will be used to support that calculation.

Recommendations and Requests for Additional Detail

8. Explanation as to what materials are considered to have sorting capabilities and the criteria to inform that explanation; what is considered a stable market; and the criteria and information that will be used to inform the definition of stable.
9. Contents of what will be in the standard list of materials, as well as a preliminary list of materials in a secondary and tertiary list that demonstrates a schedule of priorities for how Blue Box service will be expanded to successfully accommodate them in the future.
10. Comparison of the materials supplied by producers onto the marketplace, and how that relates to the standardized list of what is sortable and has a stable market.
11. All methodology details the a-BBPP will use to calculate performance of the entire Blue Box Program and each of the material-specific targets.
12. Methodology should include a definition of what will be considered marketed, and outline proof required to verify marketed tonnes.

Material-Specific Targets

The Minister has made clear that the a-BBPP must establish material-specific management targets for PPP supplied by stewards to transition municipal households. Stewardship Ontario has presented the following:

Material	Today*	Amended BBPP	Improvement
Paper products/packaging	94%	95%	+ 1 %
Glass packaging	73%	75%	+ 2 %
Plastic packaging	35%	40%	+ 5%
Metal packaging	55%	65%	+ 10 %

*Assumed based on changes to definitions of PPP and other proposed changes

Given the scope of obligated materials has expanded and those used to calculate diversion are reduced (only marketed) it is difficult to provide feedback to the proposed targets without understanding the methodology used to project these targets.

Recommendations and Requests for Additional Detail

13. Baseline data used for both the numerator and denominator to establish the material-specific targets. Clearly demonstrate how the supplied material list connects to the collected/processing target.
14. Rationale, with corresponding data, as to why plastics targets are low and projected to improve by only five per cent.
15. Timeline as to when each target will be achieved: overall Blue Box as well as material-specific.
16. Reporting schedule that includes what information will be made public. RCO recommends the a-BBPP includes each material categories collection, processing performance, and net per tonne cost to manage in the system.
17. Schedule for auditing the system, including details on scope, timing, and criteria; and explain how these audits will be made public. RCO recommends the scope includes audits of the disposal stream, and that criteria match how material is reported by stewards on supplied lists and materials reported toward marketed. For Blue Box audits, clearly reported lists of contamination levels and the materials that are part of what is considered contaminated.

Disaggregating All Material-Specific Targets

General material categories likely include a wide variety of PPP materials that have different market conditions, values, and performance realities. For example, RCO assumes that the PPP categories include a wide range of paper-based packaging that includes, but not limited to, aseptic and polycoat containers, newspapers, boxboard, and cardboard.

Furthermore, plastics as category is broad as it includes an extensive variety of resin types each composed of unique and distinct properties. Performance of different resins within plastics category also varies greatly. Historically, many of the plastic types experience low recovery rates, high contamination, and significant volatility in market values and availability. Consequently, the a-BBPP should emphasize improving overall performance of plastics as a category, and track and report performance of each resin type separately.

To evaluate and provide feedback to Stewardship Ontario on the a-BBPP's ability to achieve required expansion and performance improvements outlined in the Minister's direction letter, more detail is needed for each material-specific target, including how each package contributes or will contribute to the overall target. This information would then link to the a-BBPP strategies related to the producer pay-in methodology, research and development (R&D), and promotion and education (P&E).

Recommendations and Requests for Additional Detail

18. Disaggregate all packaging types within each material category list and assign each their own target that reflects the current performance as it is presently known; explain how each of these different PPP types contribute to the proposed materials category and overall Blue Box targets.

Expanding Services

The Minister's direction letter requires the a-BBPP to expand services in several areas:

Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities within an identified timeframe (page 6).

Consider accommodating associated public spaces, parks, and other related services provided by these municipalities (page 7).

Stewardship Ontario Consultation with Stewards – presentation slide 39:

Stewardship Ontario will begin offering financial incentives to waste management service providers once the program begins to stabilize.

This will likely be community by community and occur some time after each community transitions.

Stewardship Ontario Consultation with Stewards – presentation slide 40:

Before proceeding, certain criteria need to be satisfied, such as:

- The collected public space material comes from residential sources (i.e. is stewarded) and is relatively contamination free.

Recommendations and Requests for Additional Detail

19. How expanded services will be integrated into service contracts of transitioning municipalities with timing that offers these expanded services.
20. Explanation of methodology Stewardship Ontario will use to determine whether materials collected in public spaces are from residential sources.

Market Fairness and Promoting Competition

The Minister's direction letter requires of the a-BBPP:

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* (page 7).

Stewardship Ontario has indicated it will meet the objective of promoting competition by ensuring a fair and open marketplace for Blue Box services under the *WDTA*, and not create barriers to competition when the program transitions to IPR under the *RRCEA*.

Stewardship Ontario Consultation with ENGOs – presentation slide 8:

Over time Stewardship Ontario will systematically replace the agreements that exist today with hundreds of its own agreements with communities and service providers for collection and management of PPP. Today:

- Several hundred collection and processing contracts (~400) with varying expiry dates (>90% by tonnes)

Despite assurances that ongoing service contract offerings will be fully transferable without interference, details of how this objective will be achieved have not been provided. While RCO appreciates that not all details of an ROI or RFP can be revealed during plan development we do believe that some of the key provisions can be provided in the a-BBPP.

Recommendations and Requests for Additional Detail

21. Include the following as it relates to establishing new contracts with municipal and private service providers.

Service Contracts:

- I. Where municipal contracts have expired a suggested term of the contract between Stewardship Ontario and the service provider, and how those terms will be managed under wind-down of Stewardship Ontario under the *RRCEA*
- II. Provisions to extend rollover contracts on a short-term basis when service contracts expire.
- III. Details on the basic (main) service standards for collection and processing.
- IV. Details on criteria and processes for identifying and measuring contamination, and the management approach for collection and processing

Producer Rules / Agreements:

- I. Based on a standardized methodology developed by Stewardship Ontario an ability for stewards to report residential-only materials with provisions on how this is to be verified on what the steward's responsibilities are in that regard.
- II. Based on standardized reporting protocol and process allow for credits/deductions from steward's fees for any materials that are steward self-managed under the provision that these can be verified through a standardized audit.
- III. No punitive clauses for stewards to exit or terminate their relationship with Stewardship Ontario when they are given notice to wind down under the *RRCEA*.
- IV. Clear audit protocols and processes of steward's reports

Market Development and Research Investments

Stewardship Ontario has committed to address the Minister's request to provide for continuous improvements by expanding the list of materials accepted in the Blue Box.

Stewardship Ontario Consultation with Ontario Waste Management Sector – presentation slide 101:

Establish a list of materials that are targeted in all transitioned communities because they can be sorted and have end markets

Expand programs to include materials such as coffee cups and mixed rigid plastics that have sorting capabilities and end markets

Initially exclude materials, such as coffee pods, and expanded polystyrene packaging that do not yet have robust end markets

- Expand material list as end markets, sorting technologies become available
- Conduct R&D to advance these outcomes

Recommendations and Requests for Additional Detail

21. Clarify the process to define and identify materials that have sorting capabilities and stable markets that will be used to inform the standard list of materials.
22. Explain how the a-BBPP will identify priority materials that do not fall within this standard list and, therefore, require R&D support.
23. Describe how Stewardship Ontario will identify and engage stakeholders, and how the information discussed will be made transparent. It is critical that Stewardship Ontario details its internal processes to support these activities in this regard.
24. Commit in the a-BBPP that Stewardship Ontario will not own nor have any financial interest with regard to intellectual properties that may result from the R&D activities it engages in.

Promotion and Education

The Minister's direction letter requires the a-BBPP include details for an effective promotion and education program that promotes activities to residents with an effort to solicit their feedback. During its consultations Stewardship Ontario only referenced P&E activities in relation to collection contracts.

Stewardship Ontario Consultation with Ontario Municipalities and First Nations Communities – presentation slide 56:

Deliver prescribed P&E and ensure the contractor executes any P&E related tasks in its agreement with Stewardship Ontario

Given the importance of P&E activities to Blue Box Program performance and its related effects on service standards the a-BBPP should include a detailed section on the planned P&E program, including, at minimum, a basic strategy and timeframe.

In-Kind Contribution from the Newspaper Industry

There has been no information provided as to how the a-BBPP intends to deal with issues related to in-kind contribution that the newspaper industry has been assigned in lieu of cash. RCO supports full and direct cost accounting and assignment of those costs directly to stewards and the specific PPP material they supply into the marketplace. In that regard, newspaper stewards that are captured by the definition of stewards, and whose PPP fall within the definition, should be subject to producer fees like every other obligated steward.

Finally, the Minister's direction letter includes:

... a clear and transparent process by which municipalities demonstrate the benefit their taxpayers will receive (page 3).

While we expect that this requirement is only applicable to the municipalities that enter into transitional contracts with Stewardship Ontario, there has been no mention of how this requirement will be satisfied in the consultations to date.

RCO appreciates the efforts undertaken by Stewardship Ontario to begin this important transition, the opportunity to participate in consultations, and invitation to offer early feedback to the elements of the a-BBPP.

Yours Sincerely,



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