

Report to Civic Works Committee

To: Chair and Members
Civic Works Committee

From: Kelly Scherr, P.Eng., MBA, FEC
Deputy City Manager, Environment & Infrastructure

Subject: Updates: Blue Box Transition and Next Steps

Date: January 10, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Environment & Infrastructure, this report **BE RECEIVED** for information.

Executive Summary

On June 3, 2021, the Province of Ontario adopted Ontario Regulation 391/21: Blue Box, which stipulated the transition timeline and schedule, designated materials, eligible and non-eligible sources, management targets, and detailed the transition of the Blue Box Program to producers. Subsequently, this Regulation was amended with Ontario Regulation 349/22: Blue Box on April 14, 2022. The transition to Extended Producer Responsibility (EPR) will occur in two phases in Ontario:

- The transition phase: July 1, 2023 - December 31, 2025; and
- The post-transition phase: January 1, 2026 onwards.

Blue Box transition from the existing shared responsibility model into a producer-led responsibility model, often referred to as 'full' or 'extended producer responsibility' will begin in London and area starting July 1, 2023 along with several other areas of Ontario.

City staff and Municipal Council have been very active over the years with respect to moving Blue Box recycling to EPR. The most recent action by Municipal Council was passed on July 5, 2022. To be able to negotiate with PROs on behalf of Municipal Council, the Deputy City Manager, Environment & Infrastructure was delegated authority to respond to requests for proposals, negotiate and enter into new or amending City of London agreements necessary to ensure the City's ability to continue recycling operations from July 1, 2023 to December 31, 2025 and post-transition phase (2026 and beyond).

The table below highlights key dates and major activities to complete the transition work. From a public perspective, there will be no change to service delivery starting July 1, 2023. Subject to final discussions and negotiations, changes could occur in the fall that coincide with the implementation of Green Bin and move to bi-weekly garbage pickup.

2023 – Key Dates	Major Activity
January 10	Update Report to CWC
January to May	Complete discussions and negotiations
April 12	Possible Update Report to CWC, if necessary
May/June	Report to CWC/Approval from Council
July 1	New arrangements in place

The implementation of the Blue Box transition will eventually save London taxpayers money. Preliminary estimates suggest that between \$500,000 and eventually more than \$4 million per year in 2026 will be saved. The actual amount will be determined in the negotiations with industry (e.g., what happens with existing contracts, how will costs be paid, how will non-eligible materials be handled, etc.).

Linkage to the Corporate Strategic Plan

Municipal Council continues to recognize the importance of waste management and the need for a more sustainable and resilient city in the development of its 2019-2023 Strategic Plan for the City of London. Specifically, London's efforts in waste management address the three following areas of focus: Building a Sustainable City; Growing our Economy; and Leading in Public Service.

On April 23, 2019, the following was approved by Municipal Council with respect to climate change:

Therefore, a climate emergency be declared by the City of London for the purposes of naming, framing, and deepening our commitment to protecting our economy, our eco systems, and our community from climate change.

On April 12, 2022, Municipal Council approved the Climate Emergency Action Plan which includes Area of Focus 5, Transforming Consumption and Waste as Part of the Circular Economy.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

Relevant reports that can be found at www.london.ca under Council meetings include:

- Updates: Blue Box Transition and Next Steps (June 21, 2022 meeting of Civic Works Committee (CWC), Item #2.4)
- Comments on Environmental Registry of Ontario (ERO): Proposed Blue Box Regulation (November 17, 2020 meeting of CWC, Item #2.1)
- Contract for the Operation of the City's Materials Recovery Facility – Single Source (July 14, 2020 meeting of CWC, Item #2.3)
- Response to the Association of Municipalities of Ontario (AMO) Regarding Transition of Recycling (May 26, 2020 meeting of 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)

1.2 Background

The *Resource Recovery and Circular Economy Act, 2016* and the *Waste Diversion Transition Act, 2016*, authorize the transition of the financial and operational responsibility for managing designated packaging, paper and packaging-like products from municipalities to the producers of such products and packaging. This transition changes the existing shared responsibility model for the Blue Box Program into a producer-led responsibility model, often referred to as 'full' or 'extended producer responsibility'.

On June 3, 2021, the Province of Ontario adopted Ontario Regulation 391/21: Blue Box, which stipulated the transition timeline and schedule, designated materials, eligible and non-eligible sources, management targets, and detailed the transition of the Blue Box Program to producers. Subsequently, this Regulation was amended with Ontario Regulation 349/22: Blue Box on April 14, 2022.

Transition Phase and Post-Transition Phase

As a municipality transitions its Blue Box Program, the majority of financial and operational responsibility for the end-of-life management of their eligible paper, packaging, and packaging-like materials (e.g., aluminum foil, paper bag, beverage cup, etc.) designated materials will transition to producers. Currently, producers pay approximately 50 per cent of the cost of London's recycling system. In the future this amount will be over 90 per cent of the costs of the existing system.

The transition to EPR will occur in two phases:

- The transition phase: July 1, 2023 - December 31, 2025; and
- The post-transition phase: January 1, 2026 onwards.

City of London and neighbouring municipalities transition on July 1, 2023. During the transition phase, approximately 30 per cent of Ontario municipalities will transition in each of the three transition years. The Regulation states that current municipal Blue Box Programs and service levels must be maintained throughout the transition phase. Program changes are only permitted once producers have complete control over all programs across Ontario and the province-wide system is operational in the post-transition phase (starting January 1, 2026).

Producer Responsibility Organizations

Obligated producers of designated packaging, paper and packaging-like products can retain the services of a Producer Responsibility Organization (PRO) to discharge their obligations under the Regulation, including collection, processing, promotion and education, and achieving management targets. PROs will decide how to meet their regulatory obligations by either tendering or negotiating for service provision with municipalities or private firms. To be recognized as a producer service organization, a PRO must represent at least one producer and be registered with the Resource Productivity and Recovery Authority (RPPRA). The following three PROs are currently registered with RPPRA; Canadian Beverage Container Recycling Association (CBCRA), Circular Materials Ontario (CMO) and Ryse Solutions Ontario Inc.

CMO, due to the number of producers within its membership, is also the PRO responsible for establishing the common collection system for Ontario (e.g., sets the rules and requirements for implementing the common collection system including the choices of how municipalities may or may not be involved).

1.3 Summary of Current Municipal Council Direction

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 July 5, 2022 (Appendix A) and summarized as follows:

- The Deputy City Manager, Environment & Infrastructure, is authorized to respond to requests for proposals, negotiate and enter into any new service agreements or amending existing service agreements with any PRO registered with the RPPRA;
- The Deputy City Manager, Environment & Infrastructure and/or designate is directed to enter into discussions with the PRO responsible for London and area and/or their designate, on their potential interest in using any of the City's recycling related infrastructure and assets in particular the City-owned Material Recovery Facility (MRF); and
- Civic Administration directed to report back at a future CWC with the outcome of negotiations and any executed contract(s) and on the next steps for City's Blue Box related infrastructure and assets in particular the City-owned MRF.

Prior to the above, the previous action by Municipal Council was on June 2, 2020 (Appendix A) and summarized as follows:

- 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);
- 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 Association of Municipalities of Ontario (AMO), Regional Public Works Commissioners of Ontario (RPWCO), Municipal Waste Association (MWA) and the City of Toronto;
- 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; and
- 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.

1.4 Current City Staff Involvement

City staff continue to be grateful for the work undertaken and shared by the AMO, RPWCO, MWA and the City of Toronto acting as one entity called the 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 continue to be 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.

Staff continue to be active members of the Continuous Improvement Fund (CIF) and M3RCs Transition Working Group and several of its five (5) subcommittees, including: Contracts & Fair Compensation, Change Management & Communications, Data Monitoring & Reporting and Post Collection (processing). With municipal representation from across the province, the Working Group and subcommittees have provided a very useful platform for information-sharing and the creation of transition supports, such as promotion and education materials, potential terms and conditions for commercial agreements, field studies and aggregated data analysis and reports.

The City of Ottawa and the City of Toronto are also transitioning their Blue Box Programs to producers on July 1, 2023. Including the City of London these represent the three largest municipalities in the first transition group. A working group between these three cities is being used to share information, lessons learned, and to determine areas of alignment.

1.5 Recent Interactions with Producer Responsibility Organizations (PROs)

City staff have submitted information, responded to questions and/or held discussions directly or indirectly with PROs to provide an overview of London's Blue Box (generally curbside collection) and Blue Cart Program (generally multi-residential, high-rise buildings) to educate them on program elements and the relationship with other services (e.g., multi-materials drop off depots known as EnviroDepots).

City staff have expressed the desire to discuss the City of London being a potential service administrator for some or all aspects of the Blue Box and Blue Cart Program

during the transition years, subject to terms and conditions that can be mutually agreed upon. In addition, the role of the City-owned Material Recovery Facility (MRF) located on Manning Drive will be an important part of the discussions and negotiations.

Given the time constraints of transitioning London's Blue Box and Blue Cart Program by July 1, 2023, PROs may have challenges in procuring services and have enough or access to assets to service a city the size of London along with a number of neighbouring municipalities. London is well positioned to help a PRO during the transition period as it has been providing these services for 30 years.

CMO posted agreements for transitioning municipalities on its website in September 2022. These consisted of a Master Service Agreement, Statements of Work and a Pricing Explanatory note. Adjustments and clarifications to these documents occurred in the Fall. CMO also posted requests for proposals for Receiving Facilities (for recyclables to be consolidated) and Processing Facilities (for recyclables to be prepared for markets).

2.0 Discussion and Considerations

2.1 City of London's Role During the Transition Phase and Current Status

While producers are required to maintain all existing Blue Box service levels currently being provided to eligible sources throughout the transition phase, producers have complete autonomy to determine which service provider will manage the designated materials on their behalf, including contracting with a municipality and/or a private waste management firm. Municipalities do not have the option to choose which PRO or PROs will take over management responsibilities for delivering Blue Box recycling services to eligible sources. CMO is the PRO that is undertaking negotiations in London and area.

To ensure a smooth transition and limit impacts to residents at the curb, City staff are in discussions with CMO and Miller Waste Systems for the continued provision of all Blue Box management activities and services on their behalf, where logistically and financially appropriate, during the transition phase and post transition phases.

Miller Waste Systems was recently awarded Receiving Facility status for London's MRF by CMO for approximately 35,000 tonnes of recyclable material that are currently processed. The term of the agreement is for up to 15 years. This means that this City-owned asset will be part of the future recycling system serving London and others in southwestern Ontario. Based on this decision by CMO, the role of London's MRF as a processing facility is a logical next step subject to appropriate terms and conditions. One key goal is to ensure that London's MRF does not become a stranded asset and that the use of the asset is maximized, if possible.

2.2 Preparing to Negotiate Blue Box Related Contract(s)

During commercial negotiations with CMO, City staff anticipate negotiating a contract(s) that encompasses several services, including:

- Uninterrupted curbside collection from existing single-family households and multi-residential buildings currently served by the City (services under contract plus bulk bin cardboard collection by the City). This includes:
 - Opt-in whereby the City of London would sign an agreement with CMO to administer a recycling contract delivered by Miller Waste Systems (the City's current contractor), or
 - Opt-out whereby the City of London would not sign an agreement with CMO, the current recycling contract would be terminated (subject to conditions) and CMO would secure collection services (delivered by Miller Waste Systems);
- The shift from 42 recycling pickups per year to weekly (52 recycling pickups per year) Blue Box curbside service. It is important to note that this may be viewed as a service enhancement and may not be eligible for re-imbursment in the transition

period (July 1, 2023 to December 31, 2025). If CMO does not agree to pay some or all of these additional service costs, the City would be required to do so. Starting January 1, 2026 all costs would be covered by CMO;

- Residential units above commercial locations that are currently served through public space bins (e.g., downtown London);
- Public and parks space collection (i.e., both eligible and non-eligible sources);
- Non-eligible sources such as small businesses, places of worship, shelters, etc. currently collected on designated residential recycling routes. These locations will not be paid by CMO;
- Customer service through Service London, depending on the decision of CMO;
- Promotion and education (e.g., posters, information guides, direct mail, advertising, integration of messaging into waste diversion and other outreach programs, etc.);
- City-owned curbside Blue Boxes; and
- Use of the MRF including possible different arrangements such as leasing, sale of asset, etc. This item is a complex undertaking that will be driven by CMO requirements through a combination of procurement practices and service requirements to meet producer's needs today (transition) and post transition. Miller Waste Systems wishes to be engaged in these discussions and negotiations.

Staff have been gathering contractual and in-house service data to support negotiations with CMO. Information gathered includes but is not limited to the current Blue Box contract details, financial impacts, staff impacts, service level details, budget implications, information and technology impacts, integration with and/or impact to other service areas, and terms and conditions.

2.3 Management of Recyclables from Non-Eligible Sources

Both during transition and after transition there are locations that producers are not responsible for with respect to the management of recyclables. These non-eligible sources include municipal facilities such as community centres, libraries, arenas, and civic centres, non-residential locations such as shelters and places of worship, and industrial, commercial and institutional establishments.

The City services approximately 600 to 700 non-eligible customers comprised of small businesses on designated residential recycling routes, City facilities, place of worship, shelters, charities. As these locations are not designated in the Regulation, the City will not receive financial compensation for the continued provision of recycling collection services to these non-eligible sources.

The management of these materials will be discussed during negotiations with PROs to determine whether the economies of scale can be leveraged as part of any negotiations.

2.4 Timeframe

The table below highlights key dates and major activities to complete the Blue Box transition work. From a public perspective, there will be no change to service delivery starting July 1, 2023. Subject to final discussions and negotiations, changes could occur in the fall that coincide with the implementation of Green Bin and move to bi-weekly, same day garbage pickup.

2023 – Key Dates	Major Activity
January 10	Update Report to CWC
January to May	Complete discussions and negotiations
April 12	Possible Update Report to CWC, if necessary
May/June	Report to CWC/Approval from Council
July 1	New arrangements in place

3.0 Financial Impact/Considerations

The implementation of the Blue Box transition will eventually save London taxpayers money. Transitioning the costs and operating responsibility of the recycling program away from municipal taxpayers by making the producers of products and packaging responsible for costs will mean savings. Preliminary estimates suggest that between \$500,000 and eventually more than \$4 million per year (in 2026) will be saved.

The actual amount will be determined in the negotiations with industry and how the transition process unfolds (e.g., what happens with existing contracts, how will costs be paid, what conditions will be part of future agreements, how inflations will be handled, etc.). The July 1, 2023 start date means that additional payments from industry in 2023 will be about half of a normal year. These details will be provided in a future CWC report later in 2023.

Conclusion

Based on past reporting to CWC, discussion and direction from Municipal Council, City staff are prepared for the next steps in the Blue Box transition process as per the *Resource Recovery and Circular Economy Act, 2016*, the *Waste Diversion Transition Act, 2016* and Ontario Regulations 391/21: Blue Box and 349/22: Blue Box which stipulates the transition timeline and schedule, designated materials, eligible and non-eligible sources, management targets, and the detailed the transition of the Blue Box Program to producers.

The City of London will transition in the first group of municipalities starting July 1, 2023. In the next year, a number of discussions and negotiations will occur with the PRO or PROs serving London and area to ensure that it is a smooth transition for the residents of London.

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APPENDIX A

Recent Municipal Council Direction with Respect to Transitioning the Blue Box (Blue Cart) Program

Council direction July 5, 2022

- a) the proposed by-law attached as Appendix “A” being “A by-law to authorize the Deputy City Manager, Environment & Infrastructure to respond to requests for proposals, negotiate and enter into any new service agreements or amending existing City of London service agreements with any Producer Responsibility Organization(s) (“PRO”) registered with the Resource Productivity Recovery Authority, and/or their designate”, **BE INTRODUCED** at the Municipal Council meeting to be held on July 5, 2022.
- b) Civic Administration **BE DIRECTED** to report back at a future Civic Works Committee with the outcome of negotiations and any executed contract(s) that occur with registered Producer Responsibility Organizations and/or their designate pursuant to a) above;
- c) the Deputy City Manager, Environment & Infrastructure and/or designate **BE DIRECTED** to enter into discussions with the Producer Responsibility Organization responsible for London and area and/or their designate, on their potential interest in using any of the City of London’s recycling related infrastructure and assets in particular the City-owned Material Recovery Facility during the transition phase (July 1, 2023 to December 31, 2025) and post-transition phase (2026 and beyond) for operational efficiency purposes, economic opportunities, job creation opportunities, and how costs associated with existing capital and new capital investment would be paid, leased and/or shared; and
- d) Civic Administration **BE DIRECTED** to report back at a future Civic Works Committee with the next steps for City of London’s Blue Box related infrastructure and assets in particular the City-owned Material Recovery pursuant to c) above.

Council direction June 2, 2022

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.