

To: Warden and Members of County Council

From: Director of Public Works

Transitioning the Blue Box Program to Full Extended Producer Responsibility

RECOMMENDATIONS

1. That Oxford County Council receive Report No. PW 2019-44 titled “Transitioning the Blue Box Program to Full Extended Producer Responsibility” as information;
2. And further, that Report No. PW 2019-44 be circulated to Area Municipalities for information.

REPORT HIGHLIGHTS

- The purpose of this report is to provide County Council with an update on the Province’s planned transition of the blue box program to full Extended Producer Responsibility (EPR).
- Update from the Ministry of Environment, Conservation and Parks (MECP) following the release of Special Advisor David Lindsay’s report, *Renewing the Blue Box: Final Report on the Blue Box Mediation Process* on August 6, 2019.
- Update from the Minister of Environment, Conservation and Parks regarding the formal direction issued to Stewardship Ontario (SO) and the Resource Productivity and Recovery Authority (RPRA) on August 15, 2019 to develop a plan and oversee the transition of the blue box program to full EPR.

Implementation Points

Staff will participate in future stakeholder consultations and report back to County Council throughout this process.

Financial Impact

There are no financial impacts associated with the recommendations contained in this report.

The long-term financial impact of transitioning the Blue Box Program to full Extended Producer Responsibility (EPR) is not known at this time. However, EPR may ultimately eliminate the financial burden on municipalities associated with program delivery and variable end-markets.

The Treasurer has reviewed this report and agrees with the financial impact information.

Risks/Implications

There are no risks or implications associated with the adoption of this report.

Strategic Plan (2015-2018)

County Council adopted the County of Oxford Strategic Plan (2015-2018) at its regular meeting held May 27, 2015. The initiative contained within this report supports the Values and Strategic Directions as set out in the Strategic Plan as it pertains to the following Strategic Directions:

1. *i. A County that Works Together* – Strengthen, diversify and broaden the economic/prosperity base through:
 - *Strategies to retain and support existing businesses and grow our green economy*
3. *i. A County that Thinks Ahead and Wisely Shapes the Future* – Influence federal and provincial policy with implications for the County by:
 - *Advocating for fairness for rural and small urban communities*
 - *Advocating for federal and provincial initiatives that are appropriate to our county*
3. *iii. A County that Thinks Ahead and Wisely Shapes the Future* - Demonstrated commitment to sustainability by:
 - *Ensuring that all significant decisions are informed by assessing all options with regard to the community, economic and environmental implications including:*
 - *Potential impacts to the vulnerable population in our community*
 - *Responsible environmental leadership and stewardship*
 - *Supporting the community implementation of the Community Sustainability Plan*

DISCUSSION

Background

The *Waste-Free Ontario Act, 2016* was passed in November 2016, replacing the *Waste Diversion Act*. Created under this new Act was the *Waste Diversion Transition Act (WDTA)* and the *Resource Recovery and Circular Economy Act (RRCEA)*. The WDTA was created to govern waste diversion programs set to be transitioned to full EPR.

Under a full EPR, program producers will have full financial and operational responsibility for programs and will be responsible for the delivery of efficient and effective services. This new program will place the onus on producers to continually improve economic and environmental

outcomes of their products, improve accessibility of programs and ensure greater program accountability and transparency.

On June 8, 2019 the Minister of Environment, Conservation and Parks (Minister) issued a mandate letter to David Lindsay to act as Special Advisor on recycling and plastic waste. In his role as Special Advisor, Lindsay was tasked with mediating discussions between municipalities, producers and other stakeholders to reach agreement on key issues as well as advising the Minister on how key issues can be addressed.

Lindsay provided his recommendation on the blue box transition to full EPR to the Minister on July 20, 2019. The recommendation report, *Renewing the Blue Box: Final Report on the Blue Box Mediation Process*, was subsequently [made public](#) online on August 6, 2019.

During Lindsay's discussions with stakeholders, seven key issues were identified:

1. A need for a measured timeframe for transition. Specifically, a defined length of time to finalize the necessary regulations, engage stakeholders, prepare the transition plan and begin the transfer of programs;
2. The need for a common collection system. Transitioning programs must not negatively impact the recycling service, and the collection program must allow for flexibility to collect some packaging through other methods;
3. Transitioning of municipal assets. Producers will not be forced to pay for municipal assets that they do not need and municipalities will be able to bid fairly on future services for producers;
4. Standardizing what goes into the blue box, including a province-wide standardized blue box material list where producers will have the flexibility to develop other methods of collection in addition to curbside collection in order to meet diversion targets;
5. Determining eligible sources for blue box materials. Consideration should be given to whether producers are responsible for blue box services beyond the curb or collection depot (e.g. multi-residential buildings, businesses, parks and other public spaces);
6. Setting effective diversion targets. Targets should be set to drive diversion and challenge ingenuity to innovate with targets progressively increasing over time; and
7. Promote increased diversion from landfill. Regulations should recognize and reward producers for reducing waste. Furthermore, incineration and energy from waste should not count as diversion.

On August 15, 2019 the Minister:

- Announced the next steps for transitioning the costs of the Blue Box Program away from municipal taxpayers to make producers of products and packaging fully responsible based on the recommendations from Special Advisor David Lindsay’s report;
- Directed SO to develop a plan regarding the funding program for blue box materials and for SO itself. This plan must be submitted to the RPRA for approval no later than June 30, 2020 (Attachment 1); and
- Directed the RPRA to oversee the transitioning of the Blue Box Program to full EPR pursuant to Section 14 of the WDTA (Attachment 2).

Comments

The Blue Box transition process is planned over the next six years to allow for regulations to be developed and finalized, producers to prepare to assume responsibility and engage stakeholders and the formal transitioning of municipal programs to full EPR.

The transition of municipal blue box programs to full EPR is planned to commence January 1, 2023 and be completed by December 31, 2025. Stewardship Ontario (SO) will continue to fund up to 50% of municipal blue box costs until each municipal program has transitioned to full EPR.

The timeline for the development and implementation of the blue box transition plan is summarized in Table 1.

Table 1: Timeline for Blue Box Transition to Full EPR

Action	Timeline
Regulation Development	2019 – 2020 (1 to 1.5 years)
Transition Preparation	2020 – 2022 (2 years)
Transition Implementation	2023 – 2025 (3 years)

Details of the blue box transition plan are unknown, however, it is anticipated that the plan will involve a similar curbside collection system to what is currently being delivered by municipalities. It is also expected that Producers will be required to offer a standardized program that will be consistent province-wide to improve program performance and promote stable end-markets. Municipalities and other stakeholders are expected to be consulted and have an opportunity to provide input throughout the development of the blue box transition plan.

Conclusions

Much is still unknown about how the Blue Box Program will transition to full Extended Producer Responsibility (EPR) and what impact this transition will have on Oxford County. The transitioning of the Blue Box Program to full EPR is expected to eliminate the financial burden on municipalities and promote innovation by Producers to reduce, reuse and recycle packaging material that is generated by consumer goods.

Staff will continue to participate in stakeholder consultations, provide input where appropriate and update Council throughout the process.

SIGNATURES

Report Author:

Original signed by:

Pamela Antonio, BES, MPA
Waste Management Coordinator

Departmental Approval:

Original signed by:

David Simpson, P.Eng., PMP
Director of Public Works

Approved for submission:

Original signed by:

Peter M. Crockett, P.Eng.
Chief Administrative Officer

ATTACHMENTS

Attachment 1: Minister Yurek's letter to Stewardship Ontario re: the Blue Box program
Attachment 2: Minister Yurek's letter to the RPRA re: the oversight of transitioning the Blue Box Program to EPR

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs

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August 15, 2019

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

Dear Mr. Coyne:

The Blue Box program has been providing Ontarians with a convenient option for collecting and recycling printed paper and packaging for many years. In recent years, it has become apparent that the growing challenges in delivering and funding the program must be addressed. After hearing from many interested parties, I believe the time has come to modernize and improve Ontario's Blue Box services by transitioning from the existing program that provides industry funding to reimburse a portion of municipalities' costs to a full producer responsibility model where industry will be responsible for both funding and operations. The transition to producer responsibility will ensure Ontarians' experience and access to existing Blue Box services will not be negatively impacted and that there are province-wide services available, including for Northern, rural and Indigenous communities.

As a necessary complementary step to transitioning to a producer responsibility model, pursuant to Section 14 of the Waste Diversion Transition Act, 2016 (WDTA) I am directing Stewardship Ontario (SO), to develop a plan in respect of the funding program for blue box materials under the WDTA (the SO Program) and for SO itself. SO must submit the plan to the Resource Productivity and Recovery Authority (the Authority) for approval no later than June 30, 2020.

This direction will begin the process by which Ontario will implement a modern, producer-operated system that will provide consistent province-wide recovery of Blue Box materials under the Resource Recovery and Circular Economy Act, 2016, and ensure there is no disruption to Blue Box services.

The development of the plan must be conducted in accordance with this direction as well as the provisions of the WDTA and its regulations, including O. Reg. 357/17.

I am directing that the plan describe a mechanism for determining the steward fees necessary to provide for payments to municipalities and First Nation communities until the time they transfer responsibility for providing Blue Box services to producers. The plan will establish criteria for a three year period in which municipalities and First Nation communities will no longer be eligible to receive funding under the SO Program, starting on January 1, 2023 and ending on December 31, 2025, which is the date that SO Program will end and the new producer responsibility framework will be fully implemented.

It is in the public interest that the plan is consistent with the following principles:

Demonstrate transparent communications and meaningful consultation

- Parties affected by the transition should be consulted and have opportunities for meaningful engagement during the development and implementation of the plan.
- The public, Indigenous peoples and affected stakeholders, including stewards, municipalities and service providers (e.g. collectors, haulers, processors, recycled product manufacturers) will receive transparent and clear communications from SO on a regular basis during development and implementation of the plan.

Support competition and prevent conflict of interest

- The plan shall support competition in, and not adversely affect, Ontario's current and future marketplace for the collection and recovery of paper products and packaging. The plan shall not provide for unfair or preferential treatment of the public or any affected parties, or barrier to competition during or following the transition of the program.
- SO shall take all necessary steps to ensure there is no real, potential or apparent conflict of interest when developing and implementing the plan.
- SO's sharing of data and information to parties other than the Resource Productivity and Recovery Authority (the Authority) must be done through a fair, open and transparent process that does not result in preferential treatment of one person or group over another or release of any confidential information.

Demonstrate Fairness to Stewards and Protect Consumers

- The assets, liabilities, rights and obligations of SO related to the SO Program must be dealt with in a fair, open and transparent process in accordance with applicable law.
- All monies held in trust by SO related to the SO Program shall be treated appropriately in accordance with the WDTA and its regulations.

Maintain Program Performance

- There shall be no disruption in payments made by SO to a municipality or First Nation community under the SO Program until the time when that municipality or

First Nation community is no longer eligible to receive funding based on criteria established in the plan.

- Ontarians' access to and experience with the Blue Box program shall not be negatively impacted. It is my expectation that, while allowing for natural growth of Blue Box services to new residential development or redevelopment, municipalities and First Nation communities shall not reduce or expand existing levels of Blue Box services that are eligible for funding under the SO Program.

An addendum to this letter provides specific direction related to the details that SO must include in its plan for the SO Program and for SO.

The implementation of the plan shall begin on the date on which the Authority approves the plan. It is my expectation that the Authority will approve the plan no later than December 31, 2020.

It is expected that SO will engage and work cooperatively with the Authority in implementing any policy direction issued to the Authority pursuant to Section 29 of the *Resource Recovery and Circular Economy Act, 2016* (RRCEA). This includes ensuring that real, potential or apparent conflict of interest concerns have been addressed prior to and during the development of the plan.

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

Lastly, SO shall make publicly available on SO's website this direction letter, as well as the complementary policy direction letter issued to the Authority.

Sincerely,



Jeff Yurek
Minister

c: Mr. Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks
Ms. Glenda Gies, Chair, Resource Productivity and Recovery Authority

Addendum to the Minister's Direction Letter for the Blue Box Waste Diversion Program and Stewardship Ontario

Stewardship Ontario (SO) is directed to develop a plan for the funding program for blue box materials (the SO Program) under the Waste Diversion Transition Act, 2016 (WDTA) and for SO itself that includes the following:

- A description of the designated wastes that are covered in the Blue Box program.
- A description of how the SO Program will be operated while the plan is being implemented, acknowledging the following:
 - The funding for municipalities and First Nation communities to participate in the SO Program shall end over a three-year period between January 1, 2023 and December 31, 2025.
 - SO's role in transferring payments to a municipality or First Nation community under the SO Program shall end on the date that obligated producers have assumed full responsibility for the collection and management of blue box materials from that municipality or First Nations community.
 - The plan shall recognize, and be responsive to, the fact that a future regulation under the *Resource Recovery and Circular Economy Act, 2016* will set the criteria and process by which municipalities and First Nation communities will transfer to full producer responsibility.
 - The calculation of the funds due to be paid to each municipality and First Nation community under the SO Program shall be proportional to the number of months in a calendar year in which the municipality or First Nation community remains under the SO Program.
 - The Continuous Improvement Fund shall receive no additional contributions and shall end as soon as practical prior to December 31, 2025.
- A proposed timeline according to which key aspects of the plan will be implemented.
- A description of and a proposal for dealing with the assets, liabilities, rights and obligations of SO in relation to the SO Program including:
 - All monies held in trust by SO related to the SO Program pursuant to Section 35 of the WDTA.
 - An approach that outlines how SO will deal with any information technology systems related to the SO Program to ensure fair and equitable access to all users, as an alternative to disposing of these assets for fair market value.
 - Any other assets of SO related to the SO Program, including, and without limitation, any intellectual property, physical assets or real property.

- Any liabilities incurred by SO during the development and implementation of the SO Program and anticipated to be incurred during the development and implementation of the plan.
- A detailed account of anticipated costs arising from the plan, and a detailed account of how SO will finance these costs.
- A detailed account of how SO proposes to equitably apportion its assets, liabilities, rights and obligations among stewards of Blue Box materials.
- The plan shall set out a proposal to deal with any residual funds after the SO Program has ended and SO has finished its final financial reconciliations for the program and organization.
- A description of all data and information that is within SO's custody or control and that is related to the operation of the SO Program since the Minister's program request letter of September 23, 2002, and a proposal for transferring all data and information to the Resource Productivity and Recovery Authority (the Authority), including:
 - The process for transferring all the data and information to the Authority within any timeframes specified by the Authority.
 - The data and information that is to be transferred to the Authority, including, but not limited to:
 - A list of all registered stewards, including their business addresses and contact information; the nature of each steward's designation under the WDTA (e.g. whether designated because the steward is a brand holder, a first importer, or other person); the type and amount of Blue Box materials supplied by the steward into the Ontario marketplace; and,
 - Other additional data and information requested by the Authority.
 - Data and information related to the SO Program that is in SO's custody or control shall not be for sale.
- A proposal for identifying confidential or personal data and information and indicating how such data and information will be supplied in confidence when transferring it to the Authority, which will assist the Authority in determining its treatment of such data and information based on applicable law and policies.
- Demonstration and documentation that any party currently having access to SO data and information only retain data that is equivalent to the information that will be shared through a fair, open and transparent process
- The procedures that SO is putting in place to ensure there is no real, potential or apparent conflict of interest in respect of the plan's development, contents or implementation. Without limiting the scope of these procedures, the plan should address:
 - Any real, potential or apparent conflict of interest in respect to SO's relationship with the Canadian Stewardship Services Alliance (CSSA)

- Any necessary steps to ensure that the CSSA does not receive preferential treatment over other potential market participants in respect of Blue Box resource recovery markets that may be created under the RRCEA.
- A description of changes to the SO Program that are anticipated to be necessary to implement the plan.

I am further directing that the plan include the following:

- A detailed report of SO's communications with affected parties and the public during the development of the plan.
- A detailed proposal for a communications plan for all affected parties and the public during the implementation of the plan, if approved, including:
 - The process by which SO will provide information to the affected parties and the public on a regular basis.
 - A description of the key steps that will be taken related to the plan and show how affected parties and the public will be affected by the transition.
- A detailed report of how SO has met the consultation requirements of subsection 14(13) of the WDTA during the development of the plan, including:
 - A list of the stewards, municipalities, Indigenous peoples, service providers and other affected parties that were consulted during the development of the plan.
 - A summary of comments received by SO from affected parties.
 - A report of how the comments were considered by SO in the development of the plan.

Attachment 2 to PW 2019-44
October 23, 2019

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs

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August 15, 2019

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

Dear Ms. Gies:

The Blue Box program has been providing Ontarians with a convenient option for collecting and recycling paper products and packaging for many years. In recent years, it has become apparent that the growing challenges in delivering and funding the program must be addressed. After hearing from many interested parties, I believe the time has come to modernize and improve Ontario's Blue Box services by transitioning from the existing program that provides industry funding to reimburse a portion of municipalities' costs to a full producer responsibility model where industry will have control of both funding and operations. The transition to producer responsibility will ensure Ontarians' experience and access to existing Blue Box services will not be negatively impacted and that there are province-wide services available, including for Northern, rural and Indigenous communities.

As a necessary complementary step to transitioning to a producer responsibility model, I have issued direction to Stewardship Ontario (SO), pursuant to Section 14 of the Waste Diversion Transition Act, 2016 (WDTA), to develop a plan in respect of the funding program for blue box materials under the WDTA (the SO Program) and for SO itself.

This direction will begin the process by which Ontario will implement a modern, producer-operated system that will provide consistent province-wide recovery of Blue Box materials under the Resource Recovery and Circular Economy Act, 2016 (RRCEA), and ensure there is no disruption to Blue Box services.

Pursuant to Section 29 of the RRCEA, I am issuing policy direction to the Resource Productivity and Recovery Authority (the Authority) with respect to its duties relating to the SO Program under the WDTA.

This policy direction is complementary to my direction letter dated August 15, 2019 to SO issued pursuant to Section 14 of the WDTA to develop a plan in respect of the SO Program and SO.

I am directing the Authority, further to its duties under the WDTA related to its oversight of the SO Program and SO; determine the amount of money required by SO to carry out its responsibilities related to the SO Program under the WDTA; and monitor the effectiveness of SO while the plan is being implemented. To undertake these duties, the Authority should conduct the following activities.

- Ensure that real, potential or apparent conflict of interest concerns have been addressed prior to and during the development of the plan.
- Review the 2020-2025 program budgets for the SO Program jointly with SO to:
 - Develop an approach to ensure sufficient funds are available in relation to the plan.
 - Review SO's proposal to apportion assets, liabilities, rights and obligations among stewards of paper products and packaging and ensure the apportionment is fair and equitable.
- Administer the Datacall, calculate the annual steward obligation, and allocate steward funding to municipalities and First Nation communities including through the administration of the Continuous Improvement Fund in such a way that reflects the following expectations and conditions:
 - While allowing for natural growth of Blue Box services to new residential development or redevelopment, municipalities shall not reduce or expand existing level of Blue Box services that are eligible for funding under the program.
 - The funding for municipalities and First Nation communities to participate in the SO Program shall end over a three-year period between January 1, 2023 and December 31, 2025.
 - SO's role in transferring payments to a municipality or First Nation community under the SO Program shall end on the date that obligated producers have assumed full responsibility for the collection and management of blue box materials from that municipality or First Nation community.
 - The plan shall recognize, and be responsive to, the fact that a future regulation under the RRCEA shall set the criteria and process by which municipalities and First Nation communities will transfer to full producer responsibility.
 - The calculation of the funds due to be paid to each municipality and First Nation community under the SO Program shall be proportional to the number of months in a calendar year in which the municipality or First Nation community remains under the SO Program.
 - The Continuous Improvement Fund shall receive no additional contributions and shall end as soon as practical prior to December 31, 2025.

To facilitate such activities, it is expected that the Authority will obtain quarterly reports from SO within four weeks of the end of each remaining quarter in 2019-2025 regarding SO' revenues and expenditures in order for the Authority to oversee SO's development of the plan and, if approved by the Authority, the implementation of the plan.

When reviewing the plan, the Authority shall assess whether it is consistent with the direction letter issued to SO and its compliance with the WDTA and its regulations.

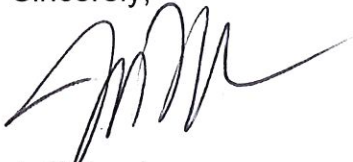
I also expect that the Authority will consult with representatives of municipalities, Indigenous peoples, stewards and other affected parties when assessing SO's proposed plan, as required by subsection 14(14) of the WDTA.

It is my expectation that the Authority shall approve the plan for the SO Program and SO no later than December 31, 2020.

I trust the Authority will engage with SO on an ongoing basis to ensure management of SO's affairs in accordance with the WDTA and its regulations, having regard to the plan for the SO Program and SO.

Lastly, the Authority shall make publicly available on the Authority's website my direction letter to SO as well as this policy direction letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Yurek', with a long, sweeping horizontal stroke extending to the right.

Jeff Yurek
Minister

c: Mr. Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks
Mr. John Coyne, Chair, Stewardship Ontario

