
REPORT TITLE: Transition of the Blue Box Program to Full Producer Responsibility – June 2020 Update: Preferred Transition Year

FROM: Andrew Farr, Interim Commissioner of Public Works

RECOMMENDATION

That October 1, 2024 be the Region of Peel’s provisionally preferred date to transition the blue box program from municipal control to producer control to coincide with the end of the Region’s blue box collection and processing contracts, as described in the report of the Interim Commissioner of Public Works, titled, “Transition of the Blue Box Program to Full Producer Responsibility – June 2020 Update: Preferred Transition Year”;

And further, that the Region express an interest in providing blue box collection services post transition on behalf of and under contract to producers, subject to negotiation of mutually agreeable terms;

And further, that subject to reaching an agreement with producers on business terms satisfactory to the Commissioner of Public Works and on legal terms satisfactory to the Regional Solicitor for the provision of blue box collection services from January 1, 2023 until at least September 30, 2024, the Region of Peel’s preferred transition be changed to January 1, 2023;

And further, that the Director of Waste Management be designated as the key contact for any follow-ups on this subject matter;

And further, that a copy of this resolution and the subject report be sent to the Association of Municipalities of Ontario and the Ministry of the Environment, Conservation and Parks.

REPORT HIGHLIGHTS

- The Ministry of the Environment, Conservation and Parks (the Ministry) is planning to transition municipal blue box programs to full producer responsibility over a three-year period between January 1, 2023 and December 31, 2025.
- The Ministry is part way through a series of stakeholder working group meetings to solicit feedback and input into the content of the proposed regulation. The Ministry has indicated that it will post a draft regulation in late summer 2020.
- The Region of Peel is an active participant in the stakeholder consultation process.
- To help inform the development of the blue box regulation’s transition mechanism, the Association of Municipalities of Ontario (AMO) has requested that municipalities indicate their Council-approved preferred date to transition the blue box program to full producer responsibility by June 30, 2020.

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- There is important information that is not yet known about the transition process, including the proposed wording of the regulation, and the process producers will utilize to select service providers.
 - Under a transitioned blue box program, producers will be responsible for the collection and processing of blue box material. Producers may (or may not) use municipalities to provide collection services on their behalf.
 - As producers are not likely to be interested in contracting with municipalities for Material Recovery Facility processing services, staff are developing a strategy for obtaining the best value for the Region’s Material Recovery Facility assets.
 - Based on the best available information, staff identified and reviewed three potential transition dates using financial, operations and risk criteria.
 - Staff recommend that the Region advise AMO that its preferred transition date is October 1, 2024 to coincide with the end of the Region’s current collection contracts.
 - If the Region can reach an agreement with producers to provide collection services on their behalf, Peel’s preferred transition date would change to January 1, 2023.
 - Staff will continue to actively participate in the Ministry’s consultation process and, if new information becomes available that leads to a different preferred transition date, staff will advise Council.
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DISCUSSION

1. Background

The Ministry of the Environment, Conservation and Parks (the Ministry) is in the midst of stakeholder engagement to help craft a new blue box regulation that will set out the details for the transition of responsibility of the blue box program from municipalities to producers.

The Ministry has indicated that it will post a draft blue box regulation in late summer 2020 for public comment and finalize the regulation by early 2021. Producers will then have until December 31, 2022 to prepare for transition. The actual transition of blue box program from municipal to producer control will occur over a three-year period between January 1, 2023 and December 31, 2025 with approximately one-third of municipal programs transitioning each year over this period. It is expected that the final regulation will detail when the Region will transition.

On December 18, 2019, the Association of Municipalities of Ontario (AMO) sent an email to all Mayors and Heads of Council titled “Call for Action to Pass a Resolution about Transition of the Blue Box to Full Producer Responsibility”. In the email, AMO asked municipalities to pass a non-binding resolution by June 30, 2020 that specifies the following:

1. Council’s preferred date to transition the blue box program based on existing service provision (between January 1, 2023 and December 31, 2025);
2. The rationale for the transition date;
3. Whether Council is interested in their municipality potentially continuing to provide services (e.g. collection or processing services) or not, and;
4. Key contacts if there are any follow up questions.

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Importantly, AMO noted in their email that the Region's stated preference may not be the final determination of the Region's transition date, nor is the Region obligated in any way by the date specified in the resolution. The Ministry indicated at its May 22, 2020 stakeholder working group meeting that its current thinking is municipalities' preferred transition dates will be one of the factors they consider in developing the transition schedule.

The Provincial timeline for the transition of the municipal blue box programs to full producer responsibility and the AMO request were discussed at the January 16, 2020 Waste Management Strategic Advisory Committee meeting. Regional Council endorsed the following criteria to assess potential transition dates (Resolution 2020-75):

- **Financial:** evaluate the revenue and expenditure implications of the various scenarios
- **Control Over Operational Decisions and Customer Service Levels:** evaluate the pros and cons that residents may experience from Peel having all, some or no control over service delivery
- **System Integration and Other Risks:** evaluate the major benefits and challenges stemming from the integration of the options with the Region's other waste services

Feedback from Committee members at the January 16, 2020 meeting was that, while the potential savings are important, the level and quality of service experienced by residents is equally important.

2. Peel's Integrated Waste Management System

Under a transitioned blue box program, producers will be responsible for the collection and processing of blue box material. Producers may (or may not) use municipalities to provide collection and/or processing services on their behalf.

In Peel, the collection of blue box material is currently integrated with the collection of green bin organics, garbage, bulky waste and yard waste. The Region's integrated waste collection system has evolved to provide a cost effective and efficient method of collecting waste. It provides an appropriate level of service that meets a standard set by the Region with respect to quality and customer service support.

Through the Province's discussions on the development of the blue box regulation in August 2019, led by Special Advisor David Lindsay, it was identified that municipalities would be allowed to participate in producer-initiated collection contracts. Through participation in producer funded collection, the efficiencies of an integrated waste management system can be realized even after producers take over responsibility for the blue box program.

The Region has the resources and means (e.g. facilities, customer service response capacity) to ensure a smooth, seamless transition for Peel residents at a time when there is significant change in how blue box programs across the province may be provided. If contracted by the producers, the Region could provide blue box collection on their behalf until the expiry of Peel's current collection contracts. Producer blue box collection obligations could also be incorporated into the Region's next waste collection contracts.

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If producers choose not to use the Region for blue box collection, these services will need to be removed from Peel's integrated collection system. The Region's delivery of blue box collection services can cease at the end of Peel's current collection contracts. However, ceasing these services prior to contract end dates would require amendments or possibly even early termination of Peel's current collection contracts.

Through the Province's discussions on the development of the blue box regulation in August 2019, led by Special Advisor David Lindsay, it was identified that producers are not interested in contracting with municipalities for Material Recovery Facility processing services. Instead they will likely contract directly with service providers.

Staff is therefore developing a strategy for obtaining the best value for the Region's Material Recovery Facility assets. As indicated at the January 16, 2020 Waste Management Strategic Advisory Committee meeting, staff will issue a Request for Expressions of Interest, followed by a Disposal of Goods process in accordance with the Region's Procurement By-law to lease or sell the Material Recovery Facility equipment/facility.

3. Contractual End Dates and Potential Transition Dates

The end dates for the current major blue box program contracts are as follows:

- The contracts for curbside collection have terms through to September 30, 2024 and include two one-year options to extend beyond September 2024.
- The contract for multi-residential collection (which also includes Business Improvement Areas, schools, municipal and Regional facilities) runs through to September 30, 2022 and includes three one-year options to extend beyond September 2022.
- The contract to process blue box material at Peel's Material Recovery Facility has a term to September 30, 2024 with no additional extension options. However, the Region has the option to terminate this contract for convenience any time prior to September 30, 2024.

Staff considered multiple potential transition dates and, after considering the above contractual end dates, narrowed it down to the following three logical options for more detailed evaluation; each of which has its benefits and risks:

- January 1, 2023, which is the earliest possible transition date. It represents the highest potential savings for the Region but comes with added uncertainty and risk.
- October 1, 2024, which coincides with the end of the Region's blue box collection and processing contracts. This is the simplest, safest, and least disruptive date for Peel to transition.
- October 1, 2025 is the latest practical transition date. Peel can exercise extension options in its current collection contracts to extend them to September 30, 2025, which is quite close to the end of the three-year transition period. This gives Peel another year of control over the collection system but comes at cost of forgoing a year's worth of potential savings.

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4. Fiscal Responsibility

The 2018 net cost of Peel's Blue Box Program (that is, the cost of operating the program less the revenue received for the sale of recovered commodities) was approximately \$30 million. Under current legislation, that cost is currently shared between the Region and producers on a roughly 50:50 basis. Once the program is transitioned, producers will be responsible for the full cost of the program meaning that Peel could realize up to \$15 million per year in net savings and avoided costs post-transition.

The actual savings and cost avoidances, especially during the transition phase, will depend on several factors. Key among them are,

- The final wording of the regulation
- Whether Peel provides collection service to producers
- Whether Peel must amend or terminate any of its current contracts

Unfortunately, answers to these questions are currently not available. However, earlier transition dates are expected to result in greater savings for Peel and assumptions can be to allow a preliminary review of the options.

5. Outstanding and Unknown Issues

Staff is participating in the Ministry's stakeholder consultation meetings along with representatives from municipalities, producers, and the waste management industry. The purpose of the meetings is for stakeholders to provide input into the development of the regulation that will set out the requirements for how producers must operate the blue box program during the three-year transition period and beyond. The Ministry has shared preliminary proposals for core policy positions and stakeholders provided feedback. Consensus has not been reached in several key areas, adding risk to selecting a preferred transition year at this time.

The Ministry has indicated that it will use the final two stakeholder meetings, on June 25 and July 6, 2020 to inform stakeholders of the core policy components it intends to include in the proposed regulation. Changes could still occur between then and the final regulation. A draft of the proposed regulation is expected to be released for public comment during late summer 2020. Release of the final regulation is anticipated in early 2021.

Staff will continue to participate in the stakeholder consultation process and provide feedback that reflects the Region's interests. Once the draft regulation is posted, staff will report back to Committee with recommended comments on the draft regulation and confirmation of Peel's preferred transition date. If commenting deadlines do not permit such reporting in advance of submitting comments, staff will submit comments by the deadline, subject to Council approval.

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6. Preferred Transition Date

As indicated, staff evaluated three options using the council-approved criteria to determine the Region’s preferred transition date. All financial figures are estimates and subject to further refinement upwards or downwards based on the final transition regulations.

Criteria	Option 1 – January 1, 2023	Option 2 – October 1, 2024	Option 3 – October 1, 2025
Financial	<ul style="list-style-type: none"> Peel could realize between \$5-\$25 million for the 21-month period from January 1, 2023 until October 1, 2024, then up to \$15 million per year in net savings and avoided costs. If Peel is retained by producers to provide collection services, Peel could utilize its current collection contractors to provide the service and could realize net savings in the upper end of this range. If Peel is not retained by producers to provide collection services Peel would have to amend or terminate its current collection contracts and, after allowing for potential termination costs, could realize net savings in the lower end of this range. 	<ul style="list-style-type: none"> Peel could realize up to \$15 million per year in net savings and avoided costs beginning October 1, 2024. 	<ul style="list-style-type: none"> Peel could realize up to \$15 million per year in net savings and avoided costs beginning October 1, 2025.
Control Over Operational Decisions and Customer Service Levels	<ul style="list-style-type: none"> If retained by producers, Peel would still have control over the service level and quality of collection services. If not retained by producers, Peel would not have control over the service level or quality of blue box collection services within Peel. 	<ul style="list-style-type: none"> Would ensure control over the service level and quality of collection service during the first 21 months of the transition period (i.e. until October 1, 2024), which is when stakeholders will all be learning the new system. 	<ul style="list-style-type: none"> This option extends the time that Peel would have control over collections until almost the end of the transition period (i.e. until October 1, 2025).

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Criteria	Option 1 – January 1, 2023	Option 2 – October 1, 2024	Option 3 – October 1, 2025
System Integration and Other Risks	<ul style="list-style-type: none"> • If retained by producers, Peel could utilize current collection contractors to provide the service; however, there is no guarantee that producers will utilize Peel to collect blue box materials. • If not retained by producers, Peel would have to amend or terminate current collection contracts 21 months early and possibly incur associated costs and/or operational disruptions. 	<ul style="list-style-type: none"> • Coincides with end of the collection and processing contracts. • Simplest and least disruptive time for Peel to transition. • Would not require amendments or termination of major contracts. 	<ul style="list-style-type: none"> • Peel can exercise extension options in collection contracts to September 30, 2025. Peel’s Material Recovery Facility processing contract ends in September 2024. A one-year extension would need to be negotiated.

Option 2 provides a balance between the three Council-approved evaluation criteria (financial savings, control over operational decisions and customer service levels, and system integration and other risks). It also represents the simplest and least disruptive time for Peel to transition.

Based on the above, staff recommends that the Region advise AMO:

- That, its preferred transition date is October 1, 2024;
- That, it is interested in providing blue box collection services post-transition on behalf of and under contract to producers, subject to negotiation of mutually agreeable terms;
- That, if the Region can reach an agreement with producers for the provision of blue box collection services from January 1, 2023 until at least September 30, 2024, that the Region’s preferred transition would change to January 1, 2023; and
- That, the Region’s Director of Waste Management be designated as the key contact for any follow up questions.

Staff further recommends that a copy of this report, be sent to AMO and the Ministry.

7. Next Steps

Staff will notify AMO and the Ministry of Peel’s preferred transition date and forward a copy of this report.

Staff will also continue to follow the transition process closely, remaining involved in discussions, advocating for the Region’s interests through the transition and will continue to keep Council apprised.

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RISK CONSIDERATIONS

The transition of the Blue Box Program may pose the following risks:

- The Region's preferred transition date and service delivery role under the new Blue Box Program may change as a result of the final wording of the blue box regulation or as a result of negotiations with producers and waste management services providers. To mitigate this risk, staff continues to have conversations with its existing service providers to further identify the impacts of various potential transition dates and service delivery roles in order to inform decision-making.
- The transition to full producer responsibility may not roll out according to the timelines proposed by the Ministry and Peel may not get to transition in on its preferred transition date. To mitigate this risk, staff is closely monitoring the development of the regulation to get the earliest possible indication of Peel's actual transition date and developing a strategy to amend the end dates of Peel's collection contracts, if needed.
- The single biggest unknown, and therefore a significant risk when deciding Peel's preferred transition date, is whether producers will retain Peel to provide blue box collection services on their behalf. Staff is mitigating this risk by preparing for either scenario and by advocating for the regulation to include provisions to add some certainty for municipalities.

FINANCIAL IMPLICATIONS

There are no direct and immediate financial implications associated with this report. Any financial implications arising from the transition to full producer responsibility will be communicated to Council through the transition process and will be reviewed as part of the annual budget process in the appropriate year. Although staff do expect savings as a result of the transition, the amount and timing of the savings will depend upon Peel's transition date and the Region's ability to negotiate favourable terms with its vendors and the producers.

For further information regarding this report, please contact Norman Lee, Director Waste Management, Ext. 4703, norman.lee@peelregion.ca.

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Reviewed and/or approved in workflow by:

Department Commissioner, Division Director, Financial Support Unit and Legal Services.

Final approval is by the Chief Administrative Officer.



N. Polsinelli, Interim Chief Administrative Officer