

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON NOVEMBER 17, 2020
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER
SUBJECT:	COMMENTS ON ENVIRONMENTAL REGISTRY OF ONTARIO (ERO): PROPOSED BLUE BOX REGULATION

RECOMMENDATION

That, on the recommendation of the Managing Director of Environmental & Engineering Services & City Engineer, the comments in this report **BE ENDORSED** and submitted to the Ministry of the Environment, Conservation, and Parks Environmental Registry of Ontario posting (019-2579) titled *A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Blue Box programs*. The due date for comments is December 3, 2020.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Response to the Association of Municipalities of Ontario (AMO) Regarding Transition of Recycling (May 26, 2020 meeting of Civic Works Committee (CWC), Item #2.4)
- Operation of the City's Materials Recovery Facility: Next Steps in the Transition to Industry Responsibility for Recycling Services (April 15, 2020 meeting of CWC, Item #2.8)
- Award of Contract (Request for Proposals 19-02) – Recycling Collection (City-wide) and Garbage and Yard Waste Collection in a Portion of London (August 12, 2019 meeting of CWC, Item #2.4)
- Current and Proposed Actions for Reducing and Managing Plastics in the Residential Sector and the Role for the Hefty® EnergyBag® Pilot Project (July 23, 2019 meeting of the CWC, Item #2.5)
- Additional Short-Term Contract Amendment for Recycling Services (May 14, 2019 meeting of CWC, Item #2.9)
- Comments on Environmental Registry of Ontario (ERO): Reducing Litter and Waste in our Communities: Discussion Paper (April 16, 2019 meeting of CWC, Item #2.14)
- Comments on Environmental Registry of Ontario (ERO): a Made-in-Ontario Environment Plan (January 8, 2019 meeting of the CWC, Item #2.5)
- 60% Waste Diversion Action Plan (July 17, 2018 meeting of the CWC, Item #3.1)
- Request for Comments on the Draft Amended Blue Box Programs Plan (Prepared by Stewardship Ontario) (January 9, 2018 meeting of the CWC, Item #9)

COUNCIL'S 2019-2023 STRATEGIC PLAN

Municipal Council has recognized the importance of solid waste management in its 2019-2023 Strategic Plan for the City of London as follows:

Building a Sustainable City

London has a strong and healthy environment (Increase waste reduction, diversion and resource recovery)

Growing our Economy

London is a leader in Ontario for attracting new jobs and investments (Increase partnerships that promote collaboration, innovation and investment)

Leading in Public Service

Londoners experience exceptional and valued customer service (Increase community and resident satisfaction of their service experience with the City)

BACKGROUND

PURPOSE

The purpose of this report is to provide Committee and Council with:

- A summary of the Ontario Ministry of the Environment, Conservation, and Parks (MECP) draft regulation titled, *A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Blue Box programs*; and
- The City of London's comments to be submitted to the Environmental Registry of Ontario (ERO).

CONTEXT

Recent Action by City Staff and Municipal Council

City staff and Municipal Council have been very active over the years with respect to moving recycling to a model known as "extended producer responsibility" (with variations on the model title such as producer responsibility or individual producer responsibility).

The most recent action by Municipal Council was on June 2, 2020 when Council passed the following motion:

That on the recommendation of the Managing Director, Environmental & Engineering Services and City Engineer, the following actions **BE TAKEN** with respect to a request by the Association of Municipalities of Ontario (AMO) for details on recycling transition:

- a) The Mayor **BE AUTHORIZED** to advise the Ontario Ministry of the Environment, Conservation and Parks (MECP) and the Association of Municipalities of Ontario (AMO) that the Corporation of the City of London would like to:
 - i. transition the collection of recyclables to full producer responsibility on January 1, 2023, and;
 - ii. examine opportunities of working with producers (industry) during the transition period (e.g., fee for services basis for recycling such as administration, education and awareness, contract management, monitoring and compliance);

It being noted that the Mayor has previously been authorized to advise MECP and AMO that the transition of processing and marketing of recyclables to full producer responsibility could occur on January 1, 2023.

- b) Staff **BE DIRECTED** to undertake the following actions as part of the transition process:

- i. continue to take an active role in the development of the regulatory environment and implementation plans of the transition process through the Municipal 3Rs Collaborative (M3RCs) which is comprised of the AMO, Regional Public Works Commissioners of Ontario, Municipal Waste Association and the City of Toronto;
- ii. ensure that producers (industry) are aware that an existing competitively awarded contract to collect recyclables is currently in place in London, and that opportunities to use the existing contractor (Miller Waste Systems) with mutually agreeable transition contract terms should be considered from January 1, 2023 to December 21, 2025, it being noted that this would further benefit London taxpayers as early contract termination fees could be reduced;
- iii. ensure that the producers' plan to transition residents, Municipal Elected Officials and City staff to the new system is accountable and transparent and also includes separate contingency plans developed by the City, and;
- iv. ensure that producers are aware that opportunities to increase waste diversion, maximize resource recovery and optimize recycling system operations can be examined through the London Waste to Resources Innovation Centre and its business and academic collaborators for the benefit of all in Ontario and elsewhere.

Draft Regulation – Proposed Blue Box Regulation

On October 19, 2020 the MECP released a draft regulation under the *Resource Productivity and Circular Economy Act, 2016* (RRCEA) that would make producers both operationally and financially responsible for the management of Blue Box materials (e.g., paper, packaging and certain single-use items). The Province has posted the regulation on the ERO for a 45-day consultation period and is expected to pass the regulation by the end of the year, or early in 2021.

This regulatory change has been advocated for by municipal governments, including the City of London, for over a decade with major consultations occurring over the last two years to discuss how a smooth transition of municipally-operated Blue Box programs could occur. MECP has emphasized the need for a seamless transition for householders.

Currently, Ontario municipalities with a population of at least 5,000 are required to provide a Blue Box management system and producers of Blue Box materials are required to compensate municipalities for roughly 50% of the costs. There is agreement amongst all stakeholders that the current Blue Box system is not working. Recycling rates have broadly stagnated or declined and costs are steadily increasing.

Municipal governments have no ability to respond to today's realities including the rapidly changing composition of Blue Box materials, the necessary investments in collection and processing infrastructure, nor the ability to influence end markets. Making producers fully responsible for managing the Blue Box materials that they supply into Ontario fundamentally changes this structure.

Producers are best positioned to reduce waste, increase the resources that are recovered and reincorporated into the economy and enable a consistent province-wide system that makes recycling easier and more accessible. That is why there has been broad support to transition the Blue Box program to the RRCEA.

The draft regulation was informed by a report released by Mr. David Lindsay, who was appointed as a Special Advisor on Recycling and Plastic Waste. Mr. Lindsay helped mediate stakeholder consultations over the summer of 2019 and provided advice on the transition of the Blue Box program to full producer responsibility. His recommendations included:

- Transitioning all Blue Box programs between 2023 and 2025;
- Ensuring there is a seamless transition for residents;
- Standardizing Blue Box materials;
- Setting material specific targets; and
- Providing collection wherever it was provided by municipalities prior to transition.

City of London staff were directly involved in the consultation (mediation) process.

The draft regulation is largely seen to be in keeping with these recommendations and the advice provided by municipal governments. It is also in keeping with other jurisdictions such as British Columbia that have implemented a similar regulation.

DISCUSSION

City staff are grateful for the work undertaken and shared by the Association of Municipalities of Ontario (AMO), Regional Public Works Commissioners of Ontario (RPWCO), Municipal Waste Association (MWA) and the City of Toronto acting as one entity called the Municipal 3Rs Collaborative (M3RCs).

City staff are active members of M3RCs via RPWCO including being co-chair of the RPWCO Waste Subcommittee. City staff also participate with MWA. London Municipal Council has a representative on the AMO Board of Directors.

City staff are also very involved with the Ontario Waste Management Association (OWMA) and our grateful for the work undertaken and shared on behalf of the membership which represents over 60 municipalities and 190 companies and organizations in the private sectors that manage 85% of Ontario's waste streams.

Summary comments on the draft regulation are addressed in four main areas:

- A. General comments
- B. Items of strong agreement
- C. Items that could be improved and/or areas of concern
- D. Potential impact and benefits on businesses in London and in Ontario

A. General Comments

1. This has been a long process including a few previous attempts at shifting to greater producer responsibility for the products and packages its produces. The Province should be commended for carrying through on this process during these unprecedented times and producing a draft Blue Box regulation in 2020.
2. It also need to be recognized that the development of the draft regulation was informed by ongoing and frequent input from municipalities, the resource and waste management sector, the businesses that produce packaging and paper products (often through their associations), and businesses that use packaging and paper products as part of retail activities.
3. The draft Blue Box regulation proposes to move the Blue Box program from a shared financial responsibility between municipalities and industry to 100% industry funded. It shifts responsibility for recycling services from 100% municipal to 100% industry, and takes positive steps towards strengthening the recycling system to increase environmental and economic benefits in Ontario.
4. As noted, in London, this potential direction has been strongly supported by Municipal Council for many years.

5. The proposed Blue Box regulation will save London taxpayers money. It shifts the cost to producers of packaging and products. How the new costs are handled by industry is yet to be determined. It must be recognized that some or all costs may be passed onto consumers of these packages and products. However, it will be up to industry to find efficiencies to contain costs and ultimately determined the best approach to reduce, reuse or recycle. The role of recovery has also been strengthened and represents both current and future opportunities as the science and empirical data are produced. These opportunities can occur during future review periods (e.g., assessment of environmental outcomes, results of life cycle analyses, etc.).

B. Items of strong agreement

Staff view of the draft regulation is it is as an important step towards a number of positive expected outcomes for London and are in strong agreement or agreement with most of the details and clauses presented in the draft regulation.

6. The transition schedule indicates that London will transition some time in 2023 which is the first year of the three-year transition period, resulting in positive outcomes for London at the earliest possible time. Municipalities with agreements for processing services at London's Material Recovery Facility (MRF) including Aylmer, Bayham, Central Elgin, Dutton-Dunwhich, Malahide, Southwold, St. Thomas, Thames Centre and West Elgin are also scheduled to transition in 2023, extending further benefits to the region.
7. A net estimated annual savings of between \$3.5 and up to \$4 million per year for London once fully implemented in 2026. Based on final negotiation with industry and Miller Waste Systems, increased funds and/or a reduction in cost to London may occur much sooner.
8. Expanded Blue Box services to areas that may not currently be serviced by the City (e.g., parks, playgrounds, outdoor areas, and streetscapes in Business Improvement Areas), by 2026.
9. An expanded and standardized list of Blue Box materials collected and managed across the Province, likely increasing the number of items that Londoners can recycle either at the curb or through a depot system such as the City's EnviroDepot.
10. Enforceable targets which producers must meet. The targets specified in the draft regulation indicate a substantial improvement over current rates. This has the potential to increase London's recycling rates and overall diversion rate. This was identified as an important action in the City's 60% Waste Diversion Action Plan.
11. The regulation is not expected to impact small businesses. Businesses with less than \$2 million in sales annually would be exempt.

C. Items that could be improved and/or areas of concern

There are a number of areas in the draft regulation, summarized below, that indicate potential areas of concern or that could be improved:

12. Changes to London's collection schedule - it is expected that London will change the waste collection schedule with the introduction of a Green Bin program. The increase from 42 to 52 recycling pickups per year will increase the cost of this service. Under the regulation, increased costs due to program changes implemented after January 1, 2020 may be ineligible. City staff will be seeking clarity on this.

13. The role of urban recycling depots – the current policy intent though the regulation is that where municipalities have curbside collection of Blue Box including multi-residential service, producers would be required to provide the curbside service but not provide any additional depot collection for Blue Box items. For years, Londoners have been able to bring Blue Box recyclables to the City’s EnviroDepots. Additional details will be sought on the rationale and intentions as this appears to be inconsistent with a seamless transition.
14. Compostable materials - compostable products and packaging are exempt from collection and targets until it can be determined how they can be best managed and diverted from landfill. There is a concern that exempting compostables will be an incentive for companies to move products and packaging to compostable material to avoid costs. There is also a concern that compostable materials need to be more clearly defined in the regulation to exclude paper-based products and packaging (e.g., pizza boxes, coffee cups) that can be recycled.
15. Targets - the regulation allows producers to reduce their recycling targets through incorporating recycled content from Ontario Blue Box materials into their products. As many products already include recycled content (e.g., glass, cardboard, aluminum), this provision could increase risks with little benefit.
16. Changes to service – beginning in 2026 (following the transition period) service changes may include the type of curbside container used (e.g., a curbside cart instead of a Blue Box), and how materials are sorted (e.g., single stream instead of two-stream). This is a lesser area of concern, but it may require a new way of recycling for Londoners, which may be more difficult for some residents.
17. Increased costs to consumers – producers may charge consumers a resource recovery fee to offset their increased costs.

D. Potential impact and benefits on businesses in London and in Ontario

18. As noted above, the regulation is not expected to impact small businesses in London. Businesses with less than \$2 million in sales annually would be exempt (e.g., local convenience store owners in London).
19. Businesses are taxpayers in London and across Ontario; therefore a decrease in the use of municipal taxes for recycling benefits all taxpayers including local businesses in London.
20. There will be a financial impact on businesses that produce packages and products that are currently in the Blue Box system now or to be added in the future. The remaining 50% of current recycling program costs will be shifted away from taxpayers in London to industry. It is not known at this time (or may never be known) how industry:
 - will handle the increased costs;
 - how much can be absorbed by the business;
 - how much can be addressed through process efficiencies; and/or
 - how much will be passed onto consumers of the products and contents of packages.

SUMMARY

On October 19, 2023, the Province released a draft regulation for Blue Box recycling that drives home 3 key items:

- It moves the Blue Box program from a shared financial responsibility between municipalities and industry to 100% industry funded;

- It shifts responsibility for recycling services from 100% municipality to 100% industry; and
- It strengthens the recycling system to increase environmental and economic benefits in Ontario.

In London, this potential direction (e.g., extended producer responsibility) has been strongly supported by Municipal Council for many years.

The proposed Blue Box regulation will:

- Save London taxpayers money. Transitioning the costs of the program away from municipal taxpayers by making the producers of products and packaging fully responsible for costs will mean savings in London of between \$1 million and eventually up to \$4 million per year (by 2026). The actual amount will be determined by industry and how the transition process unfolds (e.g., what happens with existing contracts); and
- Be phased in over 3 years starting in 2023. London and many municipalities around London have been identified to transition some time during 2023 (Aylmer, Bayham, Central Elgin, Dutton-Dunwhich, Malahide, Southwold, St. Thomas, Thames Centre and West Elgin).

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