

BLUE BOX REGULATION PRIMER

AN OVERVIEW OF THE PRODUCER RESPONSIBILITY MODEL IN THE ONTARIO BLUE BOX PROGRAM

The purpose of this report is to explain recent developments of the provincial Blue Box program and to highlight potential concerns that may specifically impact municipalities.

BACKGROUND

Ontario is in the midst of a fundamental transition of its waste diversion programs. The existing framework, which provides industry funding to reimburse a portion of municipalities' Blue Box costs, will move to a full producer responsibility model where industry will be wholly responsible for the cost and operations of designated diversion programs.

This change affects existing programs that deal with Blue Box materials, tires, electronics and hazardous waste. These programs are, already, in varying stages of transition. The tire program was the first to transition. The Province announced transition plans for the Blue Box program in its news release dated August 15, 2019 and it was formally launched when the Blue Box Regulation was introduced on June 3, 2021.

A detailed description of the recent and historical changes to the Blue Box program is provided in Appendix A, as well as a glossary of relevant stakeholders.

The following discussion outlines potential areas that may be impacted by this change.





RESPONSIBILITY FOR THE BLUE BOX PROGRAM WILL SHIFT FROM MUNICIPALITIES TO PRODUCERS

Under the existing Blue Box Program Plan, municipalities with a population over 5,000 are required to provide Blue Box services and producers of printed paper and packaging are obligated to co-fund up to 50 per cent of the program. They are obligated to register with, and are represented through, an organization called Stewardship Ontario. Under this system municipalities have the autonomy to decide how their individual programs operate.

After the program transitions, producers will determine how the Blue Box program operates in Ontario and be responsible for the cost to the extent that the regulation require. Much like the tire stewardship program, which has already transitioned, municipalities will no longer be obligated to provide collection and processing services. It is expected, however, that municipalities will be approached by producers to continue to provide services under contract to the producers. Instead of receiving funding, participating municipalities, would be paid a set fee to provide the required services.

Under the new regulation, producers are expected to have the autonomy to re-design and make changes to the Blue Box program to ensure they can meet their regulatory obligations. The Province has clearly stated that the transition must not negatively impact recycling services, but the specifics of this goal will be determined by the interpretation of the regulation, as it is implemented in the coming months. It is anticipated that there will be changes, as producers work to create a common system across the province.

PRODUCERS MAY ORGANIZE UNDER MULTIPLE PROS TO DELIVER BLUE BOX SERVICES

Producers are the brand owners, first importers or franchisors of printed paper and packaging. They are currently represented by Stewardship Ontario, which is a Producer Responsibility Organization (PRO). After the Blue Box program transitions, producers will no longer be required to organize under a single umbrella organization. Each producer will be responsible for meeting their own obligations, under what is termed as Individual Producer Responsibility.

Producers may choose, however, to organize under one or multiple PROs. For example, under the tire program there are five PROs that compete to represent tire producers in the province. At this time, four PROs have registered to represent the producers. Circular Materials is the dominant PRO representing the majority of the producers while Ryse Solutions and Resource Recovery Alliance represent fewer producers. The Canadian Beverage Container Recycling Association is a very focused group of producers that have created an alliance with Circular Materials to work together.

The PROs, or individual producers, will be responsible for delivering Blue Box services across Ontario in a way that meets the requirements of the new regulation. Under the regulation, it is expected that they will have the right to determine aspects of the Blue Box program, such as who provides collection service, the containers that are used, the frequency in which they are collected, the materials that are accepted, and where the materials are sent for processing, unless otherwise prescribed in the regulation.



CIRCULAR
MATERIALS

rySE
SOLUTIONS



**Resource
Recovery
Alliance**

The logo for the Resource Recovery Alliance consists of a black circle containing a white six-pointed star, with a curved arrow pointing clockwise around the star.

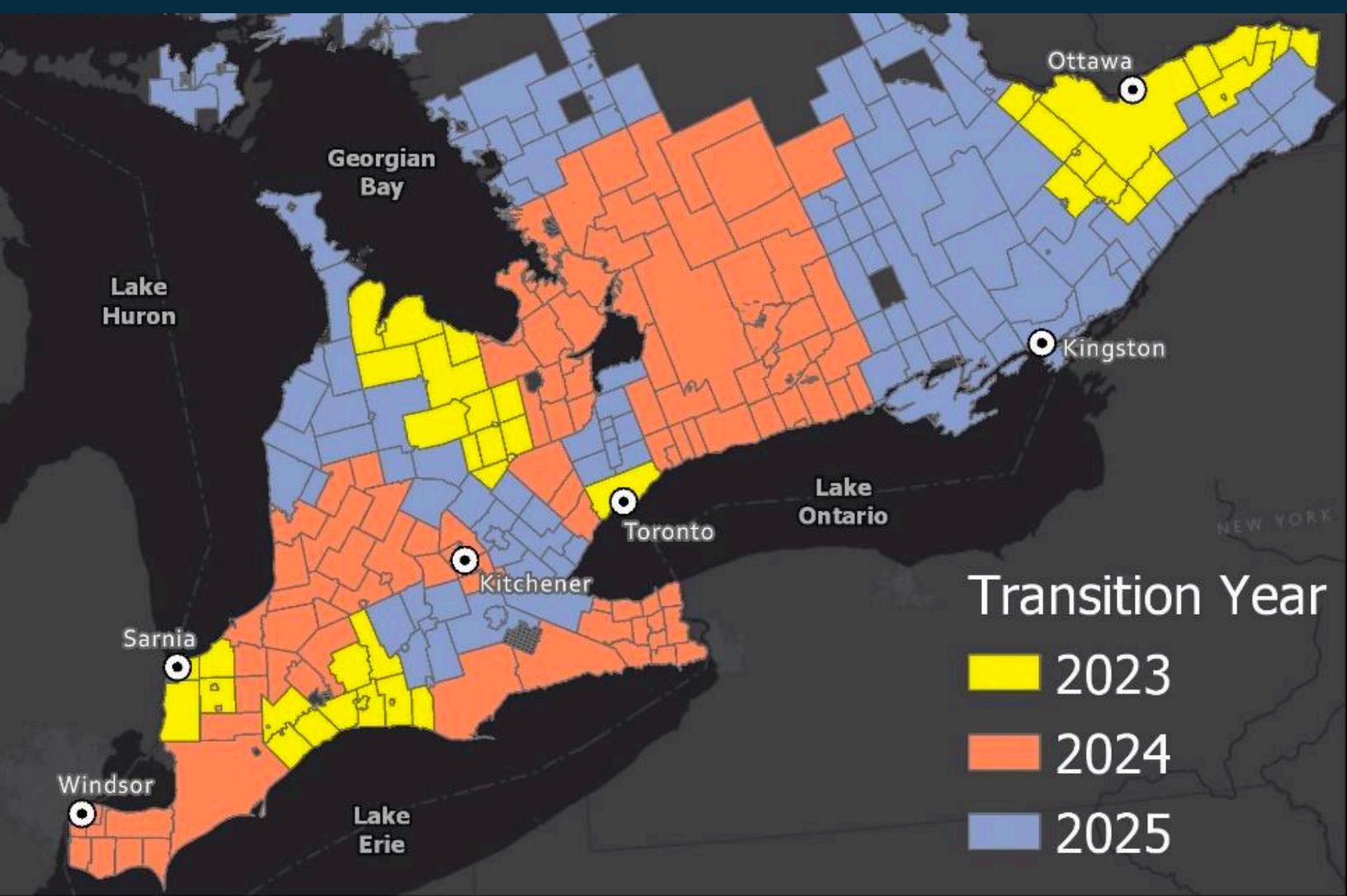
cbcra
Canadian Beverage Container
Recycling Association

TRANSITION IS PLANNED TO OCCUR BETWEEN 2023 AND 2025

The timeline announced by the Province in the new Blue Box regulation on June 3, 2021 indicates that the producers and municipalities have two years to prepare before responsibility of the program will transfer from municipalities to producers between July 1, 2023 and December 31, 2025.

Within this time period, the transfer of responsibility will happen in phases, with approximately one-third of total Blue Box tonnage being transitioned each transition year (i.e., 2023 to 2025 inclusive). Municipalities had the opportunity to identify their preferred transition year, but there are many other factors that were considered. Municipalities could be selected based on clusters of geographic proximity, cost-effectiveness or operational logistics, readiness for transition (e.g., expiry of contracts or ability to end contracts early), or other factors. All Bluewater Recycling Association members were given their preferred date of April 1, 2024 to transition.

TRANSITION SCHEDULE BY MUNICIPAL BOUNDARY



THIS CHANGE IN RESPONSIBILITY IS EXPECTED TO INCREASE DIVERSION

Over the last two decades, the mix of printed paper and packaging that goes into the Blue Box has evolved. The economics of Blue Box recycling are more challenging than ever before, and as a result, Ontario's recycling rates have stalled while costs continue to escalate. Producer responsibility is based on the idea that the companies that design, create and market products and packaging are in the best position to reduce waste or increase resources that can be recovered from their products.

THE FULL IMPACT TO MUNICIPALITIES WILL BE REVEALED AS REGULATION IS IMPLEMENTED

There are many ways this transition could impact municipalities, and the full effect will not be known until much later in the transition process. The following section outlines aspects of municipal Blue Box services that may be impacted.

SERVICE LEVEL

The Province has been clear that transitioning the Blue Box to full producer responsibility must not negatively impact the recycling services the people of Ontario use every day. However, the implementation of regulation in the coming months will determine how much autonomy producers will take to achieve a common, cost effective system. The producers have the right to determine what the collection system looks like to meet their regulatory requirements post-transition but they must maintain the current service levels until the end of the transition period set for December 31, 2025. Given the current supply chain issues, we expect no changes in service levels until 2026. The producers are not obligated to maintain the level of service currently offered post transition.

MUNICIPAL ASSETS

The producers are not obligated to contract with municipalities for collection or processing services. Municipalities (the Association) will have the opportunity to bid fairly on the provision of services in a competitive bid process. This approach could result in offers from PROs below actual operating costs that could result in municipalities accepting less than desired in order to continue to be the provider of Blue Box services to maintain other integrated services or risk having stranded or redundant assets.

CONTRACTS

The timing of existing contracts for collection or processing of Blue Box materials may not align with the date a municipality will transition their services. Early termination or extension of existing contracts may be required to accommodate the transition timeline. If contracts are coupled with garbage or other collection services, they may need to be separated in time for transition. All co-collection contracts with the Association will be reviewed when we understand the role of the Association as a possible service provider to the PROs since waste and recycling in most member municipalities are integrated services. Note that if services are separated, the separate cost is almost guaranteed to be higher than the current co-collection (integrated system) cost. Another issue to consider is that Producers are not obligated to provide recycling service on the same day as waste collection service.

ACCESS TO OTHER METHODS OF COLLECTION

The new regulation maintains Blue Box collection as an essential part of the system, but also allow producers the flexibility to collect some packaging through other methods. Other means of collection, such as regional depots or return-to-retailer, could be possible for some materials in the future and could impact service levels and have other impacts on local communities



| INSTITUTIONAL | COMMERCIAL | INDUSTRIAL |
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| Municipal Buildings Community Centres Arenas Libraries Police Stations Fire Halls Hospitals Banquet Halls Funeral Homes Post Offices Museums Airports | Office Buildings Small Retailers Big Box Retailers Restaurants Taverns Fuel Station Auto Dealerships Banks Hotel/Motel Private Campgrounds Golf Courses Marinas | Saw Mills Grain Elevators Heavy Manufacturing Cement/Asphalt Plants Foundries Breweries Abattoirs Food Processing Plants Cold Storage Facilities Warehousing Truck Terminals Water Treatment Plants |

INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BLUE BOX MATERIAL SOURCES

Many municipalities provide Blue Box services to municipal buildings and local businesses. Most of these industrial, commercial and institutional (IC&I) sources will not be part of the producer operated Blue Box system. Municipalities already providing these services may need to make alternative arrangements for the provision of recycling services to these customers if an agreement to service these ineligible sources is not reached with the PROs.

The Association intends to continue to service these ineligible sources. As long as we are the service provider, servicing them should not be an issue. It is expected that current services will continue beyond the April 1, 2024 transition date until the end of 2025. At that time, when PRO's have full control of the blue box system and they are subject to new requirements, there is a potential for changes. It should be noted that the Provincial government has made its intentions clear that it expects to introduce new regulations to address the poor recycling performance from the IC&I sector. As such, by 2026 any concerns related to these ineligible sources may be a moot point.

LOCAL JOBS

The producers have no obligation to contract with municipalities to provide Blue Box related services. In other jurisdictions where producer responsibility has been implemented, producers opted to hire municipalities to provide collection services, but not transfer or processing services. Should a similar approach be taken in Ontario, localized job losses could occur.

COMMUNICATING CHANGES

When transition occurs, there will be a need to effectively communicate the changes to residents. There may be a spike in resident inquiries in the weeks directly preceding and following transition if a different service provider is contracted. The Association will ensure that adequate staff and resources are available to ensure the transition is successful.

LANDFILL CAPACITY

It is expected that producers will make every effort to ensure the success of the new program. If, however, their efforts result in a program that is less convenient or accessible, there is concern that recyclables will end up in the municipal garbage stream, increasing costs and taking up valuable landfill capacity. Ensuring the new regulation includes an effective enforcement system that monitors actual waste disposal impacts across the province will be important to protecting the well being of small, rural communities.

FINANCIAL CONSIDERATIONS

The financial implications of transitioning the existing Blue Box program to a new full producer responsibility model are not yet known. The regulation determines the level of service producers are required to provide. If a municipality chooses to provide additional services, they may not be compensated for doing so. Municipalities are encouraged to review the regulation to ensure service levels in their communities are not compromised irrespective of who is providing them.

NEXT STEPS

In the coming months, the implementation of the regulation will determine many details of the transition to a producer responsibility framework. The Bluewater Recycling Association will keep council informed as the regulation is implemented or as new information becomes available.

APPENDIX A: THE ONTARIO BLUE BOX PROGRAM TIMELINE

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| 1981 | The world's first curbside recycling program debuted in Kitchener, Ontario. |
| 1994 | Ontario Regulation 101/94 under the Environmental Protection Act set out requirements for municipalities with a population of at least 5,000 to establish and operate curbside Blue Box programs. |
| 2002 | The Waste Diversion Act (WDA) formalized financial support by requiring producers of printed paper and packaging managed by the Blue Box program to fund up to 50% of municipal net operating costs. Waste Diversion Ontario (WDO) was established as a non-crown corporation to develop, implement and operate waste diversion programs, including Blue Box. Stewardship Ontario (SO), was created as an industry organization to represent producers and to develop the Blue Box Program Plan. |
| 2003-2017 | Changes in packaging of consumer goods, including the use of less glass, lighter plastics and more difficult to recycle plastics, as well as a decrease in newspapers distributed, has impacted the Blue Box program. According to a report from the Special Advisor on Recycling and Plastic Waste, adjusting for inflation, the average cost of recycling a tonne of Blue Box materials increased by 50 percent from 2003 to 2017. |
| 2016 | The Waste-Free Ontario Act is passed and repeals the former WDA and enacted the Resource Recovery and Circular Economy Act (RRCEA) and the Waste Diversion Transition Act (WDTA). The RRCEA introduces a framework where producers are given full responsibility for the management of post-consumer waste from their packaging. Under this act, the WDO is replaced by a new organization, Resource Productivity and Recovery Authority (the Authority). The legislation also affects existing diversion programs for tires, electronics and hazardous waste, all of which are at varying degrees of transition and allows for the creation of new programs. |
| 2017 | The Minister of the Environment and Climate Change directed the Authority and SO to jointly develop a proposal for an amended Blue Box Program Plan (a-BBPP). A draft was developed and two phases of consultations were completed. A final proposal was never submitted to the ministry. |

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| 2019 | <p>In June, the Province appointed a Special Advisor on Recycling and Plastic Waste, David Lindsay, to provide advice on how to improve recycling through the Blue Box Program and better manage plastic pollution. Mr. Lindsay facilitated meetings between representatives of the municipal and producer sector to provide input. In July, the report was released, titled "Renewing the Blue Box: Final Report on the blue box mediation process".</p> |
| | <p>In August, the Ministry announced that it provided SO direction to begin planning to transition Ontario's Blue Box Program to full producer responsibility.</p> |
| 2020 | <p>Stewardship Ontario is to submit a plan to the Authority by June 30, 2020. It is expected that the Authority will approve the plan by December 31, 2020.</p> |
| 2021 | <p>On June 3, the Minister introduced the Ontario Regulation 391/21 which outlines how the Blue Box program will move to 100% individual producer responsibility.</p> <p>By September 30, municipalities need to file their initial report with the Authority if they wish to be part of the transition. The Bluewater Recycling Association submitted the report for all its member municipalities on time.</p> |
| 2022 | <p>March, the Producer Responsibility Organizations (PROs) fail to reach an agreement on the setting of rules to manage the common collection system and they severally ask for Minister intervention.</p> <p>The Minister appoints a mediator, David Lindsay, to mediate a solution. The mediation results in recommendations for amendments to the Blue Box regulation.</p> |
| | <p>On April 1, Processors of Blue Box Materials need to register with the Authority</p> <p>On April 14, the Minister approves amendments under Ontario Regulation 349/22 to the Blue Box regulation to satisfy the requests from the PROs without any public consultation. The amendments were made to clarify the process for creating the province-wide system for collecting Blue Box materials that will be operated by producer responsibility organizations (or PROs) on behalf of producers.</p> |
| | <p>Below is a summary of the amendments to the Blue Box Regulation:</p> <ul style="list-style-type: none"> • Each producer is responsible for providing Blue Box collection to every eligible source in Ontario. • Rule creators and the rule creation process, including the allocation table, have been removed. |

- PROs that, either on their own or with another PRO, represent producers that supply more than 66% of Blue Box material tonnage are required to submit a report on how they will operate the Blue Box system. The report must be submitted to RPRA by July 1, 2022.

- Newspaper producers whose newspaper supply accounts for at least 70% of their total Blue Box supply are exempt from collection, management, and promotion and education requirements. Newspapers, however, are still an obligated material under the regulation and will continue to be collected in the Blue Box system.

By August 31, municipalities need to submit their transition report to the Authority so that planning can begin for the transition. The Bluewater Recycling Association will be submitting the report for all its member municipalities on time.

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| 2023-2025 | The first communities will be transitioned beginning July 1, 2023, with the entire province operating under the new framework by December 31, 2025. |
| 2024 | On April 1, all members of the Bluewater Recycling Association will transition to the Producer Responsibility model. |
| 2026 | On January 1, the Producers will be responsible for all Blue Box Programs in Ontario. A common list of materials must be collected from all Ontarians. Recycling collection services requirements must mirror waste collection service pertaining to being offered curbside or through depot. The collection frequency requirement is biweekly. |

GLOSSARY

Ministry of Environment, Conservation and Parks (MECP) is the ministry responsible for administering all the relevant legislation, including the Waste Diversion Transition Act, and the Resource Recovery and Circular Economy Act.

Producer Responsibility means producers are responsible for managing and paying for the life cycle of their products and packaging. Producer responsibility is based on the idea that the companies that design, create and market products and packaging are in the best position to reduce waste or increase resources that can be recovered from their products.

Extended Producer Responsibility refers to expanding the portion of program costs that producers are required to fund.

Full Producer Responsibility refers to producers being responsible for both funding and operating.

Individual Producer Responsibility refers to producers having a choice in how they meet requirements. They can collect and recycling products and packaging themselves, or contract with producer responsibility organizations (PROs), to help them meet their requirements.

Resource Productivity and Recovery Authority (RPRA or the Authority) is a regulatory body that is playing a critical role in supporting the transition towards a circular economy and a waste-free Ontario. RPRA receives authority from the Waste Diversion Transition Act, 2016 (WDTA) to oversee the current waste diversion programs and their eventual wind up. RPRA also receives authority from the Resource Recovery and Circular Economy Act, 2016 (RRCEA) to enforce individual producer responsibility requirements for managing waste associated with products and packaging.

Stewardship Ontario (SO) is a Producer Responsibility Organization (PRO), funded and governed by the industries that are the brand owners, first importers or franchisors of the products and packaging materials managed under the Blue Box and Orange Drop program. SO collects fees from industry stewards, which help to pay for the costs of collecting, transporting, recycling and safely disposing of waste across the province. Stewardship Ontario operates under the authority in the Waste-Free Ontario Act, 2016 and is accountable to RPRA.

The Continuous Improvement Fund (CIF) is a partnership between the Association of Municipalities of Ontario (AMO), the City of Toronto, Stewardship Ontario (SO), and the Resource Productivity and Recovery Authority (RPRA). The CIF's mandate is to improve the effectiveness and efficiency of Ontario's municipal Blue Box program, through the provision of

funding, technical support and training to aid municipalities and program stakeholders in the identification and development of best practices and technological and market-based solutions.

Waste Diversion Ontario (WDO) was a non-crown corporation, established by the Waste Diversion Act in 2002, with a mandate to develop, implement and operate recyclable waste diversion programs by establishing industry funding organizations and overseeing the development and operation of waste diversion programs. It has now been replaced by the RPRA.

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