
**REPORT TITLE: Transition of the Blue Box Program to Full Producer Responsibility
– November 2020 Update: Comments on Draft Blue Box Regulation**

FROM: Andrew Farr, Interim Commissioner of Public Works

RECOMMENDATION

That the comments in response to the Ministry of the Environment, Conservation and Parks draft blue box regulation posting outlined in the report of the Interim Commissioner of Public Works “Transition of the Blue Box Program to Full Producer Responsibility – November 2020 Update: Comments on Draft Blue Box Regulation”, be endorsed.

REPORT HIGHLIGHTS

- On October 19, 2020, the Ministry of the Environment, Conservation and Parks (the Ministry) posted the draft blue box regulation, which sets out how the blue box program will be transitioned to full producer responsibility.
 - The Ministry is accepting comments on the draft regulation for a 45-day period, ending on December 3, 2020.
 - The recommended direction noted in this report will form the basis of the comments to be submitted to the Ministry.
 - Staff will prepare and submit comments to the Ministry that reflect the content of the recommended feedback and next steps sections of this report.
 - Staff will continue to participate in consultations related to the transition of the blue box program to full producer responsibility.
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DISCUSSION

1. Background

On October 19, 2020, the Ministry of the Environment, Conservation and Parks released the much-anticipated draft blue box regulation to govern the blue box program under the *Resource Recovery and Circular Economy Act, 2016*. The regulation will transition Ontario’s blue box recycling program to full producer responsibility.

The new regulation transitions both financial and operational responsibility to producers. It also aims to make each individual “producer” of printed paper and packaging directly and individually responsible for resource recovery of the printed paper and packaging they sell into the market in the province. Using this regulation, the province aims to hold individual producers accountable for the entire lifecycle of their products – an important step in the development and move toward a circular economy.

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There are several notable objectives in the draft regulation:

- make producers responsible for the collection and recycling of blue box materials
- expand the scope of blue box materials collected and managed
- maintain or improve existing blue box services, including the creation of one common blue box collection system across Ontario
- collect a consistent set of blue box materials across the province
- expand blue box services to communities outside the Far North, regardless of their population
- expand blue box services to additional sources, such as multi-unit residential buildings, schools, retirement homes, long-term care homes and some public spaces
- make producers responsible for meeting management requirements (e.g. diversion targets) for blue box materials.

The draft regulation is posted on the Environmental Registry of Ontario for 45 days for public feedback, ending December 3, 2020. The Ministry has expressed a desire to finalize the regulation by the end of 2020.

This report provides Regional Council with a high-level understanding of the policy framework proposed by the Ministry in the regulation, how it aligns with the Region's interests and staff's recommended feedback.

2. Draft Regulation Details and Recommended Feedback

The draft regulation sets out a number of requirements that producers will have to meet.

2.1. Transition Schedule

The draft regulation transitions existing blue box services to producer responsibility in three groups between 2023 and 2025 through a “Blue Box Transition Schedule” that identifies eligible communities and the year they are to transition (see Appendix I for the schedule). Producers would be responsible for transitioning communities on or before the dates contained in the schedule.

The Ministry developed the draft “Blue Box Transition Schedule” with a goal of balancing net program costs and materials managed over the three years. The Ministry also considered municipalities’ preferred transition dates and geographical location.

To promote economies of scale, the Ministry considered geographic continuity when assigning municipalities to a given year. The intent of the groupings is to enable producers to contract for geographic catchments to ensure cost-effective planning and delivery of blue box services over the three years (see Appendix I for a grouping map). The “Blue Box Transition Schedule” would be updated when the regulation is finalized to specify calendar dates for each transitioning program within a given year, with quarterly transition dates based on contract expiry.

In the preliminary transition schedule, the Region is assigned a transition year of 2024 which aligns with Peel’s preferred transition date of October 1, 2024 as endorsed by Regional Council on June 25, 2020 through Resolution 2020-471.

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Recommended Feedback

The Region supports the transition schedule and staff will continue to work with the Ministry to advocate that the exact date of transition matches Peel's preferred date of October 1, 2024. Staff will also advocate for a flexibility provision to be built in the regulation that would allow Peel to transition earlier should the opportunity arise.

2.2. Designated Materials

The draft regulation designates blue box materials under the *Resource Recovery and Circular Economy Act, 2016*, which would include a number of materials that residents purchase as part of their daily life. Producers would be responsible for collecting and managing items made from paper, metal, glass, plastic, or any combination of these materials, including:

- packaging
- printed paper
- non-alcoholic beverage containers
- unprinted paper (NEW)
- single-use packaging-like products (e.g. foils, wraps, trays, boxes, bags) (NEW)
- single-use items (e.g. straws, cutlery, plates, stir sticks) (NEW)

Producers of compostable materials would be obligated to register and report annually, but the draft regulation would exempt compostable materials from collection and management requirements.

Recommended Feedback

The Region is in support of the broad basket of goods designated that producers will have to collect and manage. The province's choice to include these items aligns Ontario's list of materials with those regulated under British Columbia's producer responsibility program. This is a positive sign of more cross-country harmonization on producer responsibility regulations, consistent with the federal initiatives in this area and the Region's advocacy.

One area of concern is compostable materials and packages. Citing challenges with determining proper management approaches for compostable materials, the new regulation imposes registration and reporting obligations with respect to compostable materials but does not mandate collection or management requirements.

As producers are expected to continue to introduce more compostable packaging into the market, staff recommend that the Ministry apply collection and management requirements at the earliest opportunity for compostable materials and packages.

2.3. Responsible Producers

The draft regulation would establish a methodology for identifying the producers who will have responsibilities under the regulation. The financial and operational responsibilities that municipalities currently have would transition to these producers. The regulation would set out:

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- A cascading hierarchy of producers to ensure that the person with the closest connection to designated products and packaging is made the responsible producer
- A mechanism to capture retailers that are located out-of-province but who supply blue box materials to Ontario consumers through online sales

The regulation proposes to exempt producers from collection and management responsibilities for a specific category of material if their supply for that material category is below specific threshold. Producers with less than \$2 million in sales annually would be exempt from registration, collection and management requirements. There are also exemptions for small generators of blue box materials, which lessens the requirements for small businesses. This helps to ensure that small businesses are not burdened by the blue box program transition.

Recommended Feedback

The Region supports the proposed methodology for identifying responsible producers as it puts the responsibility of the blue box program on large producers, including online retailers, and not on small businesses.

2.4. Common Collection System

The draft regulation establishes a new blue box system, known as the common collection system, to provide services to all eligible sources. Through the common collection system, producers would be required to collect a consistent set of materials across the province, meaning that designated products and packaging could go in the blue box. To have input on the development of the common collection system, a producer (PRO) must represent at least 10 percent of the total tonnage of blue box material supplied to consumers in Ontario.

Producers could also set up an alternative system (e.g. a deposit/return or return to retail system) to collect the specific products and packaging they supply in Ontario and be exempt from participating in the common collection system. An alternative system must meet specific requirements to be eligible for exemption from the common collection system, such as higher diversion targets.

Peel has supported the development of a common collection system for blue box materials and has also supported the option for producers to use alternative collection systems throughout the consultation process. Peel has also advocated that the new system allow for competition and not erect any unnecessary barriers to entry for small to medium sized players.

Recommended Feedback

The Region supports the concept and intent of both the common collection and alternative collection systems. However, the common collection system should be established in a way that does not hinder competition amongst PROs and the broader waste management industry. The 10 percent threshold to participate in the development of the common collection system represents a potential barrier to entry for smaller PROs and producers and may therefore limit competition.

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The establishment of the common collection system is complex, and staff will seek further clarification from the Ministry to inform advocacy to avoid any unnecessary barriers to competition.

2.5. Eligible Sources

Collection requirements in the draft regulation have been structured to ensure there are continued collection services to eligible sources while also providing producers with flexibility on how they establish their collection systems.

The regulation would expand blue box collection to the following eligible sources:

- Permanent and seasonal dwellings
- Multi-unit residential buildings
- Public and private schools
- Long-term care homes
- Retirement homes
- Some public spaces (such as certain municipal parks and playgrounds)

Any of these sources from which Peel already collects will be included in Peel's transition in 2024. Staff will ensure that the responsibility for the operations of eligible outdoor public space receptacles transitions smoothly from the local municipalities to producers by 2024.

Eligible sources from which Peel does not currently collect will be transitioned to producers on January 1, 2026, which include:

- Multi-residential buildings on private collection
- Long-term care and retirement homes on private collection
- Schools on private collection

There are other sources from which Peel currently collects but are not identified as eligible sources in the draft regulation. Peel must remain financially and operationally responsible for the collection of blue box material from these sources, which include:

- Places of worship
- Non-profit organizations (e.g. group homes)
- Indoor public spaces in regional and municipal facilities (e.g. libraries, public arenas, community centres)

Recommended Feedback

The Region supports the list of eligible sources, as it closely aligns with the June 25, 2020 Council Resolution 2020-472 and, even though some producers have advocated for a shorter list (i.e. only curbside households), staff will advocate that the Ministry maintain the list in the final regulation. Staff will also encourage the Ministry to expand the list of eligible sources to include the locations Peel currently collects from but are not identified as eligible. Staff will also encourage the Ministry to expand the definition of public spaces to include all public spaces including regional and municipal facilities.

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2.6. Servicing Requirements

The draft regulation would include service standards for the eligible sources (e.g. type of collection, minimum frequency for collection, provision and replacement of collection receptacles, hours of operations for depots), in order to ensure convenient access for residents. Proposed service standards are generally aligned with garbage collection for residences and facilities to ensure recycling is as accessible and convenient as garbage.

Highlights from the draft regulation as it pertains to servicing requirements by the producers include:

- Residential collection (curbside and multi-residential):
 - Collection of blue box material at least every other week
 - Provision of blue box receptacles for the storage of blue box material
 - Replacements provided once per year and within one week of request
 - Collection of blue box material before multi-residential receptacles are full
- Facilities (schools, long term care, retirement homes) collection:
 - Provision of blue box receptacles as required for the storage of blue box material at the facility until it is collected, including:
 - ensuring that each facility has the number of blue box receptacles it requires for the collection of blue box material before the day on which the producer commences collecting from the facility
 - providing any replacement blue box receptacles requested by the owner or operator of the facility, within one week of the request
 - Provision of receptacles that are appropriate for the facility
 - Collection of blue box material from the facility before the receptacles are full
- Public space collection:
 - Provided only where the community/municipality provides garbage collection containers
 - Provision of appropriate blue box receptacles next to every receptacle for garbage at the public space
 - Collection of blue box materials before receptacles are full
 - Collection of blue box materials throughout the year and locate receptacles at entry or exit points, and other areas where persons congregate in parks or playgrounds

Recommended Feedback

The Region supports the servicing requirements as it closely aligns with Peel's current level of service and will advocate to the Ministry that the requirements be maintained in the final regulation.

2.7. Management Requirements

The draft regulation would require producers to achieve a management requirement (i.e. a total amount of blue box materials they must divert), based on the weight of blue box materials they supplied in a given material category.

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The draft regulation sets out six material categories, each with individual recovery targets for 2026-2029, and 2030 and beyond (see Table 1). A producer would be expected to make best efforts to meet management requirements of blue box materials during the transition period (i.e. 2023 – 2025).

Table 1: Blue Box Regulation Management Targets

Target Category	Existing Ontario Diversion Rate (2018)	Stage 1: 2026-2029 Target	Stage 2: 2030-Onward Target
Paper	72%	90%	90%
Rigid Plastic	48%	55%	60%
Flexible Plastic	7%	30%	40%
Glass	68%	75%	80%
Metal	54%	67%	75%
Non-Alcoholic Beverage Containers	N/A	75%	80%

Recommended Feedback

The Region supports the establishment of management targets and the concept that these increase over time which highlights a commitment to continuous improvement. However, the Region recommends that the Ministry establish targets for both broad material categories (as they have) and specific material sub-categories for all designated materials, including compostable materials and packages, so that poor performing materials can be quickly identified. As a minimum, producers should be required to report on both the broad material categories and specific subcategories for all designated materials.

3. Next Steps

In this report, staff highlighted and provided feedback on the critical aspects of the draft regulation. The draft regulation also contains other elements that staff will review and comment on.

Staff will continue to work with the Association of Municipalities of Ontario and other municipalities to review the draft regulation and will submit comments to the Ministry by the December 3, 2020 deadline in line with the above recommended commentary.

In the lead up of the release of the final regulation, staff will continue to work with the Ministry and other stakeholders to ensure that the transitioned program continues to meet the needs of Peel's residents.

RISK CONSIDERATIONS

The wording of the final regulation may differ, perhaps significantly, from what is proposed in the draft regulation, which could negatively impact blue box service to residents. To mitigate this risk, staff will continue its engagement with the Ministry and other stakeholders to ensure the interests of Peel residents are protected.

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FINANCIAL IMPLICATIONS

There are no direct or immediate financial implications associated with this report. Any financial implications arising from the transition to full producer responsibility will be communicated to Council throughout the transition process and will be reviewed as part of the annual budget process in the appropriate year.

The direction under the draft regulation and the expected financial outcomes are in line with the estimates previously outlined in the June 18, 2020 Waste Management Strategic Advisory Committee report “Transition of the Blue Box Program to Full Producer Responsibility – June 2020 Update: Preferred Transition Year”. The report noted that once the blue box 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.

APPENDICES

Appendix I – Blue Box – Transition Complementary Document October 2020

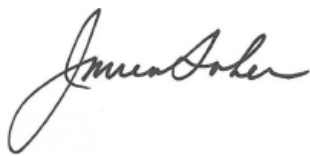
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Reviewed and/or approved in workflow by:

Department Commissioner, Division Director and Financial Support Unit.

Final approval is by the Chief Administrative Officer.



J. Baker, Chief Administrative Officer