




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	November 16, 2020
SUBJECT/REPORT NO:	Waste Free Ontario Act - Proposed Regulation to Amend the Blue Box Program (PW20073) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Raffaella Morello (905) 546-2424 Ext. 3926
SUBMITTED BY:	Craig Murdoch Director, Environmental Services Public Works Department
SIGNATURE:	

RECOMMENDATION

That the comments in Appendix "A" attached to Report PW20073 be forwarded to the Ontario Ministry of the Environment, Conservation and Parks (MECP) in response to Ontario's Environmental and Regulatory Registries (ERO #019-2579) posting respecting the proposed Regulation to make producers responsible for operating Ontario's Blue Box Program.

EXECUTIVE SUMMARY

This report provides an overview on the Ontario Government's, "Proposed Regulation and proposed regulatory amendments to Ontario Regulation 101/94 to make producers responsible for operating Ontario's Blue Box program" ("Regulation"). The proposed Blue Box Program regulation will transition the responsibility of the Blue Box Program from municipalities to a producer responsibility framework model which will make producers fully responsible for the cost and operation of the residential Blue Box Program across Ontario by the end of 2025.

The proposed Regulation was posted on the Ontario's Environmental and Regulatory Registries (ERO #019-2579) on October 19, 2020 for review and public comment. Staff provided Public Works Committee with a verbal update of the proposed Regulation at

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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their October 19, 2020 meeting. Following this meeting, staff confirmed they would bring forward a report recommending that Council approve the comments in Appendix “A” attached to Report PW20073. Public feedback on these regulations is due to the MECP by December 3, 2020.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The proposed Regulation includes the Blue Box Transition Schedule which identifies that the City’s transition is scheduled to take place in 2025 which is later than the City’s preferred transition date of April 1, 2023 as recommended and approved in Report PW20028.

Transitioning the Blue Box Program in 2025 will require the City to continue its financial responsibilities for operating and capital expenses to maintain the City’s Blue Box Program. As seen in Table 1 the City’s estimated annual recycling program costs increase annually by CPI. The City will be responsible for a portion of the program costs in 2025 until the Blue Box Program is transitioned to the producer responsibility system. If the City transitions in 2023 rather than 2025, the estimated net savings to the residents of the City could be approximately \$27M depending on when, within a particular year, the transition took place.

Table 1. Blue Box Program Costs for Hamilton in 2023, 2024 and 2025 (cost in \$ millions)

	2023	2024	2025
Gross estimated Blue Box Program cost	21.472	21.959	22.459
Estimated revenues	(2.000)	(2.000)	(2.000)
Anticipated RPRA funding	(6.059)	(6.470)	(6.535)
Net estimated cost to City of Hamilton	13.413	13.489	13.924

The cost estimates outlined here assume that the Resource Productivity and Recovery Authority (RPRA) continue to fund municipal recycling programs at 50% until the time of transition. To date, the MECP has not indicated if this will be the case.

Staffing: There are no staffing implications associated with the recommendation in this report.

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Legal: There are no legal implications associated with the recommendation in this report.

HISTORICAL BACKGROUND

The Waste Free Ontario Act (WFOA) 2016 provides direction to move the Blue Box Program to a full producer responsibility model. Under a full producer responsibility program, producers would pay the full cost of municipal Blue Box programs instead of approximately 50% that is currently paid by producers in the form of financial grants provided to municipalities. This system would also require producers to be responsible for all aspects of the Blue Box Program including collection, processing, customer service, promotional information, and meeting waste diversion targets.

On August 15, 2019, the Ministry of the Environment, Conservation and Parks (MECP) announced Blue Box services would transition to producers in phases over a three-year period between January 1, 2023 to December 31, 2025. As part of this announcement, the MECP directed Stewardship Ontario and the RPRA to begin the transition of the Blue Box Recycling Program from municipalities to producers and begin the wind-up of the current Blue Box Program. The RPRA is required to approve the Blue Box Transition Plan by December 31, 2020.

To assist with the development of the Blue Box transition schedule, the Association of Municipalities Ontario (AMO) asked municipal Councils to pass a Council resolution by June 30, 2020 to identify their preferred transition date, rationale, and if they were interested in providing recycling services under contract with producers. AMO advised municipalities the preferred transition dates could be subject to change based on the Province's plan to ensure an orderly and seamless transition. On May 27, 2020 Hamilton City Council approved the City's preferred transition date as April 1, 2023 as outlined in Report PW20028 in response to the AMO's request.

On October 19, 2020, Minister Jeff Yurek (MECP) announced the release of the proposed Regulation which will transition the responsibility of the Blue Box Program from municipalities to the producer responsibility framework model. The proposed regulation makes producers responsible for providing collection services to local communities, manage blue box materials, and establishes targets to increase diversion rates.

Staff have prepared comments for Council's approval to be forwarded to the Ontario Ministry of the Environment, Conservation and Parks (MECP) in response to the Ontario's Environmental and Regulatory Registries (ERO #019-2579) posting which are due to the MECP by December 3, 2020. The comments are found in Appendix "A" attached to Report PW20073. A copy of the City of Hamilton's comments will also be shared with AMO for their information.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City currently has legislated responsibility under Ontario Regulation 101/94 (Section 7. (1)) of the Environmental Protection Act to establish, operate and maintain a blue box waste management system.

The provision of recycling services supports the City's Solid Waste Management Master Plan guiding principles:

- 1) The City of Hamilton must maintain responsibility for the residual wastes generated within its boundaries.
- 2) The Glanbrook Landfill is a valuable resource. The City of Hamilton must minimize residual waste and optimize the use of the City's diversion and disposal facilities.
- 3) The City of Hamilton must lead and encourage the changes necessary to adopt the principles of waste minimization.

RELEVANT CONSULTATION

The recommendation in this report was prepared in consultation with staff from the Public Works Department, Environmental Services Division, Waste Collection Section and Recycling and Waste Disposal Section.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The information and recommendation in this report have City wide implications related to the City's recycling program. The transition of the Blue Box Program will have a significant impact on the City's overall program including recycling collection and the operation of the City-owned Material Recycling Facility (MRF).

The focus of the proposed Regulation is to adopt a producer responsibility model which can reduce waste, improve recycling opportunities, and drive better economic and environmental outcomes. The proposed Regulation is guided by the following objectives:

- Producers to be responsible to pay for the recycling of products and packaging that they produce;
- Standardization of the materials accepted in the Blue Box Program across Ontario;
- Maintaining or improving Blue Box collection services;
- Improving diversion rates and increasing what materials can be recycled, and;
- Reducing litter and waste in communities and public spaces.

There are several important elements in the draft Regulation which describes the future operating requirements for the Blue Box Program. The main areas include the following:

- Designating materials - expanding the range of Blue Box materials collected and managed to include recyclable packaging, single-use packaging-like products and single-use food and beverage service products;
- Defining responsible producers - a methodology will be established to identify the producers who will have responsibilities under the Regulation;
- Common collection system - producers would be required to collect a consistent set of materials in the Blue Box Program across the province;
- Collection requirements - the Blue Box Program will service permanent and seasonal dwellings, multi-unit residential buildings, schools, retirement homes, long-term care homes and some public spaces. The proposed Regulation defines the requirements for collection frequency and provision of recycling containers;
- Management requirements - producers will be responsible for meeting diversion targets based on the materials they supply into the Ontario marketplace;
- First Nations - the proposed regulation would require producers to provide the same services to eligible First Nation communities similarly to eligible municipalities and other territories;
- Promotion and education - producers will be responsible for promotion and education requirements to educate consumers about Blue Box services, and;
- Registration and reporting - producers, service providers and other applicable persons will be required to register, maintain records, and provide audited data to the RPRA.

The MECP is also seeking public input on several additional items which could be incorporated into the regulation in the future, e.g. dispute resolution, provision of financial assurance, etc. The release of the final regulation is anticipated in early 2021.

Blue Box Program Transition Schedule

The provincial government developed a phased timeline for the producers to become responsible for the Blue Box Program over a three-year period between January 1, 2023 to December 31, 2025. The proposed Regulation includes the Blue Box Transition Schedule which identifies the transition timing for municipalities. The proposed Regulation indicates that the City's transition is scheduled to take place in 2025 which is later than the City's preferred transition date of April 1, 2023.

The City is concerned with this later transition date as when Council endorsed the City's preferred transition date for Report PW20028, it was after analysis and careful consideration of both pros and cons to transitioning in 2023, 2024 or 2025. The significant financial savings of approximately \$27M, achieved by transitioning in April

2023, made it the obvious recommendation for the transition date for Hamilton. By transitioning later than the City's preferred date, the City will now continue to have legislated and financial responsibility for providing recycling services until the City's Blue Box Program is fully transitioned to the new producer responsibility model in 2025. As seen in the Financial Implications section above, transitioning the Blue Box Program in 2025 will perpetuate a significant budget expenditure on the City. Also, the City will be responsible for a portion of the program costs in 2025 until the Blue Box Program is transitioned to the producer responsibility system at an undetermined time throughout the year.

The comments found in Appendix "A" attached to Report PW20073 requests that the MECP change the transition date for the City of Hamilton to be 2023 rather than 2025. If this request is not accepted and the City must retain the transition year of 2025, then the City requests that the MECP provide 100% funding for the Blue Box Program from 2023 to the transition date in 2025. This can be accomplished by either taking the savings from municipalities that transition earlier and distribute it equitably across the province to municipalities with delayed transition or by Producers taking full responsibility in the form of 100% RPRA funding.

Operational Implications for City Services

The transition of the Blue Box Program will have a significant impact on the City's overall waste management system including recycling collection and the operation of the City-owned MRF. Staff reviewed the draft Regulation in consideration of potential impacts to the City's waste management services, which include:

- Service continuity - It is essential that the future Blue Box Program service level is equal or exceeds existing service standards, i.e. collection frequency, type of recycling receptacles used, and collection method provided;
- Eligible Properties - The City of Hamilton provides recycling collection for properties which are not included in the proposed Regulation such as mixed use buildings with commercial units and residential units. These non-residential sources are not included in the producer responsibility system.
- Designated materials - The proposed Regulation includes a broad range of materials which historically have not been accepted in most municipal Blue Box programs in Ontario, which is a concern if there are no sustainable end-markets which can accept these products;
- Promotion and education – Ongoing Blue Box Program information provided by the producers after December 31, 2026 should include information on how to prepare materials for set out, directions for how materials should be sorted, and how to contact the recycling collection service provider with questions, service issues and complaint resolution;

- Stranded Assets - Existing municipal recycling assets, such as MRFs, recycling receptacles, etc, may or may not be utilized by producers as part of the new Blue Box Program which places pressure on municipalities to deal with stranded assets; and
- Stranded Contracts – Existing contracts will need to be terminated depending on the timing of the transition. Early termination clauses have been included in the contracts for the collection and processing of recyclables, however a better outcome for the City would be for the Producers to take over the contracts i.e. Curbside Collection.

Additional information and City comments on these impacts are outlined in Appendix “A” attached to Report PW20073.

Staff will continue to follow-up on the WFOA’s progress and will work with municipal groups, industry associations and other stakeholders to provide the Province with comprehensive comments on the draft Regulation and associated regulations and policies. Additional information will be provided to Council as more details become known.

Public Consultation

The draft Regulation is available through the Environmental and Regulatory Registries (ERO #019-2579) for public comment from October 19, 2020 to December 3, 2020. Staff is participating in webinars and meetings hosted by the RPRA and other municipal associations to provide stakeholder feedback for the draft Regulation.

Subject to Council’s input and comments, staff is planning to submit the comments in Appendix “A” attached to Report PW20073 on the City’s behalf to the MECP prior to the ERO submission deadline of December 3, 2020.

ALTERNATIVES FOR CONSIDERATION

Council could decide to request amendments or not approve the comments in part or in its entirety found in Appendix “A” attached to Report PW20073 and direct staff to revise the comments.

Financial: There are no financial implications associated with this alternative.

Staffing: There are no staffing implications associated with this alternative.

Legal: There are no legal implications associated with this alternative.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW20073 – City of Hamilton Comments on the Environmental and Regulatory Registries (ERO #019-2579)