



January 15, 2018

Ms. Glenda Gies, Chair
 Resource Productivity and Recovery Authority
 4711 Yonge Street, Suite 408
 Toronto, Ontario
 M2N 6K8

Dear Ms. Gies,

RE: Draft Amended Blue Box Program Plan

The Municipal Resource Recovery & Research Collaborative (comprised of representatives from the Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO), the Municipal Waste Association (MWA), and the City of Toronto), the Ontario Waste Management Association, the Recycling Council of Ontario, the Toronto Environmental Alliance; Citizens' Network on Waste Management, Environmental Defence, Canadian Environmental Law Association, and Waste Watch Ottawa wish to bring to the attention of the Resource Productivity and Recovery Authority (RPRA) our shared views on the draft a-BBPP prepared by Stewardship Ontario (SO).

Our organizations have fully participated in the SO led consultation process and we have reviewed the proposed a-BBPP in detail. The proposed a-BBPP does not reflect or incorporate the many recommendations that we have submitted to SO throughout this process. Nor does it meet the requirements of the Minister's Direction Letter. We have collectively identified key elements of the proposed a-BBPP that must be revised or added to ensure a smooth, fair and timely transition of the Blue Box program to full producer responsibility that will improve environmental outcomes, while ensuring that Ontarians continue to experience a high standard of Blue Box services.

Our organizations support the *Waste-Free Ontario Act, 2016* and the [Strategy for a Waste-Free Ontario](#). These policy advancements are bold and courageous steps forward for the Province of Ontario and reflect leading edge thinking on how to build upon the success of Producer Responsibility. Together they seek to focus on outcomes and provide a pathway to move past the problems of the current framework and to improve environmental and economic outcomes.

With comprehensive legislation and a sound policy framework in place Ontario is well-placed to become a successful example for other jurisdictions to follow. This has helped, after years of dispute, to bring key stakeholders together with government to agree on a path forward to begin building a circular economy for paper products and packaging (PPP).

The joint letter from SO and municipalities to the Minister of Environment & Climate Change on July 7, 2017 ([the Accord](#)), which initiated this process, addressed the main concerns for these two stakeholder groups on how best to support the transition of the existing shared responsibility program



to individual producer responsibility under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

Producers and municipalities recognized the need to work together and in collaboration with other key stakeholders, to ease the transition of over 200 separate municipal programs, each potentially with their own infrastructure and/or contracts. Amending the Blue Box Program Plan would allow this transition to occur in a more orderly, smooth and predictable manner.

The Minister's stated expectation in his letter ([Minister's Direction Letter](#)) was that this proposal would outline the first phase for the transition for the Blue Box under the *Waste Diversion Transition Act, 2016* (WDTA), and **would set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA in a timely manner** (emphasis added). The Minister's Direction Letter provided guidelines for developing the proposal and set out specific requirements to be included.

We believe that a successful transition to the RRCEA can be accomplished only through transparent and collaborative decision-making involving all key stakeholders, clear timelines to ensure a timely and predictable transition, progressive measures to support Program expansion, mechanisms to improve environmental outcomes and a platform to facilitate a competitive market place. Instead, the proposed a-BBPP offers an extremely slow and uncertain transition timeline, little in the way of mechanisms to drive program improvement in environmental outcomes and program expansion, and insufficient details from which to judge its ability to be fair and transparent through a governance and decision-making structure that allows SO to make unilateral decision-making. In our assessment the a-BBPP does not conform with the Minister's Direction Letter and should not be approved in its current form.

Our concerns can be grouped into five core areas:

- **Move to Individual Producer Responsibility** – The objective of the a-BBPP as set out in the Minister's Direction Letter was to set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA in a timely manner. The key stakeholders understood the current system was not progressing and a move to the new legislative framework could resolve key problems. One significant improvement the RRCEA affords is allowing individual stewards the opportunity to choose how best to meet their obligations under the new Act. Under this Minister's Directive we expected the a-BBPP would provide an interim step to ease transition from a municipally-operated Blue Box system to direct steward management. This was not meant to be the end point of this process.

The proposed a-BBPP and associated timeline potentially entrench and further invest in the existing structure, potentially hindering the transition to the RRCEA. The timeline proposed is seven years to transition municipal programs fully over to SO and nine years until any targets are to be achieved. This is four years beyond the target of 2023 set out in the Strategy for a Waste-Free Ontario. This is not an acceptable timeline.

- **Need for good governance and balanced decision-making** – The a-BBPP would give unilateral decision-making powers over key elements of the transition and operations of the Program before the move to individual producer responsibility. In effect, the proposed a-BBPP

would grant unilateral control to SO well before full producer responsibility is achieved. Until the current municipally-operated Blue Box system can be successfully transitioned to individual producer responsibility, more balanced controls are necessary for the protection of all stakeholders. This resulting decision-making structure is unacceptable and should be revised to ensure the decision structure includes a strong role for the Authority in the transition framework.

- **Ensuring Transparency** – Transparency and fairness is the cornerstone of the transition. Details regarding scope, material and performance definitions, measurement methodologies and verification protocols are essential for all stakeholders to judge its merit. As drafted the a-BBPP delays the development of critical contractual templates including Statements of Work, Master Service Agreements, collection service requirements and contamination protocols only after approved. The lack of details and transparency around these key items undermine the legitimacy of the Program.
- **Environmental outcomes** – Advancing environmental gains achieved through the a-BBPP and the development of a circular economy for PPP is its purpose. The proposed a-BBPP does not offer clearly defined preferred management options or show how they will be measured, reported and verified. It also does not address the Minister’s Direction Letter to establish methods to facilitate the reduction of PPP and to discourage the use of non-recyclable and problematic materials. It appears the a-BBPP is purposely vague and noncommittal on these issues even dropping details provided during consultations from the final draft Program. The ability of Stewardship Ontario to unilaterally choose what materials are collected based on market conditions runs counter to the very purpose of EPR. Market conditions should act as levers and incentives to prompt different packaging and material choices. Without oversight, this simply offloads the financial and environmental consequences of poor material choices back to municipalities.

The proposed a-BBPP is deficient on the issue of problematic and non-targeted material, and the necessary incentives to promote innovation and redesign. Difficult to recycle materials, those that cause contamination for other materials, and materials with toxic ingredients cause significant environmental harm, however the draft a-BBPP only outlines possible actions without clear timelines or assurance that problematic materials will be addressed.

- **Legacy Concerns** – There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the proposed a-BBPP or the Program Agreement. These include agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

Together, we have identified specific measures that can be incorporated into the a-BBPP to address each of the above core areas. Our comments are listed in detail in the following sections. We note that these comments have evolved throughout this process given some concepts and proposals presented by SO during the stakeholder consultations are not reflected in the proposed a-BBPP.

These proposed changes do not affect SO’s ability to manage the program effectively and efficiently and we recognize the need for operational decisions to be made over time by SO as the program manager. However, a successful a-BBPP must reflect the interests of all affected stakeholders. We



believe that we are offering solutions that support the original objectives of the RRCEA, the Strategy for a Waste-Free Ontario and the Minister's Direction Letter, and are consistent with the spirit in which key stakeholders began this process. It is our view that these gaps can be bridged if all stakeholders work together in good faith.

Together we are asking that RPRA not approve the proposed a-BBPP in its current form and furthermore that RPRA lead a collaborative process to make the needed amendments to the proposed plan. We request to meet with the RPRA Board at their earliest convenience to discuss these issues further.

Further, submissions from each of the signatories has been appended with more detail on our specific recommendations.

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Over-Arching Comments on Draft Amended Blue Box Program Plan

1. Move to Individual Producer Responsibility

Background

The Minister's Direction Letter to Stewardship Ontario and the Resource Productivity and Recovery Authority (RPRA) asked for a revised plan that outlines the first phase of transition for the Blue Box and will set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA.

Stakeholders understood that moving to the new legislative framework could improve environmental and economic outcomes, would help resolve persistent problems for key stakeholders, and would allow individual stewards the opportunity to self-determine how best to meet their obligations under the Act.

While an interim step of revising the existing BBPP would allow all stakeholders to ease the transition from a municipally-operated Blue Box system to direct steward management, a revised-BBPP under the WDTA was not meant to be the end point to this process.

It was also not about driving short-term efficiencies or outcomes, especially if they came at the expense of longer-term benefits that the RRCEA will afford (e.g. steward choice, improved and clearer environmental outcomes, market growth and innovation, improved oversight and accountability).

Solutions

- In mapping out timeframes to complete the transition from Phase 1 (WDTA) to Phase 2 (RRCEA) we suggest the a-BBPP include;
 - Timelines should be reduced to five-years to allow for all municipalities to have the opportunity to transition. This helps to prevent entrenchment of a system that might hinder the transition to the RRCEA. It also puts it in line with the Waste-Free Ontario Strategy.
 - Require annual reporting against the Minister's Direction Letter.
- Require RPRA to complete a review and evaluate the transition under the a-BBPP and make recommendations on full transition to the RRCEA in the fourth year of an approved a-BBPP to be delivered in the beginning of the fifth year. This would help facilitate the transition to the RRCEA.
- An independent body should be established as a clearinghouse for individual producers and collective management organizations to ensure fair access to obligated PPP under existing collection and processing contracts through the transition to individual producer responsibility.
- Section 7.4 and Section 7.7 of the a-BBPP should be consistent with the principle to avoid barriers to competition in the second phase of transition that will result in individual producer responsibility under the RRCEA and uphold a healthy competitive marketplace.

- A specific reference should be included that any intellectual property, capital and other assets resulting from research and development investment should be vested with the operators, technology providers and companies who are developing and/or implementing the improvements. Neither Stewardship Ontario nor Canadian Stewardship Services Alliance (CSSA) should have control and ownership of any property, operation, or technology, and that could ultimately provide any competitive advantage in a future individual producer responsibility market.

2. Good Governance and Balanced Decision-Making

Background

The Minister's Direction Letter specifically states that the proposal shall “*develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan...*”

It is in all stakeholders' interests to ensure that good governance and balanced decision-making occurs during the transition and beyond. The proposed a-BBPP gives unilateral decision-making powers over many key elements of the transition and implementation to Stewardship Ontario. Clearer and more inclusive decision making and balanced controls are necessary for the protection of all stakeholders.

Solutions

- Description, budget estimations and implementation details to acquire internal capacity and resources required by SO to implement the a-BBPP. A budget should be part of the approved plan and considered a material part of the Plan, reviewed by RPRA.
- Clear processes on decision-making that include how and when stakeholders will be involved. In particular section 7.5 to 7.10 are areas that could affect business or organizational interests, and as a result, could impact the principles of the Waste-Free Ontario Act and potentially the ability to transition to the RRCEA. This includes issues such as the management of incentives that could impact the stability of the market including contracts and investments.
- A detailed process on how criteria will be set to develop a standardized list of materials and how stakeholders will be involved in that process should be included.
- The Plan should include a governance structure and contemplate independent directors.
- As is referenced in the Program Agreement, clarity on the roles and relationships between Stewardship Ontario and CSSA as it relates to the a-BBPP. The ability for Stewardship Ontario to unilaterally change the standardized list of materials is not in keeping with the Program Agreement and not in the interests of any of the stakeholders. References in Section 7.10 and in Appendix B should be removed.
- Section 9 should be re-written based on Municipal 3Rs Collaborative's [Service Compensation and Dispute Resolution Mechanism](#) paper that was submitted.

- A collaborative approach should be initiated wherever decisions could impact the market that could hinder future outcomes under the RRCEA, including the development of catchments, terms and conditions for collection services, how incentives will be set or changed and associated timelines related to service transition (i.e. processing and collection).

Additional comments will be provided on the Program Agreement from our organizations but clear ties should be made between the a-BBPP and the Program Agreement.

3. Improving Environmental Outcomes

Background

The Minister's Direction Letter and the Accord both clearly articulated the need to improve environmental outcomes. The Minister's Direction Letter specifically included the following:

- *“Ensuring a seamless transition of the Blue Box program, specifically not negatively affecting Ontarians experience with and access to Blue Box services;*
- *Provide for continuous improvement of environmental outcomes by expanding and harmonizing the list of materials in the existing Blue Box program accepted from Ontario residents;*
- *... an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP;*
- *Maintain convenience and accessibility standards, including:*
 - *Curbside collection for households where currently provided by these municipalities and indigenous communities;*
 - *Collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities...*
- *Provide effective economic methods to incent behavior changes leading to waste reduction of PPP ...which may include:*
 - *Increase of the product's or packaging's reusability and recyclability,*
 - *Reduction or elimination of any impact the material may have on the recyclability of other materials;*
 - *Reduction of the amount of waste generated at the end of the product's or packaging's life;*
 - *Reduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability, and/or increase of the use of recovered resources in the making of the material;*
 - *Use means to discourage the use of materials that are difficult to recycle and have low recovery rates...; and,*
 - *Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.”*

The primary purpose of the a-BBPP is to advance environmental gains and develop a circular economy. The environmental gains will be largely determined by what materials are obligated, which of these are collected and how they are managed, and which generators of these materials will be serviced under the program.

The proposed a-BBPP does not offer clearly defined preferred management options or show how they will be measured, reported and verified. It also does not address the Minister's Direction Letter to establish methods to facilitate the reduction of PPP and to discourage the use of non-recyclable and problematic materials. It appears the a-BBPP is purposely vague and noncommittal on these issues even dropping details provided during consultations from the final draft.

Despite having a broader list of obligated materials, the a-BBPP proposed to scope down the standardized list of targeted materials for collection. No details of the obligated or standardized list of materials collected or rationale for the delta between the two is provided.

Stewardship Ontario should not have unilateral decision-making authority to make changes to the list of materials targeted for collection as outlined in Appendix C on page 46 of the a-BBPP. This undermines Section 3.1 (i) of the draft Program Agreement requiring Stewardship Ontario to submit documents and information for RPRA's approval in regards to proposed changes to the BBPP.

Obligated Materials

Solutions

- The a-BBPP should include an expanded definition of obligated PPP which encompasses paper and plastic products managed in organics ("green bin") programs.
- Clarity should be provided as to whether some products highlighted in the consultation process (such as coffee pods, plastic coated drink cups, etc.) are obligated under the program.
- Rationale should be provided in the document for any of the proposed exclusions (from obligation and collection). They seem arbitrary and counter to the Strategy for a Waste-Free Ontario (e.g. Food and Organic Waste Framework).
- Obligated PPP should be based on the RRCEA definitions for products, primary, convenience and transport packaging in a manner which does not strictly limit the obligation to "household" materials to allow for payment for an appropriate share of PPP that are indistinguishable from "household" materials but are consumed and generated away from home. This would be consistent with the Minister's Direction Letter *"to consider accommodating associated public spaces, parks and other related services provided by these municipalities"*.
- There must be a clear nexus established between the obligated PPP and the services provided under the proposal a-BBPP to ensure that it will pass legal review. This includes the proposal to continue to charge steward fees under the existing Stewardship Ontario fee setting methodology for PPP (such as aerosol containers; disposal fibre dishware but not disposable plastic dishware; etc.) that Stewardship Ontario states in Appendix B would be dropped from the initial list of PPP targeted for collection.



Standardized List of Targeted Materials for Collection:

Solutions

- Stewardship Ontario should provide documents to RPRA for *approval* on:
 - “Quantity recycled in relation to quantity supplied for all categories reported by stewards under the Rules for stewards”;
 - “Collected tonnes”; and
 - “Processed tonnes”.
- There should be no backsliding on materials currently collected in municipal programs. Stewardship Ontario should not be promoting harmonization by reducing the range of obligated PPP targeted for collection. This will only increase contamination rates.
- Transitioned communities not currently accepting widest range of PPP today (i.e. in the GTA communities) should expand collection to this standardized list over the life of the program.
- Criteria should be provided that informs the standardized list. How is marketed and stabilized defined? What processes will be undertaken to put on and take off PPP, how will stakeholders be involved and how will this information be made public. Clarity should be provided to ensure one can determine from initial list of targeted materials what is and is not included (e.g. coffee pods, poly-coated cups, etc. not specifically addressed in the a-BBPP although referenced during consultation). SO should provide information on which of the obligated PPP has a ‘stable’ market and this should be part of regular reporting. Some of the fastest growing packaging types (i.e. films, squeeze tubes, multi-laminated pouches, etc.) are excluded from the initial targeted collection list. There should be some provision in the a-BBPP for the collection and management for all obligated materials paying fees to Stewardship Ontario.
- Where obligated PPP cannot be included in Blue Box collection programs alternative management options for these materials should be implemented and paid for by stewards.
- Stewardship Ontario should not have the unilateral authority to determine the list of materials to be collected through supply chain procurement documents.
- More detailed recommendations on how to Expand and Harmonize the List of Materials Collected were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario’s consultation.

Eligible Sources

Solutions

- Collection in transitioned communities should include all privately serviced residential buildings and other sources that generate PPP similar to that generated in households.
- Amend the eligible sources to include privately serviced residential buildings and other sources that generate PPP “supplied to consumers” which is similar to that generated in residences including:
 - Permanent or seasonal single and multi-family households;

- Senior residences and long-term care facilities;
 - Public space recycling containers in residential areas, elementary & secondary schools (especially as these municipal and school spaces play a key role in promotion & education), and parks;
 - Municipally-operated or contracted services to collect PPP similar to that generated by households (i.e. parades, sporting events, festivals and special events)
 - Municipally owned and operated campgrounds with permanent and seasonal households;
 - Publicly owned and operated buildings accessible to the public for community, recreational or educational purposes (i.e. libraries, arenas); and,
 - Places of worship.
- Over the life of the program expand Blue Box collection across the Province to allow households to receive Blue Box collection to at least the same level as garbage collection (e.g. depot, curbside).
 - More detailed recommendations on Eligible Sources were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario's consultation.
 - Include in the a-BBPP an intent to recognize and reward stewards that self-managed obligated materials, as long as it is in keeping with required performance standards and provide a mechanism for credit toward their producer pay-in fees.
 - Appendix C – Sample terms and Conditions states that: “Pick-up in Scope PPP placed by Customers at the Curb along the Collection vehicle route which may be a Public Street or Private Road where service vehicles can navigate the Private Road and the owners have agreed to allow service vehicle access” may significantly limit the number of multi-family households receiving Blue Box collection services. This should be clarified.

4. Ensuring Transparency

Background

Transparency and fairness is the cornerstone of the transition. Details regarding scope, material and performance definitions, measurement methodologies and verification protocols are essential for all stakeholders to judge its merit. As drafted the a-BBPP delays the development of critical contractual templates including Statements of Work, Master Service Agreements, collection service requirements and contamination protocols only after approved. The lack of details and transparency around these details undermines the legitimacy of the Program.

- Issue regarding transparency are experienced in PR programs around the world. A recent study undertaken by the European Union DG Environment concludes:

It is difficult to conceive an EPR scheme where there is no incentive to mis-report. So for all organisations, such as PROs, and the producers who may report to them, there is a need for random checks on those that may have an incentive (financial, or reputational) to

mis-report. The oversight of industry practices ought to be carried out by independent bodies. Those carrying out audits should not be funded directly by those who are being audited, to ensure there is no incentive for the auditors themselves to turn a blind eye to mis-reporting. However, audits should, ultimately, be funded by the industry. This should be managed through contributions from producer fees, where data relates to EPR, or from those operating municipal waste management services. The funds and audits would be managed by the national competent authorities.” (Reference: Study on Waste Statistics – A comprehensive review of gaps and weaknesses and key priority areas for improvement in the EU waste statistics. Final Report for DG Environment 2013)

Solutions

- Detailed recommendations on Calculating PPP Recovery Rates and Supporting Reduction: Reuse, Recycling and Reintegration of PPP into the Economy were submitted by the Municipal 3Rs Collaborative during Stewardship Ontario’s consultation. These recommendations should be reflected in the proposed a-BBPP.
- In order to ensure that the a-BBPP:
 - is compliant with the WDTA and its regulations;
 - is consistent with the Minister’s direction;
 - having regard for the provincial interests set out in the RRCEA; and
 - takes into consideration the views of stakeholders and Indigenous Peoples.
- The following amendments should be made:
 - Transparent calculation and definition of collection, diversion, recycling rates and all other applicable performance metrics must be included in the a-BBPP and referenced in the Program Agreement. This includes defining “recycling” and a number of other terms associated with measurements in Section 10.2 “Managed”, Section 10.3.1 “other activities in Diversion End Markets”, Section 10.4 “directed to” and “households”;
 - “Recycling efficiency rates” referenced in 3.1 (c) of the Program Agreement should be defined in a-BBPP;
 - Stewardship Ontario should provide ongoing performance reports to RPRA on:
 - “Quantity recycled in relation to quantity supplied for all categories reported by stewards under the Rules for stewards”;
 - “Collected tonnes”; and
 - “Processed tonnes”.
 - The timeline for achieving the 75% PPP “basket of goods” target for transitioned communities should be two years after the transition of that community to full producer responsibility;
 - The timeline for achieving the (expanded) material specific targets should be five years after a-BBPP approval;

- The proposed plastics target of 50%, while an improvement, is not sufficient considering the environmental impact of unrecovered plastics and the fact that the most problematic plastics are not even targeted. Further, the proposed improvement in paper, metal and glass is insufficient considering the time period. For example, very modest improvements are proposed for the diversion performance for paper (+1.1%), metals (12.1%) and glass (2.7%) over the proposed for 2027 (as listed for Figure 9 Section 10.3.1.1). These should be improved.
- Targets for printed papers and paper packaging should not be combined into a single target for “paper” when detailed information on quantities supplied and quantities collected will be available to Stewardship Ontario and RPRA.
- For transitioned communities, Stewardship Ontario should be required to report on collection and recycling rate performance for all obligated materials after the first year of transition in categories which closely match the categories in which stewards’ report obligated PPP and the list of PPP that Stewardship Ontario has targeted for collection.
- At a minimum, these categories should include:
 - ONP and magazines
 - Other printed papers
 - OCC and boxboard
 - Aseptic and Gable Top cartons, polycoat containers and cups
 - Other paper products
 - Plastic 1 (PET bottles, jars and packaging)
 - Plastic # 2 (HDPE bottles, jars and films)
 - Plastic #4 (LDPE bottles, jars, packaging and film)
 - Plastic #5 (PP bottles, jars and packaging)
 - Plastic #6 (Rigid PS and expanded polystyrene)
 - Steel food and beverage containers
 - Steel paint containers
 - Other steel packaging
 - Aluminum food and beverage containers
 - Other aluminum packaging (aluminum foils, trays and plates)
 - Glass packaging
- PPP diversion targets for non-transitioned communities should, at a minimum, maintain current material recycling rates;
- Performance indicators to measure progress towards all Stewardship Ontario targets should be included in the a-BBPP and reported annually beginning one year after plan approval;

- Clear methods to promote waste reduction as defined in the Minister's Direction Letter should be set out in the a-BBPP with a regular public reporting requirement;
- Development of RPRA's Program Performance Protocol should be multi-stakeholder process including municipalities, service providers and public interest groups;
- The methodology presented by Stewardship Ontario in consultation on measuring recycling at point of material used in making new products should be included in the draft a-BBPP; and,
- Audit protocols and processes need to be clearly defined. A requirement for independent third-party audits should be included in a-BBPP and in the Program Agreement with regular frequency.

5. Legacy Concerns

Background:

There are a number of issues specific to municipal governments that were addressed in the Accord to facilitate transition in a reasonable and fair manner, but have not been resolved in the a-BBPP or the Program Agreement. This includes agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

Stranded Assets

Solutions

- A submission was made by Municipal 3Rs Collaborative titled [Avoiding Stranded Assets](#) during Stewardship Ontario's consultation which discussed how the parties could work to avoid stranded assets by incenting proponents to include use of existing assets in their proposals for post-collection services.
- Further, in order to minimize impacts on smaller capital components, municipal governments recommend that Stewardship Ontario should commit to keep collection systems intact until all capital costs (including carts, bins trucks etc.) are fully amortized to avoid creation of further stranded assets.

Determining Eligible Costs for Non-Transitioned Municipalities

- Establishing payments for non-transitioned municipalities was a key component of the parties being able to reach the Accord. Setting these annual payments drives an increasingly escalating and toxic dispute between municipal governments and stewards that went to arbitration in 2014 and continues to inhibit progress in the industry.
- During the discussions on the Accord the parties agreed to end this dispute by agreeing that Stewardship Ontario would pay the applicable percentage of stewards' contribution on the basis

of their verified net costs as determined through the Datacall without contentious deductions for cost containment. The parties agreed to “ring fence” the payments so that costs associated with transition would not be eligible and stewards would have assurances from exponential cost increases due to municipal decision making around excessive service enhancements. The parties agreed to use the definitions of eligible costs based on the current [RPRA Datacall User Guide](#).

- The proposed a-BBPP includes numerous items that were not agreed to and municipalities cannot support. Some examples include, but are not limited to:
 - We do not accept Stewardship Ontario’s proposal that costs related to “penalties or fees incurred by Communities as levied by service providers resulting from service level failures (e.g. contamination in materials in-bound to processors) or other deficiencies in Community performance as in terms of their agreements with service provider” are ineligible costs. In non-transitioned municipalities the program remains a shared responsibility between the parties and with it comes shared risks.
 - Calculated Administration Costs is defined as the lesser of reported Administration Costs or 5% for programs who provide service directly and 3% for programs who contract out service delivery. This would enable Stewardship Ontario to pay nothing if a program does not break out actual administration costs in the Datacall. Many municipalities do not do this given the relatively small size of the program. The 3% and 5% estimates were set for this reason.
 - Section 6.1 of the draft a-BBPP requires non-transitioned municipalities to provide access to data and facilities to Stewardship Ontario. This has not been agreed with municipalities and service providers. Furthermore, RPRA has proposed in 2.2 (g) to use reasonable efforts to facilitate the collection of relevant information in its oversight role of the Datacall. It is recommended that municipalities provide aggregate data on municipal facilities to RPRA but not individual facility data.
 - The two-year lag between municipal costs being incurred and Stewardship Ontario’s payment of the Steward Obligation is problematic. There needs to be reconciliation of municipal costs incurred in the two years prior to transition. This will be particularly important if a municipality has to alter their contracting and incur premiums to line up expiry of their contracts with the timing of their catchment. These premiums cannot solely be a municipal responsibility.

Solution:

- Use the 2016 RPRA Datacall User Guide methodology to calculate payments to non-transitioned municipalities.



Funding for Management of Newspapers

- The Accord states that *“the plan should establish the arrangement with Stewardship Ontario by which the Canadian Newspaper Association and Ontario Community Newspapers Association will meet their member’ EPR obligations for old newsprint in such a manner that is without cost to transitioned municipalities.”*
- There is no specific mention of this in Stewardship Ontario’s proposed a-BBPP.

Solutions

- The amended BBPP need to clearly reflect this agreement as follows:
 1. Newspapers will continue to be collected throughout the life of the a-BBPP
 2. Municipalities and service providers will be compensated in cash for any services provided to recover newspapers.

**APPENDICES
ENCLOSED**

Comments on Module 1 Amended Blue Box Program Plan

October 16, 2017

Background:

The Municipal Resource Recovery & Research Collaborative (M3RC) is comprised of representatives from the Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO), the Municipal Waste Association (MWA), and the City of Toronto. The objective of M3RC is to ensure a smooth and fair transition of the Blue Box program to full producer responsibility. This includes ensuring residents continue to experience a high standard of Blue Box services and that municipalities are fully compensated for agreed services they deliver to their communities.

This group will not usurp the autonomy of municipal councils. The group will only provide recommendations to municipalities for their own consideration and deliberation.

As part of M3RC's comments to Stewardship Ontario on Module 1, we have compiled a list of issues related to the following core aspects of the plan including:

- Requirements from the Minister's Letter that pertain to municipalities and First Nations communities, as well as details about the consultation process.
- Review of other requirements of an amended BBPP not yet addressed by Stewardship Ontario that are also important to securing municipal support
- The proposed method for calculating payments to local governments, including the eligible sources of paper products and packaging (PPP), as well as eligible costs and revenue.
- The proposed transition process, eligibility criteria and timelines for transitioning communities.
- The proposed procurement and payment process
- Frameworks that will be utilized in transitioned communities.
- Proposed approach to expanding services, including multi-family units not currently serviced by municipalities, and consideration of new communities and public space recycling.

Individual comments will also be submitted by municipalities.

Consultation Process

Stewardship Ontario proposal is to hold sessions on:

	Dates	Issues
Module 1	Pre-meeting – October 4 Broad session - October 12	- Consultation Process - Eligible cost (non-transitioned) - Transition process - Procurement approach - Expanding Services
Module 2	Pre-meeting – October 19	- Definitions of obligated PPP

	Broad session – October 27	<ul style="list-style-type: none"> - Standardized list of targeted materials for collection, along with the proposed targets. - Proposed collection and management standards.
Regional Sessions	Bracebridge – Nov. 8, 2017 (TBC) Hamilton – Nov 10, 2017 Perth – Nov. 13, 2017 London – Nov. 15 Sudbury – Nov. 21 Thunder Bay – Nov. 22	<ul style="list-style-type: none"> - Expected to be on a more complete draft amended BBPP
Amended BBPP	Release proposal by Dec 22, 2017 Webinar Jan 8th, 2017 Written feedback due Jan 15, 2017	<ul style="list-style-type: none"> - Full draft amended BBPP

Reference in Accord & Minister’s Letter

The [Minister’s letter](#) states:

*During the development of the proposal for an amended plan, the Authority and SO shall ensure **meaningful consultation and communication** with representatives of municipalities, stewards and other affected stewards. (Emphasis added)*

Municipal 3R Collaborative Comments

We understand this is a very tight timeline which makes it difficult for all organizations involved to provide detailed analysis and to apply normal review procedures but we also understand the importance of this initiative. However, it will be critical to get to agreement on the key elements of the revised the program as soon as possible so that municipal councils can properly evaluate the consequences of an amended Blue Box Program Plan (a-BBPP) for their communities. Therefore the Municipal 3R Collaborative will shortly be providing the Authority and SO with further detailed recommendations in addition to the comments provided herein.

We are appreciative of Stewardship Ontario’s amended consultation approach to include regional meetings in Southwest Ontario, Greater Hamilton area, Eastern Ontario, Central Ontario, Northwestern Ontario and Northeastern Ontario.

However, there are a number of key areas that Stewardship Ontario will need to address and provide municipalities the opportunity to review and comment on as part of the a-BBPP. The consultation plan has not yet defined when we will have the ability to do so. These include:

- Obligated Stewards, including any proposed de minimis steward exemption or any other proposed exemption, to ensure alignment of the “products” and packaging to be managed under the a-BBPP with the requirement for producers to pay fees for managing these materials.

- Description of a-BBPP Delivery Model, including:
 - Role of the Authority,
 - Role of Stewardship Ontario,
 - Role of Municipalities (MIPC / M3RC),
 - Wind-up of CIF and repatriation of municipal funds, and
 - Mechanisms to ensure transition to the Resource Recovery & Circular Economy Act in a timely manner.
- The Program Agreement between RPRA and SO and in particular the definition of what will constitute a material change under the a-BBPP.
- Steward and a-BBPP waste reduction efforts, specified in the Minister's letter such as
 - Methods to increase the product's or packaging reusability and recyclability,
 - Methods to facilitate the reduction of PPP,
 - Means to discourage difficult to recycle materials,
 - Mechanisms to identify and address difficult to recycle materials,
 - Providing effective economic methods to incent behavior changes leading to reduction of PPP,
 - How these mechanisms will be applied and measured in both transitioned and non-transitioned municipalities (given that these require steward behavior changes that will necessarily apply to the whole of the Ontario market), and
 - Methods to "...work(ing) towards the circular economy by supporting reduce, reuse, recycling and reintegration of PPP materials into the economy"
- How green bin collections of PPP will be reflected in a-BBPP system costs and apply against targets.
- The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets").
- Method by which PPP collection and post-collection management contracts and operations will be held and relinquished upon wind-up of Stewardship Ontario to avoid competition barriers (to be reviewed by Competition Bureau).
- Procedures to ensure fair, open competition for collection and post collection services (to be reviewed by Competition Bureau).
- Province-wide and municipal promotion and education programs "incorporating clear rules to support residents' participation including standardized materials and services and improving program performance."
- The treatment of any in-kind funding from the Canadian Newspapers Association and Ontario Community Newspapers Association in transitioned and non-transitioned municipalities
- Management of problematic materials (i.e. film, polystyrene, polycoat, shredded paper, etc.)
- Data reporting requirements and audit provisions

Eligible Sources and Costs for Calculating Payments to Non-Transitioned Municipalities

Stewardship Ontario is proposing to use the Authority’s updated [2016 Datacall User's Guide](#) (see page 9) as the continued basis for eligible costs.

This would mean eligible costs would include the following:

Collection	Post Collection
<ul style="list-style-type: none"> • Public or municipal contract-based collection of or from: <ul style="list-style-type: none"> ○ Permanent or seasonal single and multi-family households (including rental, cooperative or condominium residential) *based on O.Reg 103/94 ○ Senior citizen residences and long-term care facilities ○ Public and secondary schools collected along a residential collection route, concurrently with residential tonnes • The residential component of publicly-operated (municipally-owned or contracted) drop-off depots, at dedicated depots, or depots at landfill sites. • Public space recycling containers, if they are collected on a residential collection route concurrently with residential tonnes (tonnes from special events/festivals are not eligible). • Municipally owned and operated campgrounds can be reported as residential only if there are permanent households or seasonal households, i.e. a trailer park (weekend campgrounds are considered IC&I). 	<ul style="list-style-type: none"> • Public or municipal contract-based collected materials from permanent or seasonal single and multi-family households (including rental, cooperative or condominium residential) • Collected materials from senior citizen residences and long-term care facilities where the materials are processed at a municipally-owned or contracted MRF. • Public or municipal contract-based collected materials from public and secondary schools, collected during residential collection. • Collected materials from public and secondary schools where the materials are processed at a municipally-owned MRF. • Residential components of publicly-operated (municipally-owned or contracted) drop-off depots, located either at dedicated depots or landfill sites. • Public space recycling containers that are comingled with residential Blue Box materials (e.g. bins in public parks) collected along a residential route.

Stewardship Ontario is proposing several ineligible costs, including:

- Costs related to transition,
- Cost related to service level changes approved after August 14, 2017 (the release date of the Minister’s requirement letter,
- Costs related to contract operations and management deficiencies (i.e. Penalties or fees incurred as a result of service level failure credits, default or similar actions levied by contractor on the community

Reference in Accord & Minister’s Letter

The [Accord](#) states:

For those municipalities not immediately transitioning to EPR, the plan will address payments to be made under S. 11 of the WDTA based on a municipality's verified net cost of operating its existing blue box program. The plan will define the eligible costs to be included in calculating the net cost. The plan will also describe any agreements between Stewardship Ontario and recipient municipalities for the reporting and verification of costs reported by municipalities; and

The [Minister's letter](#) states:

The proposal for an amended BBPP shall address payments to the non-transitioned municipalities under Section 11 of the WDTA based on the municipalities verified net cost of operating its existing Blue Box program:

- o The plan shall define the eligible costs to be included in calculating the net costs; and,*
- o The plan shall also describe any agreements among the Authority, SO and recipient municipalities for the reporting and verification of costs by municipalities.*

Municipal 3R Collaborative Comments

We agree that using the Authority's existing Guide, provides a reasonable and balanced approach for both local governments and stewards. While not ideal we understand the logic that municipalities would have to continue to discount costs such as:

- Municipally (public) or privately collected and/or processed materials from industrial, commercial, or institutional sources, including hospitals, extended health care facilities (convalescent care), universities, and colleges
- Municipally (public) or privately collected and/or processed materials from agencies, boards, commissions or departments
- Materials collected or processed from drop-off collection depots/programs that are operated privately or by non-governmental organizations and not under contract to the municipality
- Materials collected in temporary collection containers at events (including fairs, parades, exhibitions, concerts, plays, etc.), regardless of the collection method (public or private)
- Business improvement areas (BIA), are to be reported as IC&I however, apartments above these businesses can be included as residential.
- Materials collected or processed from other municipal programs who already report into the Datacall.

It is however important to emphasize that this should in no way set a precedent for transitioned municipalities, particularly related to eligible sources. As we have heard from Stewardship Ontario there is a clear distinction between the old world (non-transitioned) and the new world (transitioned). This appears to be reflected in the Minister's letter and likely in the stewards' interest as the target is increased to 75% and new material specific targets are incorporated. Furthermore, the Minister's letter specifies that for the purposes of primary, convenience and transport packaging, the a-BBPP should refer to the RRCEA definitions which would include all of these sources of materials (and more).

It should also be noted, municipalities will need to better understand what Stewardship Ontario means by "provide or facilitate access to data and facilities as reasonably required". Current contracts may limit access in these areas and municipalities need further clarification on what is required by SO.

We also agree that municipal costs associated with transition (such as legal fees, etc.) should be ineligible. However, costs associated with potentially stranded municipal assets must be accounted for in the a-BBPP. The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets") should be included in the a-BBPP. Municipalities are prepared to work with the Authority and SO to develop this protocol.

It is not reasonable to include service level changes as an ineligible cost. The Authority already has an ability to deal with major variations in costs through the Datacall. Attempting to treat the system as static and not allowing for reasonably incurred costs to maintain and improve the system will cause major issues for the future of recycling in Ontario. Some costs to operations may be unavoidable, may already be pre-planned or in the interests of both parties. In cases of conflict, a dispute resolution mechanism could be established and administrated by the Authority with regards to what investments or operational changes should be considered as an eligible cost.

It is important to underline that municipalities that have not transitioned will retain autonomy in their decision-making around their programs. Given that stewards will continue to have a shared financial responsibility consideration should be given to sharing both the benefits and risks and their associated costs.

Finally, we do not accept the proposal to change “penalties or fees incurred by the municipality as a result of service level failure credits, default, or other such similar charges for failing to meet obligations” to an ineligible cost. This is a shared program and with it comes shared risks and this should remain so in the a-BBPP.

Transition Eligibility Process & Criteria Options

Stewardship is proposing several criteria by which municipalities can transition:

1. All contracts for collection and/or management of PPP have expired such that the municipality is unencumbered by agreements;
2. A municipality self-delivers service (i.e. does not have contracts for the collection and management of PPP)
3. All contracts for collection and/or management of PPP have been terminated early such that the community is unencumbered by agreements
4. Stewardship Ontario and municipality could enter into agreement to act as contract manager based on prescribed performance standards with price established through benchmarking.

Stewardship Ontario is proposing advanced notification to transition existing programs:

- One year where a municipality exercises right of first refusal to be a collector under contract to Stewardship Ontario.
- Two years where a community declines right of first refusal to act as a collector to Stewardship Ontario and intends to have Stewardship deliver collection services.

It is understood the timelines are meant to allow Stewardship Ontario adequate time to ensure administrative and financial resources are in place.

Options 1 and 2 would automatically transition upon proper notification. Where a municipality self-delivers collection services and wishes to continue to, it is expected terms and conditions will need to be agreed upon; a collection contract price will need to be established based on where materials are being collected from (single family, multi-family, depot, parks ...) and remuneration rates established based on comparable situations.

Options 3 and 4 would be selected based on a random lottery and capped once the total cost of transitioned communities has reached 20% of the 2016 annual net costs or an absolute number of communities transitioning is met.

Finally, Stewardship Ontario is proposing a transition support mechanism that would allow a municipality whose collection contract is expiring but processing contract is continuing to continue to

provide collection services. Collection services would need to be competitively procured with these additional terms and conditions:

- Agreed terms and conditions for maintaining status quo collections under shared responsibility for the period until the processing contract expires; and
- Agreed terms and conditions for the subsequent period as a transitioned community.

Municipalities that choose not to transition will still receive the requisite percentage of net verified program costs.

Reference in Accord & Minister's Letter

The [Accord](#) states:

The amended plan should provide for the obligation for the collection and management of PPP to transfer to Stewardship Ontario upon the expiry, early termination or potentially through a suitable amendment of municipal contracts with their service providers. Municipal governments will be fully determinant in deciding whether they wish to act on behalf of Stewardship Ontario for the procurement and contract oversight of PPP collection services. Municipal governments will have an opportunity to participate in the post collection management of PPP in transitioned municipalities

The [Minister's letter](#) states:

Ensuring a seamless transition of the Blue Box Program ...

Providing choices for municipalities where SO is to provide Blue Box services (i.e. transitioned municipalities):

- *These municipalities will decide whether they wish to act on behalf of SO for the procurement and contract oversight of PPP collection services; and,*
- *These municipalities should also have an opportunity to participate in the post-collection management of PPP collected*

Municipal 3R Collaborative Comments

The proposed approach appears to be generally aligned with both the Accord and the Minister's direction with several exceptions:

- The Accord specifically noted that:
*"an amended plan should provide for the obligation for the collection and management of PPP to transfer to Stewardship Ontario upon the expiry, early termination or **potentially through a suitable amendment of municipal contracts with their service providers.**" (Emphasis added)*

A one year timeline appears reasonable notification timeline for Stewardship Ontario for a seamless transition. The proposed two-year notification period for a municipality that does not wish to at act as a collection tendering and contract management agent maybe too lengthy. A consistent timeline would be preferable but we are appreciate the logistical challenges.

We support the four criteria to transition plus the option to provide transition support for municipalities that have collection contracts expiring before processing contracts. It is our understanding that the fourth option allows for a municipality to transition under a number of different scenarios. This would include situations where a processing contract has expired but collection contracts continue for some

time. In this instance a municipality could work with Stewardship Ontario and their service provider to amend the collection contract terms to enable transition.

For better clarity, the various options that are available under Option four should be detailed further and examples provided.

Stewardship Ontario has proposed capping the number of municipalities that transition in any given year for suggested administrative, financial and competition related reasons. We believe that existing contracts, institutional arrangements and municipal decision making processes ensure that transition will occur over a number of years and that reasonable projections for the pace of transition can be set out in the a-BBPP. The proposed lottery system selecting municipalities that can transition in a given year provides increased uncertainty that would cause major issues for municipalities, service providers and Stewardship Ontario. This approach is not acceptable to municipalities.

We would strongly advise that Stewardship Ontario, the Authority and municipalities work cooperatively with the existing Datacall data base to develop most likely transition scenarios to support SO transition planning. There is a great deal of complexity associated with municipal servicing arrangements for Blue Box . This is especially complex in regards to upper and lower tier municipalities. Ensuring that all parties fully understand and plan for these dynamics will support effective transition planning and SO reasonable budgeting and fee setting.

Proposed procurement and payment frameworks for transitioned communities

That Stewardship Ontario is proposing the following:

1. If a municipality is acting as an agent for Stewardship Ontario for curbside and multi-family:
 - Where a municipality incorporates Stewardship Ontario's performance standards and bid requirements into their competitive procurement, Stewardship Ontario will pay the price charged by the successful proponent for services.
 - Where a municipality deviates from Stewardship Ontario's performance standards and bid requirements (e.g. bundled services, additional service requirements ...), Stewardship Ontario will pay based on benchmarking.

If a municipality is acting as an agent for Stewardship Ontario for depot services:

- Depots would be paid on a per tonne basis (using historic cost as a basis) to collect PPP that meets a quality standard.

2. If a municipality is self-delivering for curbside and multi-family:

- Stewardship Ontario will pay a price based on benchmarking.

If a municipality is self-delivering for depots:

- Depots would be paid on a per tonne basis (using historic cost as a basis) to collect PPP that meets a quality standard.

3. Where a community does not wish to collect, Stewardship Ontario will issue a collection tender

- Private depots will be paid to collect PPP that meets a quality standard.

Collection performance standards, such as:

- Defined collection service (depot, curbside, multi-family, public space ...) to a specified area,
- Standard list of PPP to collect,

- Service level (i.e. where collected, frequency, compaction ratio (e.g. 2:5:1), no limit on in-scope materials, containers),
- Customer service standard (i.e. record of complaints and requests),
- Service delivery reporting,
- Monitoring of quality of PPP (e.g. maximum contamination as a % by weight),
- Delivery of materials to post-collection facility within a certain distance,
- Provide residents with a call centre services to receive and action complaints and issues, and
- Participate in the reporting process.

Responsibilities for administrating the collection contracts, such as:

- Oversight of contractor to performance standards,
- Engage in escalating remedial measures (or through contractor) to improve contamination rates, and
- Deliver P&E and ensure contractor executes any P&E related tasks assigned.

Payments for collection services based on:

- Payment to cover unit pricing (e.g. per household) charged by service provider or benchmarked by comparable municipalities if self-delivered,
- A per unit administrative cost either to administer contract or to self-deliver,
- Payment for P&E undertaken on behalf of Stewardship Ontario,
- Benefits or penalties related to performance metrics,
- Incentive payments for public spaces and parks (either through municipal collection service or through competitive process), and
- Incentive payments for multi-residential dwellings based on collector qualification standards (serviced within municipal contract or outside).

Standards on processors, such as:

- Receiving PPP from qualified collectors,
- Picking up PPP from qualified depots,
- Consolidation and transferring PPP, where necessary,
- Marketing PPP to end markets,
- Transferring PPP to downstream processors, where necessary,
- Managing residuals,
- Tracking to final disposition, and
- Reporting to Stewardship Ontario.

Procurement and payment for post collection services will likely be based on a process where:

- Issuance of an REOI to gauge capacity to receive, process, market for the defined list of PPP,
- Issuance of RFPs to manage defined list of PPP soliciting information to confirm ability to meet performance standards,
- Qualification based on compliance with processor qualification standards and evaluation criteria measured on multiple factors – not limited to price, location, capability, capacity, output ..., and
- Incentives will be included to incent reliable markets with high commodity markets and sharing of revenue and risk.

Reference in Accord & Minister's Letter

The [Accord](#) states:

Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:

- Not negatively impact Ontarians' experience with and access to existing recycling services;*
- Improve environmental outcomes;*
- Create a consistent recycling experience for all Ontario residents;*
- Ensure a fair and open marketplace; and*
- Address the provincial interests listed in the Resource Recovery and Circular Economy Act 2016 (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.*

In transitioned municipalities, the plan will obligate Stewardship Ontario to provide for the collection and management of PPP generated by residents/households and, working with relevant affected municipalities, consideration will also be given to accommodating associated public spaces, parks and other related services provided by those municipalities;

The [Minister's letter](#) states:

Ensuring a seamless transition of the Blue Box Program ...

Not create barriers to competition in the second phase of transition that will result in individual producer responsibility under the RRCEA;

Describe how contracts held by SO for the collection and management of PPP will be managed upon wind up of the Blue Box Program to enable competition once the materials are regulated under the RRCEA.

Municipal 3R Collaborative Comments

SO has not provided sufficient detail on these key issues to constitute an acceptable a-BBPP. The basis for establishing benchmark payments are not defined and in any case will likely result in ongoing disputes given the complexity of factors affecting program performance and costs across the province. The methodology for establishing these benchmarks and how any disputes that might arise will be dealt with must be clearly set out in the a-BBPP. The Municipal 3R Collaborative will be providing specific recommendations for consideration through the consultation program.

Furthermore, key performance standards (collection frequency, minimum contamination rates, etc.) are not defined and necessary standard contract terms and conditions have not been specified. Suggestions made earlier by SO that these details may only be forthcoming after the a-BBPP has been approved are not acceptable to municipalities. In order to move this process forward expeditiously M3RC will provide the Authority and SO with draft detailed service standards for collection of PPP and proposed principles for procuring post-collection management services as the basis for further discussion among the parties.

Expansion of Services

Stewardship Ontario is proposing the following:

For multi-residential

- Once the program has stabilized, collectors would be eligible to receive a payment per multi-family household.

For public space

- Stewardship Ontario would evaluate public space recycling provided by communities that provide collection services to Stewardship Ontario.

For service expansion to communities that do not currently have BB programs

- Prioritize the transition and stabilization of existing recycling systems before expanding to new services.
- Develop conditions such as community willingness and necessary infrastructure
- Offer payments to depot operators

Reference in Accord & Minister's Letter

The [Accord](#) states:

Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:

- *Not negatively impact Ontarians' experience with and access to existing recycling services;*
- *Improve environmental outcomes;*
- *Create a consistent recycling experience for all Ontario residents;*
- *Ensure a fair and open marketplace; and*
- *Address the provincial interests listed in the Resource Recovery and Circular Economy Act 2016 (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.*

In transitioned municipalities, the plan will obligate Stewardship Ontario to provide for the collection and management of PPP generated by residents/households and, working with relevant affected municipalities, consideration will also be given to accommodating associated public spaces, parks and other related services provided by those municipalities;

The [Minister's letter](#) states:

- *Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities, within an identified timeframe;*
- *Consider accommodating public spaces, parks and other related services provided by these municipalities;*
- *Consider expanding Blue Box services over time ...*

Municipal 3R Collaborative Comments

No specific actions or mechanisms for expanding services are proposed and the drafting makes clear that this will not be a priority for SO under the a-BBPP. This falls short of the expectations set out in the Minister's letter and in the provincial interests set out in the RRCEA for improved convenience, accessibility and improved program performance and environmental outcomes. More effort should be given to defining how the a-BBPP will promote and support expanding BB services and specifically to establishing a timeline for transitioned municipalities to include currently un-serviced multi-residential buildings, public spaces and public institutions.

In keeping with the long-term goal of achieving zero waste municipalities recommend that an appropriate standard for Ontario should be that there should be an opportunity to recycled designated PPP wherever waste collection services are provided.

Furthermore, more consideration should be given in the a-BBPP to accommodating collection of PPP from associate public spaces, parks, institutions that mirror residential sources and other related services currently being provided by municipalities, including BIAs serviced as part of residential collection routes to ensure a seamless transition of services already being provided.

November 17, 2017

Recommendations:

To avoid stranded assets Stewardship Ontario should:

- Require bidders under any Request for Expressions of Interest (REOI) and/or Request for Proposals (RFP) for collection and post-collection services to consider use of existing assets in their bids, and give preference to bids that result in the avoidance of stranded assets (i.e. bins, trucks, depots, material recovery facilities, etc.);
- While it is understood efficiencies will be sought in a new system by improving and scaling how materials are processed, consideration (including environmental and safety) should be included in the evaluation process regarding the impact of transporting materials over large distances; and,
- Stewardship Ontario should include in its annual report any municipal stranded assets associated with transitioning the program.

The proposed recommendations will ensure compliance with the Minister's goals and objectives under the *Waste-Free Ontario Act* and accompanying strategy. These elements encourage a plan that continues to utilize existing infrastructure until it is fully amortized while working with local municipalities and their representatives to develop strategies to sell off and/or repurpose their assets in a manner that minimizes the financial loss.

Background:

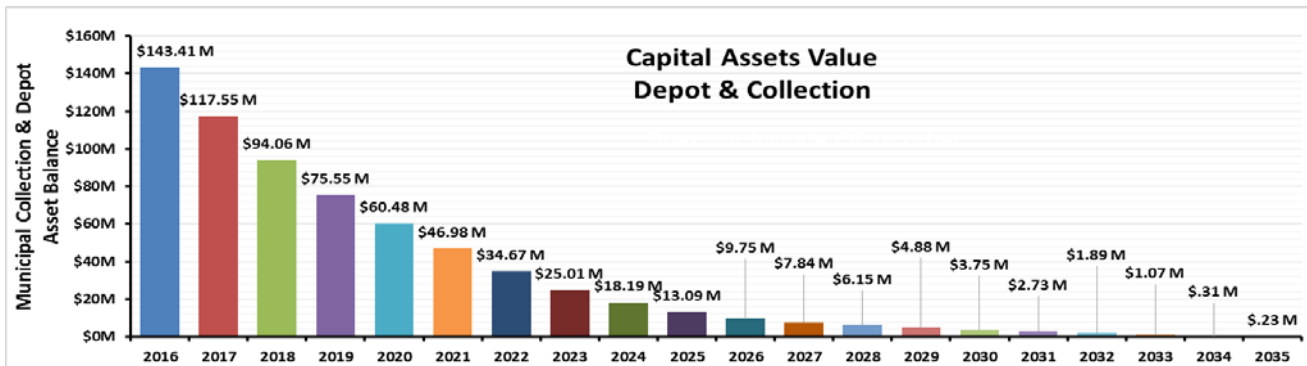
- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (BBPP).
- The Minister's letter provided this direction:

*It is in the public interest that the proposal for an amended Blue Box Program Plan is consistent with the following principles: ...
Avoiding stranded assets to the extent possible in a collaborative manner.*
- Stranded assets are defined as "assets that have suffered from unanticipated or premature write-downs, devaluations or conversion to liabilities."¹ With the encouragement of the Province and in order to comply with O.Reg 101/94, municipalities invested \$100s of millions into the development, acquisition and/or maintenance of assets to support the Blue Box recycling programs. There is concern

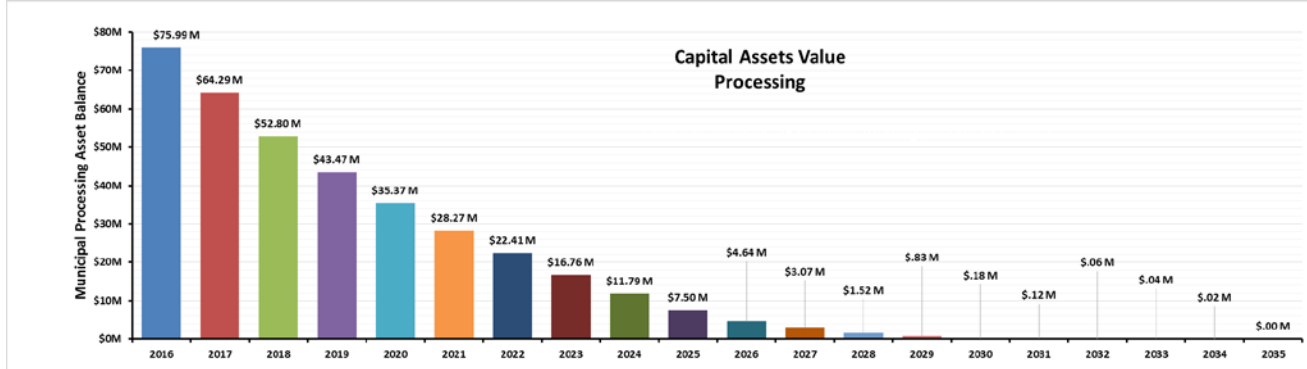
¹ "[Stranded Assets Programme](#)". *Smith School of Enterprise and the Environment*. January 2014.

that introduction of the amended Blue Box Program Plan (a-BBPP) will result in the stranding of significant assets across the Province if the issue is not managed effectively.

- The Province currently benefits from an extensive network of municipally operated depots, transfer facilities and material recovery facilities (MRFs). The majority of depots and transfer sites are expected to continue to have a role under a producer managed collection and transfer framework subject to fair compensation and accessibility requirements.
- Extensive rationalization & repurposing of many of the processing facilities may occur.
- The following figures represent an estimate of the current asset value for depot and collection as well as processing, based on the municipal 2016 Datacall.
- Analysis of the current municipal transfer and processing infrastructure by AMO and the CIF found \$107M in municipal transfer and processing assets in operation today, and the majority of the assets will not be fully amortized until 2020.



MRFs are included



- To date, Stewardship Ontario’s consultation has not included options either to avoid stranded municipal assets or mechanisms to value and dispose of them. The recommended procurement and payment for post collection services being proposed is as follows:
 - Issuance of an REOI to gauge capacity to receive, process, and market collected paper products and packaging (PPP);
 - Issuance of RFPs for post collection services including soliciting information to confirm ability to meet performance standards;

- Qualification based on compliance with processor qualification standards and evaluation criteria measured on multiple factors – not limited to price, location, capability, capacity or output; and,
- Provision of incentives to encourage reliable and high commodity markets and sharing of revenue and risk.
- Discussions with municipal asset owners across the Province suggest many are concerned their assets will become stranded or have diminished value if they are not selected as transfer and/or processing service suppliers under this proposal.
- The Minister’s letter to Stewardship Ontario and RPRA regarding “First Phase Transition - Direction for Proposal for an Amended Blue Box Program Plan (Aug 14, 2017), indicates that the Minister expects, “...there will be a clear and transparent process by which municipalities demonstrate the benefit their taxpayers will receive [as a result of transition]”.
- While there is an opportunity for operational savings and removing the cost of the Blue Box service to municipalities, there is concern that these savings may potentially result in job and financial losses across the Province as a result of the proposed approach to processing.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

- The definition of eligible sources in the [2016 Data Call](#) should be amended for transitioned municipalities to include privately serviced residential buildings and other sources that generate paper products and packaging (PPP) similar to that generated in residences including:
 - Service providers (public or private) collection from:
 - Permanent or seasonal single and multi-family households (including rental, cooperative or condominium residential) and
 - Senior citizen residences and long-term care facilities;
 - The residential component of publicly (municipally-owned or contracted) or privately-operated drop-off depots, at dedicated depots, or depots at landfill sites (accessible to the public);
 - Public space recycling containers in residential areas, elementary schools, secondary schools and parks;
 - Municipally operated or contracted services designed primarily to collect PPP similar to that generated from residences (i.e. containers from parades, sporting events, festivals and other special events);
 - Municipally owned and operated campgrounds with permanent households or seasonal households, i.e. a trailer park (weekend campgrounds are considered IC&I);
 - Publicly owned and operated buildings accessible to the public for community, recreational or educational purposes (i.e. arenas, libraries, and other community centres); and,
 - Places of worship.
- Municipalities that provide Blue Box collection and processing services to business improvement areas, small businesses along residential routes, and businesses in residential areas are encouraged to continue services at their own cost if they choose to transition. This is a major issue for many municipalities but there is an understanding of the rationale to draw the line related to commercial materials. PPP collected from these sources would not be counted towards stewards' targets as currently reported and managed in the Datacall.

Background:

- The [Accord](#) states:

In transitioned municipalities, the plan will obligate Stewardship Ontario to provide for the collection and management of PPP generated by residents/households and, working with relevant affected municipalities, consideration will also be given to accommodating associated public spaces, parks and other related services provided by those municipalities;

Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:

- *Not negatively impact Ontarians' experience with and access to existing recycling services;*
 - *Improve environmental outcomes;*
 - *Create a consistent recycling experience for all Ontario residents;*
 - *Ensure a fair and open marketplace; and*
 - *Address the provincial interests listed in the Resource Recovery and Circular Economy Act 2016 (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.*
- The [Minister's letter](#) states:
Ensuring a seamless transition of the Blue Box Program ...
 - *Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities, within an identified timeframe;*
 - *Consider accommodating public spaces, parks and other related services provided by these municipalities; and,*
 - *Consider expanding Blue Box services over time ...*
 - The addition of institutions that generate PPP similar to that generated in residences is in keeping with the current Blue Box program plan, which allows for similar treatment of elementary and secondary schools, publically operated campgrounds, and public space recycling.
 - The additions should include PPP which in many cases are purchased by residents but are consumed away from the home. This will also improve the overall performance of the program.
 - The continuation of Blue Box collection and processing services for these sources will ensure current customers are not stranded. Excluding customer segments that generate PPP similar to that of residences, as eligible sources will present a challenge to many Ontario communities that currently provide this service.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

- Stewardship Ontario should approach expansion services in the amended Blue Box Program Plan (a-BBPP) based on two main scenarios:
 - Expanding within a transitioned municipality (e.g. to areas *within municipalities* that are currently not serviced in multi-residential or single family, parks, other related services, as well as changes in servicing, such as depot to curbside); and,
 - Expanding to new municipalities that are not currently serviced.
- For expansion of services within a transitioned municipality, Stewardship Ontario should:
 - Within one (1) year of the municipality transitioning, offer an incentive to expand collection of servicing to all residential buildings in the transitioned municipalities not already receiving Blue Box servicing; and,
 - Within two (2) years of a municipality transitioning, offer an incentive to expand collection of paper products and packaging from associated public spaces, parks and institutions that mirror residential resources and other related services currently being provided by municipalities.
- For expansion of services to municipalities who are not currently serviced, Stewardship Ontario should ensure all communities in Ontario are grouped as part of catchment areas and offered the same opportunity to receive Blue Box services matching how garbage is currently managed in their community (i.e. curbside or depot), when that catchment area transitions.

The proposed recommendations present a clear path that will achieve the desired outcomes, and reflect the Minister's goals and objectives under the *Waste-Free Ontario Act* and accompanying strategy. The outcomes would ensure: i) access and convenience would be maintained as directed by the Minister; ii) increasing levels of accessibility would improve the convenience of waste and recycling at the same time; and iii) short comings of British Columbia's experience in terms of accessibility being limited to only achieving recycling rate performance would be avoided.

Background:

- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (a-BBPP).
- The [Accord](#) states:
Consistent with the Strategy’s desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:
 - *Not negatively impact Ontarians’ experience with and access to existing recycling services;*
 - *Improve environmental outcomes; and,*
 - *Create a consistent recycling experience for all Ontario residents.*

In transitioned municipalities, the plan will obligate Stewardship Ontario to provide for the collection and management of PPP generated by residents/households and, working with relevant affected municipalities, consideration will also be given to accommodating associated public spaces, parks and other related services provided by those municipalities.

- The [Minister’s letter](#) states:
 - *Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities, within an identified timeframe;*
 - *Consider accommodating public spaces, parks and other related services provided by these municipalities;*
 - *Consider expanding Blue Box services over time...*

Approach 1: Expanding Services within a Transitioned Municipality

- Stewardship Ontario has proposed the following on service expansions for transitioned municipalities:¹

Multi-Residential (Timeline TBD)	Public Space (Timeline TBD)
Once the program has stabilized, collectors would be eligible to receive a payment per multi-family household.	Stewardship Ontario would evaluate public space recycling provided by communities that provide collection services to Stewardship Ontario.

¹ Based on Stewardship Ontario’s Presentation. “Developing a Proposal for an Amended Blue Box Program Plan – Module 1, the Proposed Transition Process” (October 12, 2017). Available [online](#).

- Stewardship Ontario’s current proposal has not attributed any timeline to service expansions. This falls short of the expectations set out in the Minister’s letter and in the provincial interests set out in the *Resource Recovery and Circular Economy Act* (RRCEA) for improved convenience, accessibility and improved program performance and environmental outcomes.
- The need for a new standard arises from the weaknesses around Regulation 101/94 (Recycling and Composting of Municipal Waste).² For example, the rules for accessibility do not take into consideration other factors like population density, which is arguably a better deciding factor of whether a service should be expanded.

Approach 2: Expanding Services to Municipalities Not Currently Served

- It is not enough just to keep residents who are currently receiving a high standard of Blue Box services. It is important to evolve and improve services and to expand accessibility to those municipalities not currently serviced as well.
- Stewardship Ontario has proposed the following for communities currently not part of the Blue Box program:³

To Communities that do not Currently have Blue Box Programs
<ul style="list-style-type: none"> • Prioritize the transition and stabilization of existing recycling systems before expanding to new services; • Develop conditions such as community willingness and necessary infrastructure; & • Offer payments to depot operators.

- This does not adequately reflect the Accord or the Minister’s letter. There must be an opportunity to recycling designated PPP wherever waste collection services are provided (e.g. “parallel collection”). This collection should match the type of service offered for garbage.
- The concept of implementing “parallel collection” is not new, and has already been built in as a requirement for developing standards in a number of municipalities. It is also the main feature of Vermont’s University Recycling Law whereby, “waste haulers and drop-off centers that offer trash collection services are required to offer recycling and food scrap collection services in advance of each landfill ban going into effect. For example, waste haulers and facilities must offer food scrap collection by 2017, so that there is time for residents and businesses to find a preferred way to manage their food scraps by 2020.”⁴

² Ontario Regulation 101/94. Recycling and Composting of Municipal Waste. Available online at <https://www.ontario.ca/laws/regulation/940101>

³ Stewardship Ontario, Module 1.

⁴ State of Vermont, Agency of Natural Resources. “Vermont’s Universal Recycling Law.” Available online at <http://dec.vermont.gov/waste-management/solid/universal-recycling>.

- A reasonable guideline would be for Ontario residents to be provided at a minimum, PPP recycling collection services through the same means in which they are currently receiving garbage collection:
 - Curbside garbage collection would require the provision of curbside PPP collection;
 - Drop-off depot garbage collection would require the provision of drop off depot PPP collection;
 - Multi-residential garbage collection with the use of front-end collection would require the provision of front-end or other containerized multi-residential PPP collection; and,
 - Multi-residential garbage collection with the use of carts or other containers would require the provision of carts or other containerized PPP collection.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

- That a process and methodology be developed for benchmarking service costs in the amended Blue Box Program Plan (a-BBPP) as follows:
 - Municipality presents its price for service compensation to Stewardship Ontario.
 - If the parties agree, commercial agreement between the parties reflects that pricing.
 - If parties do not agree:
 - Municipality provides evidence, based on key criteria, to demonstrate how their prices compare to other similar programs.
 - If Stewardship Ontario agrees to the pricing, commercial agreement between the parties is developed based on that pricing.
 - If parties still do not agree:
 - Resource Productivity and Recovery Authority (RPRA) retains a mediator/arbitrator (Med-Arb)¹ that both parties agree to.
 - If parties cannot agree on a mediator/arbitrator, RPRA chooses from a roster of Ontario mediator/arbitrators that they develop.
 - If the parties are not successful in arriving at a settlement in the mediated portion of the process, then the parties have agreed to have binding arbitration with the Med-Arb official.
- That a dispute resolution process also be incorporated into the a-BBPP as follows, if the parties still do not agree to the above process:
 - Each party presents their case to the mediator/arbitrator who makes a binding decision in a reasonable timeframe.

The proposed recommendations ensure that there is a clear and transparent methodology on how inevitable disputes will be resolved between the parties in both non-transitioned and transitioned municipalities.

¹ Harvard Law School Library. "Alternative Dispute Resolution: Mediator/Arbitrator." Available online: <https://guides.library.harvard.edu/c.php?g=310591&p=2078484>.

Background:

- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (a-BBPP). It specifically states that the proposal shall “*develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan...*” (p.7).

Service Compensation:

In the consultation materials presented by Stewardship Ontario in Module 1 and 2 there are numerous occasions where they have recommended a process of benchmarking to establish/verify servicing costs:²

1. If a municipality is acting as an agent for Stewardship Ontario for curbside and multi-family paper products and packaging (PPP) collection:
 - Where a municipality incorporates Stewardship Ontario’s performance standards and bid requirements into their competitive procurement, Stewardship Ontario will pay the price charged by the successful proponent for services.
 - Where a municipality deviates from Stewardship Ontario’s performance standards and bid requirements (e.g. bundled services, additional service requirements ...), Stewardship Ontario will pay based on benchmarking.

If a municipality is acting as an agent for Stewardship Ontario for depot services:

 - Depots would be paid on a per tonne basis (using historic cost as a basis) to collect PPP that meets a quality standard.
2. If a municipality is self-delivering for curbside and multi-family PPP collection:
 - Stewardship Ontario will pay a price based on benchmarking.

If a municipality is self-delivering for depots:

 - Depots would be paid on a per tonne basis (using historic cost as a basis) to collect PPP that meets a quality standard.
3. Where a community does not wish to collect, Stewardship Ontario will issue a collection tender
 - Private depots will be paid to collect PPP that meets a quality standard.

² Based on Stewardship Ontario’s Presentation. “Developing a Proposal for an Amended Blue Box Program Plan – Module 1: The Proposed Transition Process” (October 12, 2017). Available [online](#).

4B) Where a municipality amends a collection contract to enter into agreement with Stewardship Ontario to act as contract manager based on prescribed performance standards (referred to as Transition Support Mechanism 4B) in Stewardship Ontario Consultation material)

Payments for collection services based on:

- Payment to cover unit pricing (e.g. per household) charged by service provider or benchmarked by comparable municipalities if self-delivered...

We agree with the notion of benchmarking to gauge 'value-for-money' and ensuring services are being provided cost effectively; however, a clear methodology needs to be included in the a-BBPP to ensure any disputes between the parties can be resolved fairly and expeditiously.

Benchmarking collection costs requires analysis of various criteria, some of which include:

- Collection approach (single or two stream);
- Risk allocation, penalty application, etc.;
- Population density;
- Average distance between homes;
- Frequency of servicing;
- Average tonnage of materials collected annually;
- Percentage of homes by type; and,
- Geographic context (rural vs. urban).

The benchmarking methodology should be:

- Municipality presents its price for service compensation to Stewardship Ontario
 - If the parties agree, commercial agreement between the parties reflects that pricing.
- If parties still do not agree:
 - Municipality provides evidence, based on key criteria, to demonstrate how their prices compare to other similar programs.
 - If Stewardship Ontario agrees to the pricing, commercial agreement between the parties is developed based on that pricing.
 - If the parties are not successful in arriving at a settlement in the mediated portion of the process, then the parties have agreed to have binding arbitration with the Med-Arb official

Dispute Resolution Mechanism

No dispute resolution process has been put forward by Stewardship Ontario as part of the consultation on the a-BBPP.

Municipalities feel that a process is required to ensure inevitable disputes get resolved in a fair and expeditious manner.

We suggest that the process outlined above for benchmarking of servicing costs could serve as the basis for dispute resolution, namely that if the parties are not successful in arriving at a settlement in the mediated portion of the process, then the parties have agreed to have binding arbitration with the Med-Arb official.

Each party would present their cases to the mediator/arbitrator who makes a binding decision in a reasonable timeframe.

There should also be a mechanism to deal with multiple municipalities collectively (especially small municipalities).

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

- Based on the Minister's direction there should be no backsliding on materials currently collected in municipal programs.
- If municipalities are collecting a wider range of materials than proposed by Stewardship Ontario, they must be "grandfathered" into the amended Blue Box Program Plan (a-BBPP).
- Transitioned communities which are not currently accepting all these materials in their existing Blue Box program should have the expanded list of materials added to their existing curbside and depot services over the approved life of the a-BBPP (i.e. five years).
- As a compromise position, Stewardship Ontario could:
 - For year one (1), set fees on obligated PPP not recommended for inclusion on the standardized list sufficient to make meaningful investments to overcoming barriers;
 - For year two (2), expand the harmonized list of materials collected province wide to include those materials for which solutions have been found; and,
 - Where no solutions can be found, propose alternative management options for these materials provided residents have similar access and with these costs paid by stewards.
- The Stewardship Ontario fee setting methodology should be amended to include both:
 - A "disrupter fee" to discourage stewards from supplying PPP into Ontario which cannot be sorted or recycled under existing commercial conditions; and,
 - A "market development fee" to those products or packaging which have weak markets or low yields to directly invest in further research and development and promotion and education campaigns at a meaningful scale to specifically address these materials.

Background:

The [Accord](#) states:

- *Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:*
 - *Not negatively impact Ontarians' experience with and access to existing recycling services;*
 - *Improve environmental outcomes...*

The [Minister's letter](#) states:

- *Ensuring a seamless transition of the Blue Box program, specifically not negatively affecting Ontarians experience with and access to Blue Box services;*
- *Provide for continuous improvement of environmental outcomes by expanding and harmonizing the list of materials in the existing Blue Box program accepted from Ontario residents;*
- *... an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP;*
- *Maintain convenience and accessibility standards, including:*
 - *Curbside collection for households where currently provided by these municipalities and indigenous communities;*
 - *Collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities...*

The letter also provides specific direction to:

- *Provide effective economic methods to incent behavior changes leading to waste reduction of PPP ...which may include:*
 - *Increase of the product's or packaging's reusability and recyclability,*
 - *Reduction or elimination of any impact the material may have on the recyclability of other materials;*
 - *Reduction of the amount of waste generated at the end of the product's or packaging's life;*
 - *Reduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability, and/or Increase of the use of recovered resources in the making of the material;*
 - *Use means to discourage the use of materials that are difficult to recycle and have low recovery rates...; and,*
 - *Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.*

Stewardship Ontario has proposed that:

- Transitioned municipalities collect a standardized list of materials based on what Stewardship Ontario unilaterally determines can be sorted and have robust end markets.
- Initial comments suggest that this list will include materials such as coffee cups and mixed rigid plastics but is likely to exclude materials that are problematic to sort and that do not have robust end markets such as coffee pods and expanded polystyrene packaging.
- It has been suggested by Stewardship Ontario that these products and packaging may be included in the future as end markets and sorting technologies become available. In the meantime, Stewardship Ontario would conduct R&D to advance these outcomes.

Analysis:

The Stewardship Ontario proposal to exclude materials that are difficult to sort or that do not have robust end markets is problematic and cannot be supported. The ability to define either criteria is difficult. Given current recycling markets difficulties driven in part by tighter contamination standards required for export to China, it could be argued that a substantial amount of obligated PPP currently being collected under the existing BBPP does not currently meet the test of “*robust markets*”.

However, dropping obligated PPP that is already being collected in some municipalities essentially reinforces steward behavior that the new legislation is specifically trying to discourage and would further complicate measuring progress towards steward recovery targets.

The Minister’s letter speaks to creating a seamless transition that does not negatively affect Ontarians’ experience with and access to Blue Box services. Additionally, the Minister requests a move towards a circular economy and continuous improvement of environmental outcomes. Potentially removing materials from existing Blue Box programs is not in keeping with this direction.

As a compromise position, Stewardship Ontario could:

- For year one (1), set fees on obligated PPP not recommended for inclusion on the standardized list sufficient to make meaningful investments to overcoming barriers;
- For year two (2), expand and the harmonized list of materials collected province wide to include those materials for which solutions have been found; and,
- Where no solutions can be found, propose alternative management options for these materials provided residents have similar access and with these costs paid be stewards.

There is limited risk that this would affect development of a province-wide promotion & education campaign, given that municipalities will be transitioning their programs over a number of years.

While the suggestion that Stewardship Ontario would “*conduct R&D to advance these outcomes*” has merit the generality of this statement does not match the clarity provided by the Minister’s letter or the scale of the challenge ahead.

It is also worth noting some Blue Box materials are currently managed in other systems such as green bin collection and through mixed waste processing with the potential for even further recovery rates. If these materials are difficult to manage in Blue Box collection systems many of the difficulties can be overcome by including them in these alternative systems. Stewards must accept their responsibility to manage difficult to recycle materials that they supply into the Ontario market.

Stewardship Ontario can best incentivize such action by amending its existing fee setting methodology to both discourage stewards from supplying non-recyclable PPP into the Ontario market and to raise the resources required to address the operational and financial burdens these specific materials place on Blue Box programs and municipal waste management budgets.

Conclusions:

- An a-BBPP must include a list of defined materials that maintains the scope and convenience of existing municipal Blue Box recycling programs to satisfy the direction provided by the Minister. To demonstrate a seamless transition with no disruption of service, the current basket of goods collected by transitioning municipalities must remain eligible for collection with stewards paying the cost of delivering a program that matches the existing service ratepayers currently receive.
- Stewardship Ontario should propose an initial standard list of acceptable items for province wide collection.
- Municipalities who collect more than the standard list as of August 14, 2017 should continue to include all of the items they collected at that time.
- Stewardship Ontario should assess fees against obligated PPP that is not included in the initial standardized list sufficient to overcoming barriers or to develop alternative steward managed collection programs that provide reasonable accessibility for residents.
- Transitioned communities which are not currently accepting all these materials in their existing Blue Box program should have the expanded list of materials added to their existing curbside and depot services over the approved life of the a-BBPP.
- Providing economic incentives for stewards to utilize only recyclable PPP is fundamental to the establishment of full producer responsibility and progress towards a more circular economy in Ontario. EPR programs operating in Europe, and closer to home in Quebec, have established similar economic signals for producers to reduce packaging-related wastes.
- Expanding and standardizing the list of PPP collected in transitioned municipalities over a multi-year transition period will provide stewards with a full and complete understanding of the management requirements under RRCEA for all PPP that they supply into the Ontario market.
- Maintaining and working within existing municipal curbside Blue Box collection programs provides 'real world' conditions for stewards to determine the programs and resources that will be required to address the Minister's direction to facilitate reduction of waste generated by PPP.
- The current Stewardship Ontario proposal to establish funding to research and address problematic PPP materials isolated from curbside or depot Blue Box programs may not provide stewards with data that reflects realistic conditions 'on the ground'. Existing municipal Blue Box collection programs can act as 'real world laboratories' to help stewards identify and manage their waste reduction obligations.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

To ensure that paper products and packaging (PPP) recovery rates are calculated in an accurate and transparent manner under the amended Blue Box Program Plan (a-BBPP) and that the 75% diversion target set by the Minister for the a-BBPP is met in a timely manner:

- RPRA should have direct responsibility for establishing the methodology for measuring, monitoring and reporting on steward progress towards meeting recovery targets.
- The methodology should include:
 - Direct reporting by individual stewards to RPRA of the total quantities of all paper products and primary, convenience and transport packaging supplied into Ontario, including into residential and industrial, institutional and commercial channels;
 - Including at a minimum the disaggregated material types as per the CSSA Guidebook-for-Stewards (2015);
 - Application of transparent and consistent methodologies for estimating the quantities of obligated PPP supplied into eligible residential households and eligible sources of PPP generated away-from-home or purchased by householders for use away from home (i.e. school & office lunches; newspapers read on the subway);
 - Ongoing independent audits of a representative sample of steward reported actual or deemed average weights and volumes of obligated PPP types (i.e. 1L PET, shoe box, etc.) including audits of collected material densities (i.e. comingled packaging stream; packaging stream collected without glass; mixed paper collection, etc.)
 - Independent 3rd party auditing of materials received at the Material Recovery Facility (MRF), once the material has been dropped off by a PPP collection vehicle (rather than at the curbside);
 - Independent 3rd party audits of mass flows of MRFs under contract to Stewardship Ontario to estimate the total quantities of obligated PPP and of non-obligated PPP managed in these facilities;
 - Supported by independent 3rd party auditing of mixed waste loads delivered to waste transfer, organics, landfill and Energy from Waste (EFW) facilities to identify quantities of all potentially obligated materials identified in the *Strategy for a Waste-Free Ontario*; and,
 - Posting of the audit results in the RPRA annual reports.
- Calculating recovery rates on the basis of the actual quantities of materials reprocessed into new products (i.e. after removal of contaminants) is the preferred approach. The producer proposal outlined above provides a reasonable starting point for the consultation but should also take into consideration the quantities of compostable packaging or soiled

printed paper or paper packaging that makes its way into organic diversion systems and which should be included under the a-BBPP.

- A target date of two (2) years following the transition of the municipality to full producer responsibility should be set for achieving the 75% diversion target in transitioned municipalities' households.
- That progress towards the 75% diversion target and agreed material specific targets be reported to the Minister on an annual basis.
- That the a-BBPP include a recommendation to the Minister that if these targets are not achieved within the two-year timeframe that PPP be designated as a class of material under the RRCEA.

The proposed recommendations will ensure compliance with the Minister's goals and objectives under the *Waste Free Ontario Act* and accompanying strategy.

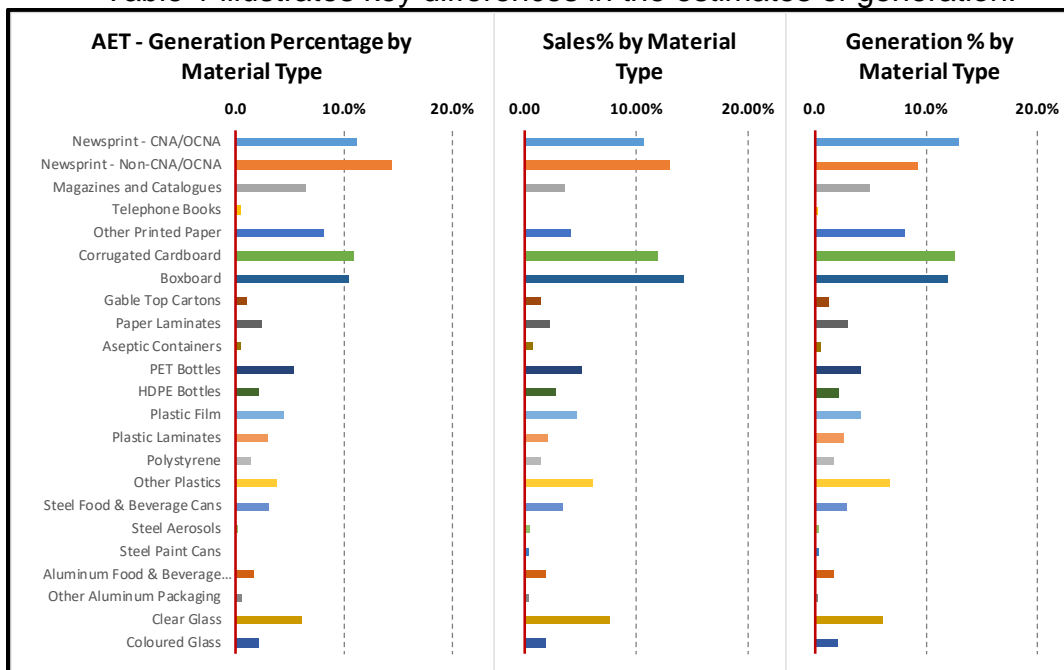
Background:

- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (BBPP).
- The Minister in the letter provides direction to:
 - *Increase the diversion target for the Blue Box Program to 75 per cent of the PPP supplied by stewards to transitioned municipalities' households; and,*
 - *Establish material-specific management targets for PPP supplied by stewards to transitioned municipalities households.*
- Stewardship Ontario currently calculates generation figures in a 'black box' calculation not shared with RPRA or municipalities. To the best of our knowledge, the sources for this calculation include:
 - Producer sales data reported to Stewardship Ontario;
 - Residential Curbside Audits done between 2005 and 2007;
 - Residential Curbside Audits done since 2012;
 - Estimates of Individual Material Type Densities; and
 - Bale audits of materials from a few municipal MRFs.
- All of these sources present issues with statistical validity:
 - Steward reported sales data suffers from a lack of real knowledge of the actual distribution of sales between residential users and quantities supplied into the wide variety of industrial, commercial and institutional channels.
 - Curbside audit data represents a very sparse estimate of material generation based on non-repeated audits of small samples of single family households and even smaller samples of multi-family households in a number of municipalities at different times, some dating back more than 12 years.

- Bale audits, taken on the final processed material, suffer from data scarcity, do not take into account:
 - Other materials that remain as contamination (which may be acceptable within a certain tolerance depending on material type or bale purchaser specification) and some PPP materials that were collected but that will not actually be recycled because of their condition (i.e. degraded material collected from a remote site such as old wet newsprint, glass embedded into other materials, soiled plastic and cardboard, etc.);
 - Size (small units of glass, plastic, metal, that will be screened out in recycling operations); or,
 - Composition of the collected material (i.e. black PET; stand-up pouches that cannot currently be commercially recycled).
- Three different approaches have previously been used to estimate the generation rate of obligated PPP under the existing BBPP:
 - Steward reports on the estimated sales and related quantities of obligated PPP supplied into residences;
 - Stewardship Ontario estimates of the quantities of obligated PPP generated by households; and,
 - A study of PPP generation undertaken by AET on behalf of the CIF in 2014.

Each of these approaches produces different results which may materially affect the accuracy of calculations on material specific rates. This may also affect the fee rates charged to stewards (given the structure of the current three factor formula which attempts to allocate costs from “high performing” materials to “lower performing” materials. Payments may also be lowered to municipalities if greater quantities of printed paper are allocated to CNA/OCNA newsprint which are then paid with “in-kind advertising” services.

Table 1 illustrates key differences in the estimates of generation:



- This effect is further demonstrated when these differences are aggregated into the material specific categories being proposed by Stewardship Ontario under the a-BBPP but with the printed paper category broken out separately:

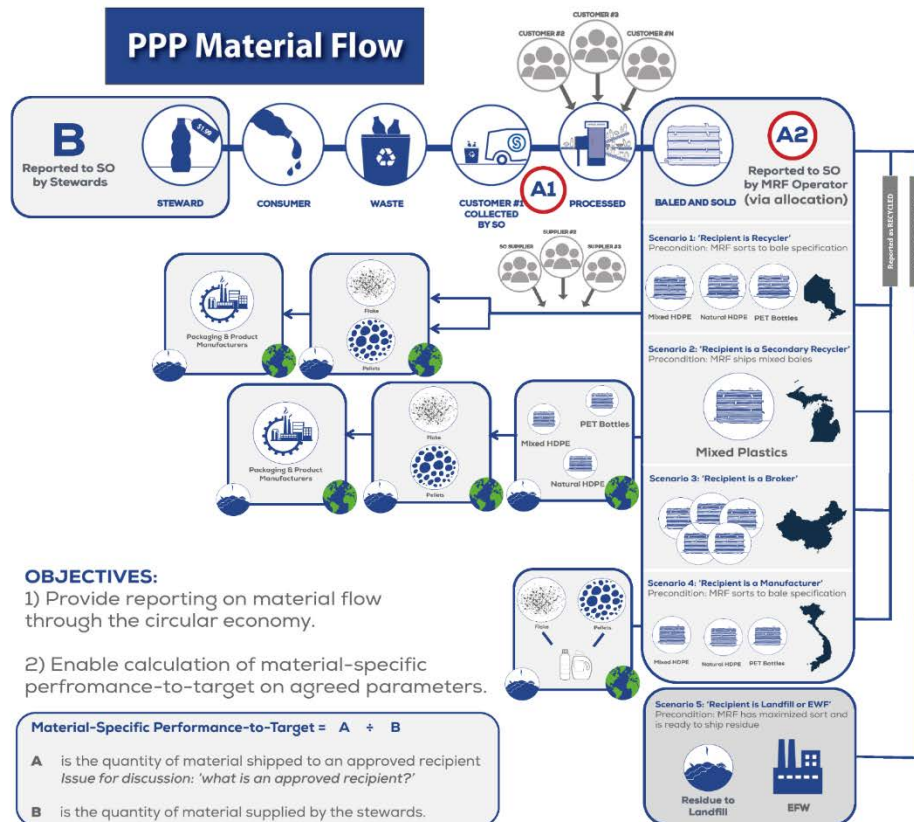
Table 1: Relative % of Material Classes in Allocation Estimates

	AET 2012/13 Curbside	% Total Sales	% Total Generation
Printed Paper	40.7%	31.4%	35.6%
Containers	59.3%	68.6%	64.4%
Fibre Packaging	25.2%	30.5%	29.2%
Plastic	20.3%	22.1%	21.5%
Steel	3.3%	4.2%	3.6%
Aluminum	2.2%	2.3%	2.0%
Glass	8.2%	9.4%	8.1%

Note in particular that the “as generated” approach tends to underestimate printed paper relative to Curbside Audits and that reported Sales of steel, plastic and glass significantly exceed curbside audit data in both Generation and Curbside Audits, perhaps underscoring the need for more precise determination of material destination post sales. Of further concern, expanding the definition of obligated printed paper to include paper for writing, printing or copying without further disaggregation of these materials will make recovery and fee setting calculations less transparent.

- In addition to concerns with the methodology used for calculating the generation rate of obligated PPP, there are significant issues with the current methodologies used for calculating PPP recovery rates. The existing approach utilized by Stewardship Ontario and by municipalities is to sample a small group (or groups) of homes, from areas of a city, in an attempt to create a representative sample that approximates for the municipality as a whole. Unfortunately, the sample sizes used to date have not been large enough to constitute a statistically significant and stratified sample. This often results in deficiencies in the data, which makes accurately measuring PPP recovery rates difficult (if not impossible).
- Under the a-BBPP, RPRA will have the authority to require individual stewards to report the total quantities of PPP supplied into the market. To ensure that progress towards the 75% diversion target for PPP as a basket of goods, and for the material specific targets to be set as part of the amended plan, RPRA is best placed to develop and implement a more accurate and transparent methodology for measuring and reporting on progress towards these targets. This methodology must take into consideration:
 - The difficulties inherent in “guesstimating” what proportion of totals sales of beverage containers, milk cartons, food cans, etc. supplied into the market are in fact consumed in transitioned households. This can be addressed in part by requiring total supplies of all quantities of PPP regardless of where they are finally used/consumed and developing transparent and common means for

- calculating what percentage of these totals should be factored in the recovery rate calculation;
- The need to continually assess the ever-changing composition and weight of the PPP supplied into the market in determining the denominator on which to calculate the diversion rate;
 - The need for more representative and accurate calculations of the quantities of obligated materials collected in Blue Box programs and “how they show up” in recycling containers, collection vehicles, depots, etc. as the basis for tracking both diversion rates and costs by material type. This requires more than sampling a small number of curbside audits on an irregular basis; and,
 - That it is in the public interest for RPRA to undertake this important work to ensure the efficacy of the reporting.
- The *Waste-Free Ontario Act* does not define recycling but instead defines “resource recovery” as the extraction of useful materials or other resources from things that might otherwise be waste, including through reuse, recycling, reintegration, regeneration or other activities.
 - The *Waste Diversion Act* did not define recycling, instead it stated that a waste diversion program developed under the Act shall not promote any of the following: the burning of the designated waste; the landfilling of the designated waste; the application of the designated waste to land; and any activity prescribed by the regulations.
 - The CSA Guideline for accountable management of end-of-life (EOL) materials (SPE-890-15) defines recycling and material recovery separately:
 - Recycling: Any operation by which EOL products or materials are reprocessed into new products, materials, or substances (solids, liquids, or gases), whether for original or other purposes, to replace virgin equivalents of that material. This includes biological processes like anaerobic digestion and composting that produce a nutrient amendment; and,
 - Material recovery: Any operation by which EOL products or materials are reprocessed but lose their functionality as a replacement for virgin equivalents of that material.
 - A proposal brought forward by Stewardship Ontario (November 6, 2017) follows the same international trend towards measuring recovery rates on the basis of the actual quantities of materials reprocessed into new products (i.e. after removal of contaminants):



- Under the existing BBPP, recovery rates are generally measured and reported on the basis of the quantity of materials sorted and shipped from Material Recovery Facilities (MRFs) and/or as sold to intermediate brokers. Applying the methodology outlined above, removing contaminants, non-recycled and non-obligated materials would result in a lower reported recycling rate for some materials such as plastics. This increases the challenge required to meet the 75% recovery target for PPP in transitioned municipalities.

Conclusions:

- It is recommended that under the a-BBPP that collected PPP be audited at the MRF, once the material has been dropped off by a collection vehicle. This is beneficial for several reasons:
 - 1) Municipalities know (and have the ability to alter) which routes a truck travels, it is much easier to design a study that adequately reflects regional differences (location, housing type etc.) within a city.
 - 2) The sample being taken is an amalgamation of all households on a given collection route. Unlike conventional waste audits which will often sample a block of homes in a given neighborhood, MRF level audits will include all households on a given collection route. This minimizes the concerns surrounding constructing a representative sample, as one set of households is no longer being used as a proxy for an entire neighborhood.

- 3) Sampling at the MRF enables a degree of consistency in how audits are conducted and measured.
- This should be further supported by:
 - Independent audits of mass flows of MRFs under contract to Stewardship Ontario to estimate the total quantities of obligated PPP and of non-obligated PPP managed in these facilities; and,
 - Independent auditing of mixed waste loads delivered to waste transfer, landfill and EFW facilities to identify quantities of PPP remaining in the waste stream. RPRA should give strong consideration to auditing of all potentially obligated materials identified in the *Strategy for a Waste-Free Ontario* to meet the broader objectives of the Resource Recovery and Circular Economy Act (RRCEA).
 - The a-BBPP should specify, as proposed by Stewardship Ontario, that recovery rates will be calculated on the basis of the actual quantities of materials reprocessed into new products (i.e. after removal of contaminants). The producer proposal outlined above provides a reasonable starting point for the consultation but should also take into consideration the quantities of compostable packaging or soiled printed paper or paper packaging that makes its way into organic diversion systems and which should be included under the a-BBPP.
 - Ultimately, the goal of this proposed approach is to increase the credibility and accuracy of broader waste audit data, such that meaningful analysis and recommendations for action can be made.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.



Supporting Reduction: Reuse, Recycling and Reintegration of PPP into the Economy

November 17, 2017

Recommendations:

- Modifying the existing Stewardship Ontario fee setting methodology is the most effective tool available under the amended Blue Box Program Plan (a-BBPP) to incentivize stewards to accelerate efforts to promote greater reduction, reuse and to design for recyclability.
- Recognizing the multitude of factors that go into stewards' packaging choices and the limited experience to date with incorporating financial incentives and disincentives into Extended Producer Responsibility (EPR) fee setting methodologies:
 - Year one (1) of an approved a-BBPP provides the opportunity to collect relevant data and to consult with stewards and other stakeholders on how best to implement these changes; and,
 - With a commitment within the a-BBPP to implement these changes and to apply the revised fee setting methodology for year two (2) of the approved a-BBPP.
- The revised steward fee setting methodology should be structured to provide greater economic incentives to stewards to introduce more recyclable paper products and packaging (PPP) by:
 - Maintaining the existing practice of having material specific fee rates reflect the cost to manage each material type and also its relative recycling performance;
 - Assigning material specific fees to all obligated packaging not collected under the a-BBPP at a level to provide sufficient funds to make direct, meaningful efforts to overcome the barriers to recycling each of these specific materials and to ensure a clear nexus between the fees charged to the steward and the services provided under the a-BBPP. In principle, these fee rates should be set higher than those assigned to similar but recyclable material types collected under the a-BBPP so that there is no competitive advantage for stewards selecting non-recyclable/non-collected material;
 - Adding an additional "disrupter fee" to materials which are known to be problematic materials in Blue Box programs or which contain substances that compromise the materials' reusability or recyclability. This additional fee rate and the reason why it is being assessed should be communicated clearly to the obligated steward as a separate line item; and,

- Setting fees for PPP promoted by stewards as biodegradable and/or compostable and that are collected in municipal organics programs, at a rate sufficient to pay municipalities for the costs of managing these products in organics collection and management programs.
- Adding an incentive to stewards to increase the recycled content of their PPP is a more complex undertaking and should include an assessment of existing (and potentially new) trade regulations to determine whether it is possible, and if so how, to incent new market developments within Ontario and Canada. Evaluation of and possible coordination with the Eco-Emballages Quebec fee incentive measures should be considered.
- Resource Productivity and Recovery Authority (RPRA) and Stewardship Ontario should maintain a registry and post on their websites examples of branded non-recyclable packaging supplied by obligated stewards into the Ontario market which cannot be recycled and which are not to be included in Blue Box collection programs.
- Alternative options for collecting obligated PPP not collected in Blue Box programs should be trialed over the first year of the approved a-BBPP and the most successful methods implemented more widely in the second year of the program.
- Stewardship Ontario promotion & education (P&E) programs should include:
 - Information on what types of obligated PPP are not recyclable and why; and,
 - Information on efforts underway to overcoming the barriers to recycling these materials.
- RPRA and Stewardship Ontario should provide an assessment in each annual report of the progress made by stewards in reducing the generation of PPP and the introduction of more recyclable PPP.

Background:

The [Accord](#) states:

A critical first step in the evolution towards such a circular economy is to implement extended producer responsibility...we have agreed that such a transition must:

- *Address the provincial interests listed in the resource Recovery and Circular Economy Act 2016 (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.*

The [Minister's letter](#) directs that the proposal for an amended BBPP:

- *Provide effective economic methods to incent behavior changes leading to waste reduction of PPP;*
- *Establish methods to facilitate the reduction of waste generated related to defined PPP materials. The methods may include activities to support:*
 - *Increase of the product's or packaging's reusability and recyclability,*

- *Reduction or elimination of any impact the material may have on the recyclability of other materials;*
 - *Reduction of the amount of waste generated at the end of the product's or packaging's life;*
 - *Reduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability; and/or*
 - *Increase of the use of recovered resources in the making of the material.*
- *Use means to discourage the use of materials that are difficult to recycle and have low recovery rates; and,*
 - *Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.*

Stewardship Ontario has stated in the a-BBPP consultation documents that:

- *“Where stewards bear the cost of the end-of-life management of their paper product and packaging choices, consideration of opportunities to reduce, reuse and increase both recyclability and recycling is expected to increase.”*

Stewardship Ontario has also stated that:

- *“Whether or not the paper product or packaging is being collected and managed in the transitioned system, Stewardship Ontario will employ a fee setting methodology for purposes of financing the amended Blue Box Program Plan that will enable the allocation of cost to material categories in order to fund remedial actions to improve the diversion performance of poorly performing materials and actions necessary to allow items that are not currently collected to be collected...”*
- *Stewardship Ontario will ensure that collection and resource recovery performance reporting metrics are available annually to provide evidence of the requirement for these investments.”*

The actions proposed by Stewardship Ontario to better inform stewards; to make recommendations for operational and technological innovation; and to work collaboratively with its commercial partners falls short of the direction provided by the Minister and of the public policy objectives of the RRCEA.

There is little evidence to demonstrate that there has been any substantive change in steward behaviors leading to reduction of PPP or better design for recycling resulting from similar initiatives:

- Stewards in Ontario have broadly known the recovery performance of their packaging under the BBPP for 20+ years.
- Stewards have paid material specific fees over these two decades which reflect both the cost to manage these materials through Blue Box programs and the recovery rate of each material relative to lower and higher performing materials.

- These feedback mechanisms have not slowed in any way the continuing transformation of PPP towards lighter, multi-material, harder and more expensive to recycle packaging types. Steward representatives have also been forceful and accurate in stating that relatively few PPP design decisions are taken at the provincial, or even the national level in Canada.
- While Stewardship Ontario fee rates have been low in comparison to other provinces and in particular in comparison to jurisdictions internationally (due in part to the cost sharing arrangement with municipalities, the inclusion of ONP in a basket-of-goods calculation in measuring recovery performance and the general efficiency of Blue Box program operators and service providers), little clear progress has been made in regards to design for recycling/supporting a transition to circular economy thinking in other jurisdictions with significantly higher fee rates than Ontario.
- The projected pace of transition to full producer responsibility under the a-BBPP will moderate the impact on steward fee rates overall and may not provide a strong enough economic incentive to overcome the known barriers to change.
- While Stewardship Ontario has suggested that it will adopt a fee setting methodology *“that will enable the allocation of cost to material categories in order to fund remedial actions to improve the diversion performance of poorly performing materials”* no details have been provided on how this would be done or when.

Most studies on the effects of EPR programs and policies on producer “design for recycling” decisions have shown little or no effect to date. This is especially true in jurisdictions with a monopoly compliance scheme where there is a marked tendency to manage to the lowest common denominator in the interests of keeping costs as low as possible for all obligated stewards/producers.

Relying solely on fee rates designed to cover the costs to recycle packaging that is collected under the program, in combination with education and some R&D efforts to incent significant behavior change among producers, has not proven effective to date. As a result some producer recovery organizations and some leading brand holder companies are moving towards incorporating additional incentives and disincentives in producer fees specifically to spur greater efforts on obligated companies to promote reduction, reuse, increased recycled content and the elimination of non-recyclable packaging and material choices which interfere with the recycling of other packaging. Some of these initiatives include:

- Modifying material specific fee rates to incent producers to increase the recycling content of their packaging, to select more recyclable packaging, promote more effective sorting and recycling, etc.;
- Charging higher fees to packaging known to be non-recyclable in that market;
- Adding “disputer fees” to specific materials and types of packaging known to interfere with recycling operations (i.e. PVC, use of black PET, etc.);
- Requiring members of the PRO to submit packaging reduction plans and reports;

- Providing member companies with best practice examples of recyclable packaging design;
- Establishing design for recycling resource centers and offering best practice training to producer members; and,
- Providing incentives to add “on pack” recycling messages on their packaged goods.

While none of these initiatives are known to have sparked widespread changes in producer behavior these represent early innovations that are expected to be revised and enhanced over time. This is not unlike previous interventions to correct for market failures or to advance progressive environmental policies (think feed-in tariffs for renewable energy, minimum average fuel consumption requirements for classes of vehicles, quotas to meet for the sale of zero emission vehicles, etc.). This need and experience has been clearly recognized in the Minister’s letter and the Stewardship Ontario proposals fall short of this direction.

Conclusions:

The initiatives proposed by Stewardship Ontario to date fall short of the Minister’s direction to:

- Provide effective economic methods to incent behavior changes leading to waste reduction of PPP; and
- Establish methods to facilitate the reduction of waste generated related to defined PPP.

Informing stewards that their packaging will not/is not being collected in Blue Box programs, and why, is not likely to be new news to the steward nor to spark significant changes in their behavior.

There are clear, practical initiatives that Stewardship Ontario can undertake to incent producers to move in this direction. While these activities will not likely achieve revolutionary changes over the life of the a-BBPP, they will send a stronger price signal, especially to those stewards that continue to introduce non-recyclable PPP which impedes the recycling of other types of packaging into the Ontario market. Implementing these initiatives under the a-BBPP will also help to better prepare stewards for the transition to individual producer responsibility under the RRCEA.

There is clearly no “silver bullet” mechanism that will change producer behavior to meet these challenges but a clear start should be made in this direction. Eco-Emballages Quebec has already taken steps in this direction and these would be enhanced by making similar efforts in Ontario, while also promoting greater harmonization of EPR programs across Canada which is known to be a high priority for Canadian companies.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.

November 17, 2017

Recommendations:

- Stewardship Ontario should establish an effective promotion & education (P&E) program, that involves two components:
 - **Strategic P&E** that promotes awareness of the Blue Box program’s features, benefits of sorting and recycling, and motivates residents to make informed and proper decisions about waste reduction and reuse; and,
 - **Operational P&E** that supports the day-to-day operational aspects of collection and recycling of PPP.
- The P&E program requires a shared level of responsibility to deliver between Stewardship Ontario and its contracted service providers.
- Roles and responsibilities of producers, service providers (public and private), and the Resource Productivity and Recovery Authority (RPRA) should be defined in all elements of the program including planning, design, implementing, assessing, and ensuring Stewardship Ontario compliance with the agreed P&E program.
- Stewardship Ontario should monitor, measure and report P&E activities as part of their annual report to the Authority (or to an independent third party).
- RPRA (directly or through an independent third party) should track and assess changes pertaining to year-over-year P&E performance by Stewardship Ontario are effective and measured against key performance indicators set in advance.

The proposed recommendations will ensure compliance with the Minister’s goals and objectives under the *Waste-Free Ontario Act* and accompanying strategy. These elements will ensure necessary P&E efforts continue under the industry-led program including outreach to remote and small communities, defines clear roles & responsibilities of relevant stakeholders, and provides the Authority and Minister to check the effectiveness of the P&E program.

Differentiating between Strategic and Operational P&E

	Strategic P&E	Operational P&E
Definitions	Promotes awareness of the Blue Box program’s features, benefits of sorting and recycling, and motivates residents to make informed and proper decisions about sorting and recycling (e.g. high capture and low contamination)	Supports the day-to-day operational aspects of collection and recycling of PPP
Role of RPRA (or an independent third party)	Provides coordination, oversight and review of P&E	Ensures proper reporting of P&E efforts annually, but would not wade into operations on a direct basis

	Strategic P&E	Operational P&E
Role of Stewardship Ontario	Develops a P&E program that is measurable against key performance indicators	Implements P&E programs for transitioned municipalities, and provides guidance on issues
Role of Service Provider	N/A	Carry out local P&E campaigns that provide operational and practical recycling information
Assessing Effectiveness¹	Effectiveness could be defined by: <ul style="list-style-type: none"> • The scope and breadth of campaign (e.g. does it reach enough/the right people?); • A strong, outcomes-based consumer outreach strategy; • A strong, outcomes-based collection location outreach strategy; and, • A strong, outcomes-based municipal outreach strategy. 	Effectiveness could be defined by: <ul style="list-style-type: none"> • The scope and breadth of campaign (e.g. did it reach enough/the right people?); • Number of tonnes diverted in the Blue Box (e.g. did it have the intended effect); and, • The percentage of residual in other waste streams (e.g. Green bin, garbage, etc.).

Background:

- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (BBPP).
- The Minister in the letter provides direction:

It is in the public interest that the proposal for an amended Blue Box Program Plan is consistent with the following principles:

Ensuring a seamless transition of the Blue Box Program, specifically:

 - *Not negatively affecting Ontarians' experience with and access to Blue Box services;*
 - *Incorporating clear rules to support residents' participation including standardized materials and services; and*
 - *Improving program performance.*
- Additionally, the letter includes a section on promotion and education that states "For the purpose of increasing resource recovery and reducing Blue Box waste materials, the proposal shall establish an effective promotion and education program, including promoting awareness of the program activities to residents and other targeted audiences and engaging audiences to elicit feedback."

¹ Based on the Health Products Stewardship Association. "Program Plan for the Ontario Sharps Collection Program." May 2013. Available online: <http://www.healthsteward.ca/sites/default/files/OntarioSharpsCollectionProgramPlanFINAL.pdf> (p. 18-19).

- Action 8 of the Province’s “Strategy for a Waste-Free Ontario, Building the Circular Economy” (Feb 2017) is to “Establish promotion & education requirements to support public participation in resource recovery.” This includes the Province considering how P&E needs may need to be customized to maximize resource recovery and waste reduction in multi-residential developments, the industrial, commercial and institutional (IC&I) sectors and in different community types, such as urban, rural and northern communities.²
- [Ontario Regulation 101/94](#) (Recycling and Compositing of Municipal Waste) stipulates the P&E requirements for Blue Box waste management systems. Under section 7 (2) (g) the regulation requires
 - “The provision of information to users and potential users of the Blue Box program”,
 - (i) describing the performance of the system,
 - (ii) encouraging effective source separation of blue box waste and full use of the blue box waste management system.”³
- Under the existing BBPP the overall P&E responsibility for promoting the Blue Box program lies with WDO (now RPRA) and with individual municipalities. In practice, P&E for diversion programs has remained largely with municipalities in Ontario and this has been fairly consistent with most waste diversion initiatives. Additionally, Ontario municipalities have implemented campaigns to increase the amount of designated material recovered in diversion programs, to reduce contamination in these programs. For example:
 - Partnership with Stewardship Ontario and municipalities: [Peel Expands List of Plastics Approved for Blue Box](#) (October 2013); and,
 - Toronto campaign to reduce contamination: [Recycle Right](#) (2017).
- We understand that the Province may fully or partially rescind Regulation 101/94 with the introduction of a new Regulation under the *Resource Recovery and Circular Economy Act* (RRCEA). If so, there will be a need for P&E including effective consumer awareness and accompanying clarity of P&E roles, responsibilities and accountability. For example, how will customer complaints be managed?
- To date, Stewardship Ontario’s consultation has only mentioned that, “Ontario communities that participate in the Blue Box Program and wish to receive payment will:
 - ...Engage in resident promotion & education activities”⁴

² Strategy for a Waste-Free Ontario: Building the Circular Economy. February 2017. Available online: https://files.ontario.ca/finalstrategywastefreeont_eng_aoda1_final-s.pdf (p. 27).

³ Ontario Regulation 101/94. Recycling and Compositing of Municipal Waste. Available online: <https://www.ontario.ca/laws/regulation/940101>

⁴ Stewardship Ontario. “Developing a Proposal for an Amended Blue Box Program Plan – Module 1, the Proposed Transition Process” (October 12, 2017). Available online: <https://stewardshipontario.ca/wp-content/uploads/2017/08/Amended-Blue-Box-Program-Plan-In-Discussion-with-Municipalities-and-First-Nations-Communities-Module-1.pdf> (p. 28).

- Discussions with municipalities across the Province suggest many are concerned that the lack of clarification for P&E in the a-BBPP will continue to make municipal budget planning difficult given that costs and roles and responsibilities have yet to be defined. Municipalities are also concerned that without this clarity, the relationship with their residents will weaken considerably during transition as residents are likely to defer to municipal offices, given that traditionally Blue Box programs have been operated at that level.
- The amended Plan will need to include a section on Promotion & Education to comply with the Minister's request letter.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.



Comments on Module 2 Amended Blue Box Program Plan

November 17, 2017

Background:

The Municipal Resource Recovery & Research Collaborative (Municipal 3Rs Collaborative) is comprised of representatives from the Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO), the Municipal Waste Association (MWA), and the City of Toronto. The objective of the Municipal 3Rs Collaborative is to ensure a smooth and fair transition of the Blue Box program to full producer responsibility. This includes ensuring residents continue to experience a high standard of Blue Box services and that municipalities are fully compensated for agreed services they deliver to their communities.

This group will not usurp the autonomy of municipal councils. The group will only provide recommendations to municipalities for their own consideration and deliberation.

As part of our comments to Stewardship Ontario on Module 2, we have compiled a list of issues related to the following core aspects of the plan including:

- The proposed definitions of steward and obligated packaging and paper product, including paper products, primary packaging, convenience packaging and transportation packaging;
- The proposed standardized list of targeted materials for collection;
- Actions to address difficult to manage materials;
- The proposed material targets and the methodology for measuring progress towards targets; and,
- Proposed collection and management standards, including expansion of services.

Individual comments will also be submitted by municipalities.

Follow-up Issues from Module 1:

The Municipal 3Rs Collaborative outlined a number of concerns in the first module consultation meeting on October 19, 2017. We are pleased to see many of these concerns have been addressed; most notably, that the concept of using a lottery as part of the transition criteria has been abandoned by Stewardship Ontario. We believe the alternative approach based on defined catchment areas is more practical, as it would group municipalities together based on geographic areas and be informed by contract expiry dates.

However, for eligible costs in non-transitioned municipalities, we do not understand why Stewardship Ontario continues to exclude service level failure credits. In a shared responsibility model, municipalities and stewards share this risk. It is not reasonable for all of this risk to now fall to municipalities.

We continue to be concerned about the lack of detail presented by Stewardship Ontario regarding proposed terms and conditions to describe the service standards in transitioned communities. The details are required for municipal governments to ensure that a “seamless transition of the Blue Box Program” occurs as per the Minister’s Direction letter. While we understand Stewardship Ontario’s reluctance to include contract details in the amended Plan, at minimum there needs to be some detail provided on how the new service will compare to existing programs (i.e. collection frequency, collection container type, acceptable contamination levels etc.) and description of a collaborative process where Stewardship Ontario will work with Municipalities, Service Providers and other stakeholders to determine servicing details once the Plan is approved.

The amended Blue Box Program Plan (a-BBPP) should include provisions that commit to and outline in detail a meaningful collaborative process, inclusive of the major program delivery partners (service providers, municipalities, the Authority and Stewardship Ontario), within which the development of critical aspects of the a-BBPP such as catchment areas, collection terms & conditions, post-collection service standards and procurement processes would occur. As additional detail to address such issues will be unavailable at the time that stakeholders will need to determine their support for the a-BBPP, a well-conceived collaboration commitment and process is essential. It is also important that recourse from unilateral decision-making is provided. A draft concept of this process is included. We would suggest a dispute resolution mechanism be included.

Transition: An Alternate Approach

Stewardship Ontario is now proposing to manage the transition to full EPR by defining logical waste flow catchment areas across the province and scheduling their transition over an agreed timeframe. Once defined, it is proposed that municipal councils in a defined catchment group would be able to decide to transition based on the following criteria:

1. All contracts for collection and/or management of paper products and packaging (PPP) have expired such that the municipality is unencumbered by agreements;
2. A municipality self-delivers service (i.e. does not have contracts for the collection and management of PPP);
3. All contracts for collection and/or management of PPP have been terminated early such that the community is unencumbered by agreements;
4. Where a post-collection contract expires before a collection contract, Stewardship Ontario and the municipality could enter into agreement to act as contract manager based on prescribed performance standards with price established through benchmarking; and,

5. Where a collection contract expires before the post-collection contract, Stewardship Ontario would work with the municipality to competitively procure collection services with these additional terms and conditions:
 - Agreed terms and conditions for maintaining status quo collections under shared responsibility for the period until the processing contract expires; and
 - Agreed terms and conditions for the subsequent period as a transitioned community.

Furthermore, in a presentation by Stewardship Ontario to the Municipal 3Rs Collaborative on November 16, 2017 provided additional clarification on related elements of the proposal:

- There would be no annual quota or cap on the number of catchment areas or the number of qualifying municipalities that can choose to transition in any given program year;
- Further two or more catchment areas could transition within the same time period;
- The requirement for a municipality to give one year notice of its desire to tender and manage collection services on behalf of Stewardship Ontario and to give two years notice to transition this responsibility directly to Stewardship Ontario would not be required under the proposed catchment area process;
- Where a municipality chooses not to tender and manage collection services on behalf of Stewardship Ontario, that municipality will rank lower in priority for entering into transition agreements between the parties;
- Furthermore, municipalities which choose this option will not be eligible to use the “hybrid” transition option outline in 5 above;
- The proposed time to complete the planning work required to establish catchment areas is 18 months from a-BBPP approval with at least a further 5 years required to complete the transition of all catchment areas to full EPR (a total of 6.5 to 7 years in total); and,
- Given these proposed timelines no municipalities would be able to transition to full EPR until 2020 at the earliest.

Other key details of this proposal remain undefined at this stage of the plan development. Furthermore, the validity of this approach will require clearer understanding of the terms and conditions of the proposed services to be provided will be necessary for municipalities to decide whether and how they choose to transition.

Given that Stewardship Ontario has stated clearly that these details will not be available in time for municipalities to decide whether or not to support the proposed a-BBPP, the plan should include provisions that commit to and outline in detail a meaningful collaborative process, inclusive of the major program delivery partners (service providers, municipalities the Authority and Stewardship Ontario), within which the development of critical aspects of the a-BBPP such as catchment areas, collection terms & conditions, post-collection service standards and procurement processes would occur. It is also important that recourse from unilateral decision-making is provided. A draft concept of this process is included. We would suggest a dispute resolution mechanism be included.

The proposal to allow 6.5 to 7 years to complete the transition of all catchment areas to full EPR is not acceptable. We believe that implementing the collaborative approach process as outlined would allow for this process to be completed in full within 4.5 years (inclusive of the 18-month ramp up and three years to transition all defined catchment areas).

Municipal 3Rs Collaborative Comments

The proposal addresses the concerns related to the uncertainty of a lottery and is a positive improvement. It is, however, difficult to understand the scope of issues related to this catchment area option before the mapping of catchment areas is complete and a timeline proposed.

We look forward to working with Stewardship Ontario to confirm the details and principles including:

- A maximum timeline for catchment areas to have the opportunity to be transitioned,
- The inclusion of non-serviced Blue Box municipalities in catchment areas, and
- Principles / criteria on how catchment areas will be identified, and prioritized.

Based on the change of approach it will be prudent to re-evaluate notification requirements which were previously one (1) year for municipalities who exercises the first right of refusal to be a collector under contract to Stewardship Ontario and two (2) years where a community declines to act as a collector for Stewardship Ontario.

It is critical that municipalities retain their autonomy when deciding whether to transition or remain non-transitioned and receive the prerequisite percentage based on net verified costs. Further discussions are required with Stewardship Ontario to determine if a municipality that declines to transition initially can choose to transition in a subsequent year. Additionally, we cannot support the suggestion from Stewardship Ontario that a municipality who does not intend to continue to provide collection services would be a lower priority to transition than a municipality who was intent on continuing to provide services on behalf of Stewardship Ontario.

Issues Still Unaddressed:

A number of areas that the Municipal 3Rs Collaborative previously identified and continues to advocate for have not yet been addressed by Stewardship Ontario including:

- Description of a-BBPP Delivery Model, including:
 - Role of the Authority,
 - Role of Stewardship Ontario,
- Mechanisms to ensure transition to the *Resource Recovery & Circular Economy Act* in a timely manner.
- The Program Agreement between Resource Productivity and Recovery Authority (RPRA) and Stewardship Ontario and in particular the definition of what will constitute a material change under the a-BBPP.

- Steward and a-BBPP waste reduction efforts, specified in the Minister's letter such as
 - "Methods to increase the products or packaging reusability and recyclability;
 - Methods to facilitate the reduction of PPP;
 - Means to discourage difficult to recycle materials;
 - Mechanisms to identify and address difficult to recycle materials;
 - Providing effective economic methods to incent behaviour changes leading to reduction of PPP;
 - How these mechanisms will be applied and measured in both transitioned and non-transitioned municipalities (given that these require steward behaviour changes that will necessarily apply to the whole of the Ontario market); and,
 - Methods to "...work(ing) towards the circular economy by supporting reduce, reuse, recycling and reintegration of PPP materials into the economy."
- How green bin collections of PPP or mixed waste processing will be reflected in a-BBPP system costs and apply against targets.
- The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets").
- Method by which PPP collection and post-collection management contracts and operations will be held and relinquished upon wind-up of Stewardship Ontario to avoid competition barriers (to be reviewed by Competition Bureau).
- Procedures to ensure fair, open competition for collection and post collection services (to be reviewed by Competition Bureau).
- Province-wide and municipal promotion and education programs "incorporating clear rules to support residents' participation including standardized materials and services and improving program performance".
- The treatment of any in-kind funding from the Canadian Newspapers Association and Ontario Community Newspapers Association in transitioned and non-transitioned municipalities.
- Data reporting requirements and audit provisions.

The Municipal 3Rs Collaborative will be submitting comments on each of these areas shortly.

Definition of Steward

Stewardship Ontario did not provide a definition for a steward other than to indicate there is no material change to definition of steward expected from the current Blue Box Program Plan (BBPP).

More details on the definition being proposed by Stewardship Ontario is required to ensure that the terms of the Minister's letter are met and that there is a defensible nexus between the obligated stewards and the a-BBPP programs provided.

The [Minister's letter](#) states:
Define obligated stewards.

Municipal 3Rs Collaborative Comments

It will be worthwhile to see how the proposed language compares to the current definition in the [Blue Box Program Agreement 2017](#):

If two or more Persons are designated as a steward pursuant to the following provisions, then the earlier provision shall prevail:

- a) *2.1. A Brand Owner is designated as a steward with respect to all Printed Material, Service Packaging, and the Packaging of all goods, for which it is the Brand Owner.*
- b) *2.2. A First Importer is designated as a steward with respect to all Printed Material, Service Packaging, and the Packaging of all goods, for which it is the First Importer.*
- c) *2.3. A Franchisor which is Resident in Ontario is designated as a steward with respect to all Printed Material, Service Packaging, and the Packaging of all goods, which are Supplied within the relevant Franchise System.*
- d) *2.4. In the event there is more than one Brand Owner for the same Designated Blue Box Waste (DBBW), the Brand Owner more directly connected to the production of the DBBW shall be designated as the steward, but where the Brand Owner is a Franchisor who is Resident in Ontario or has a real and substantial connection to Ontario, the Franchisor shall be designated as the steward.*
- e) *2.5. In the event that products containing two or more independent Brands are packaged to be Supplied together, then the Brand Owner more directly connected to the joint Packaging shall be designated as the steward for such joint Packaging.*
- f) *2.6. Any Person who is Resident in Ontario that Supplies Service Packaging shall be the steward for such Service Packaging.*
- g) *2.7. Any Person who elects to become a steward respecting a specific DBBW that would otherwise be the responsibility of another steward, shall be designated as a "Voluntary Steward" upon execution of a contract with Stewardship Ontario ("Voluntary Stewardship Agreement"), and in accordance with the Voluntary Steward policy posted on the Stewardship Ontario website, and the steward otherwise responsible is exempt from the requirement to File a DBBW Annual Steward's Report and pay fees respecting such DBBW during the currency of the contract. Stewardship Ontario shall not be required to execute a contract contemplated herein.*
- h) *2.8. An election under Section 2.7 may be made only with Stewardship Ontario by a Person who would otherwise be a Brand Owner but is not Resident in Ontario and in accordance with the Voluntary Steward Policy posted on the Stewardship Ontario website, but such election may not be made by a Person who would be eligible for an exemption described in Section 5.1.*
- i) *2.9. Notwithstanding the above, any Person who has executed a contract with Stewardship Ontario under Section 2.7 prior to June 30, 2006, shall remain an elected steward under the terms of the agreement.*

And how it compares to [BC's PPP program plan](#):

If two or more persons are designated as a producer pursuant to the following, then the earlier provision shall prevail:

- a) A Brand Owner is designated as a producer with respect to all packaging and printed paper, for which it is the Brand Owner.*
- b) A Franchisor is designated as a producer with respect to all packaging and printed paper, which are Supplied within the relevant Franchise System.*
- c) A First Importer is designated as a producer with respect to all packaging and printed paper, for which it is the First Importer.*
- d) Any person who is Resident in British Columbia, who Supplies Service Packaging shall be the steward for such Service Packaging.*
- e) Any person who elects to become a steward respecting packaging and printed paper that would otherwise be the responsibility of another producer, shall be designated as a producer upon execution of a contract with MMBC, and the producer otherwise responsible is exempt from the requirement to pay fees respecting such packaging and printed paper and from Filing an Annual Steward's Report during the currency of the contract. MMBC shall not be required to execute a contract contemplated herein.*

Definition of Obligated Paper Products and Packaging

The definition provided in the presentation by Stewardship Ontario appears to capture the additional categories accepted in British Columbia and Manitoba (i.e. paper for general use, purchased posters, calendars, greeting cards and envelopes):

- Paper products (**NEW**): Paper for writing, printing and copying and other general use, **but does not include books or paper products intended for hygienic use.**
- Primary packaging (**EXPANDED**): Aluminum pie plates, aluminum foil, corrugated cardboard boxes for moving or mailing items, plastic or paper-based beverage cups, kraft paper bags, re-sealable plastic bags, tissue paper, wrapping paper. ** These materials are similar to Primary Packaging, have a similar function to packaging and are found in the Blue Box.
- Convenience packaging: This definition remains the same.
- Transport packaging (**NEW**): The definition is intended to capture e-commerce packaging supplied by brand holders and first importers, but **not IC&I.**

Reference to the Accord & Minister's Letter

The [Accord](#) states:

Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:

- Not negatively impact Ontarians' experience with and access to existing recycling services;*
- Improve environmental outcomes;*
- Create a consistent recycling experience for all Ontario residents;*
- Ensure a fair and open marketplace; and*

- *Address the provincial interests listed in the Resource Recovery and Circular Economy Act 2016 (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.*

The [Minister's letter](#) states:

- *Include an expanded definition of BB materials to identify the PPP that will be covered under the BBPP.*
- *The material shall include:*
 - *Paper products,*
 - *Primary packaging,*
 - *Convenience packaging,*
 - *Transport packaging.*
- *For purposes of primary, convenience and transport packaging refer to the RRCEA definitions.*
- *When defining the materials, Stewardship Ontario and the Authority will also consult with the stewards who are regulated under deposit return programs (e.g. stewards of milk containers).*

Municipal 3Rs Collaborative Comments

The definition of hygienic products is not provided as a result it is unclear whether tissues, paper towels, and wipes are included. Given these products are managed through the current recycling system (i.e. green bin) and the specific reference included in the Minister's letter to address "*The methods for managing the materials **shall** allow for the material or part of the materials to be, in accordance with Ontario standards and regulations: used as a nutrient for improving the quality of soil, agriculture or landscaping*" it would make sense to include them.

It is unclear whether certain materials are included such as:

- Biodegradable materials;
- Flower pots;
- Teabags;
- Beverage system capsules, coffee-film bags and coffee pads from filter paper, which are disposed of together with the used coffee product;
- Disposable cutlery;
- Paper baking molds for larger baking (which are sold empty); and,
- Baking dishes for smaller bakery products sold without baking.

It is unclear how a definition that includes certain paper products that appear to be captured, while not including comparable plastic products (i.e. paper and plastic plates) will be received by stewards and the Ontario Ministry of Environment and Climate Change.

It is not clear whether the transportation packaging definition that is intended to capture e-commerce only supplied by brand holders and first importers would include other Old Corrugated Cardboard (OCC) generated at home (i.e. wine & liquor transportation boxes, shipping boxes for new white goods etc.).

Standardized List of Targeted Materials for Collection

Stewardship Ontario is proposing a standardized list of materials that will be targeted in all transitioned communities, and excluding materials that are difficult to sort or that do not have robust end market (e.g. coffee pods, expanded polystyrene). This is problematic and cannot be supported. The ability to define either criteria is difficult.

The [Minister's letter](#) states:

- *Ensuring a seamless transition of the Blue Box program, specifically: not negatively affecting Ontarians experience with and access to Blue Box services;*
- *Provide for continuous improvement of environmental outcomes by expanding and harmonizing the list of materials in the existing Blue Box program accepted from Ontario residents;*
- *"... an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP";*
- *"Maintain convenience and accessibility standards, including:*
 - *Curbside collection for households where currently provided by these municipalities and indigenous communities;*
 - *Collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities..."*

The letter also provides specific direction to:

"Provide effective economic methods to incent behavior changes leading to waste reduction of PPP and to:

- *"Establish methods to facilitate the reduction of waste generated related to defined PPP materials. The methods may include activities to support:*
 - *Increase of the product's or packaging's reusability and recyclability,*
 - *Reduction or elimination of any impact the material may have on the recyclability of other materials,*
 - *Reduction of the amount of waste generated at the end of the product's or packaging's life,*
 - *Reduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability, and/or*
 - *Increase of the use of recovered resources in the making of the material*
- *Use means to discourage the use of materials that are difficult to recycle and have low recovery rates...*
- *Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle."*

Municipal 3Rs Collaborative Comments

Given current recycling market difficulties driven in part by tighter contamination standards required for export to China, it could be argued that a substantial amount of obligated PPP does not currently meet the test of “*robust markets*”. However, an a-BBPP which includes dropping obligated PPP that is already being collected in some municipalities essentially reinforces steward behaviour that the Plan is trying to discourage and creates issues in evaluating performance targets.

It would also result in municipalities having the responsibility to collect and manage these materials at taxpayer expense. This would not meet the intent of the Minister’s letter that: “*this proposal will outline the first phase of transition for the Blue Box Program under the WDTA, and will set the stage for a second phase of the transition **that will result in individual producer responsibility** under the Resource Recovery and Circular Economy Act*”.

The Minister’s letter speaks to creating a seamless transition that does not negatively affect Ontarians experience with and access to Blue Box services. Additionally, the Minister requests a move to a circular economy and continuous improvement of environmental outcomes. Potentially removing materials from existing Blue Box programs is not in keeping with this direction.

While the suggestion that Stewardship Ontario would “*conduct R&D to advance these outcomes*” has merit, the generality of this statement does not match the clarity provided by the Minister’s letter and magnitude of the scale of the challenge ahead.

It is also worth noting some Blue Box materials are problematic and more so, could be managed in other systems such as green bin collection and mixed waste processing. If these materials are difficult to manage in Blue Box collection systems many of the difficulties can be overcome by including them in these alternative systems. Stewards must accept their responsibility to manage any difficult to recycle materials that they supply into the Ontario market.

The Municipal 3Rs Collaborative is preparing recommendations for Stewardship Ontario to consider for the a-BBPP. This may include administrative rules to:

- Require stewards whose products or packaging have weak markets or low yields to directly invest in further research and development and promotion and education campaigns at a meaningful scale to specifically address these materials; and
- Require obligated stewards whose products or packaging are not included in the Blue Box to provide alternative management approaches for these materials.

Performance Targets

Stewardship Ontario was directed to achieve a diversion target under the a-BBPP of 75% in transitioned communities. Stewardship Ontario is expected to propose achieving this basket of goods target by reaching the following material specific targets:

Material	Current	Amended BBPP	Improvement
Paper products/packaging	94%	95%	+ 1 %
Glass packaging	73%	75%	+ 2 %
Plastic packaging	35%	40%	+ 5%
Metal packaging	55%	65%	+ 10 %

The [Minister’s letter](#) states:

Increasing the diversion target for the Blue Box Program to 75 per cent of the PPP supplied by stewards to transitioned municipalities’ households.

Establish material specific management targets for PPP supplied by stewards to transitioned municipalities’ households.

Municipal 3Rs Collaborative Comments

No proposed timelines have been proposed to date for meeting the 75% basket of goods diversion target or material specific targets for transitioned municipalities. The a-BBPP must include a specific date to ensure that improved environmental outcomes are achieved in a timely manner.

Furthermore, there needs to be a sound and transparent basis for calculating how progress towards meeting these targets will be monitored, calculated and reported. It is specifically concerning that the estimates of [current recycling performance](#) shown in Stewardship Ontario’s [Pay In Model](#) are not consistent with the numbers in Stewardship’s Ontario’s presentation.

More detail is required on the basis for the proposed specific material categories and targets (i.e. paper products/packaging, glass packaging, plastic packaging, metal packaging). The Municipal 3Rs Collaborative supports disaggregating printed paper targets from those being monitored and calculated for other paper products and for paper packaging. Similarly, there should be separate targets for ferrous metals from aluminum.

Furthermore, given the direction to improve environmental outcomes to support the transition to a more circular economy and zero waste, the target for plastics should be increased to a minimum of 50% given that this is the fastest growing component of PPP and more effective management of this material is a high priority for government, industry and consumers. We understand that certain plastic markets will take time to develop but continuous improvement should be required that sets a path towards a comparable target range with other material categories. The same considerations should be made with metals

The Municipal 3Rs Collaborative is preparing additional recommendations for Stewardship Ontario to consider for the a-BBPP which may include an administrative rule to:

- Require that if and when material specific targets are missed that stewards will be required to invest in the following year equivalent specified share of fees paid to expand servicing, invest in research and development, and promotion and education specifically to improve the recycling performance of these materials.

The Municipal 3Rs Collaborative will also provide details on a proposed audit methodology to be conducted on a regular basis to ground truth diversion rates and ensure they are being met both at the basket of goods and material specific levels in transitioned municipalities.

Targets should be reviewed, at a minimum, every three years with further disaggregation of the broad material categories currently provided by Stewardship Ontario (e.g. potentially separate targets for PET, HDPE, film, PS and other plastics) at each target review period. As targets get reached, they should be increased to encourage continuous improvement.

Furthermore, target dates should be established for all 23 paper and packaging material categories for them to meet a minimum threshold of 10% recovery (with plastic film at 15% based on its current diversion rate of 12.1%).

Compostable residential PPP (e.g. shredded paper, molded pulp packaging, soiled pizza boxes) that is composted in municipal aerobic composting or anaerobic digestion facilities should be counted as diversion provided that obligated producers pay the cost of collection and processing the composted material and annual green bin audits are conducted in sample municipalities to verify quantities of PPP diverted.

Finally, due to the potential impact on the recycling system, Stewardship Ontario should track and report on compostable plastic packaging sold into the Ontario marketplace as a separate category.

Collection and Management Standards

Stewardship Ontario's proposal for collection and management standards is based on [Ontario Regulation 101/94](#). As a result, Stewardship Ontario will provide:

- Curbside, multi-family and depot collection where it currently exists; and,
- Not less than bi-weekly curbside collection.

In areas where Stewardship Ontario considers expanding collection services, it **may**:

- Provide curbside service to communities with a population greater than 15,000, if they currently receive garbage collection; and,
- Provide depot collection services to communities with a population less than 15,000.

The [Minister's letter](#) states:

Identify geographically-based collection and management standards, including rural, northern and remote areas

Maintain convenience and accessibility standards ...

Municipal 3Rs Collaborative Comments

Stewardship Ontario's proposal is essentially equivalent to what is being delivered today and the language used ("may") provides little incentive for continuous improvement.

Stewardship Ontario should approach expansion services in the a-BBPP based on two main scenarios:

1. Expanding within a transitioned municipality (e.g. to areas *within municipalities* that are currently non-service in multi-residential or single family, parks, other related services, as well as changes in servicing, such as depot to curbside); and,
2. Expanding to new municipalities that are not currently serviced.

For expansion of services within a transitioned municipality, Stewardship Ontario should:

- Within one (1) year of the municipality transitioning, offer an incentive to expand collection of servicing to all residential buildings in the transitioned municipalities not already receiving Blue Box servicing; and,
- Within two (2) years of a municipality transitioning, offer an incentive to expand collection of PPP from associated public spaces, parks and institutions that mirror residential resources and other related services currently being provided by municipalities.

For expansion of services to municipalities who are not currently serviced, Stewardship Ontario should ensure all communities in Ontario are grouped as part of catchment areas and offered the same opportunity to receiving Blue Box services matching how garbage is currently managed in their community (i.e. curbside or depot) when that catchment area transitions.

November 17, 2017

Recommendations:

- Place a requirement in every Resource Productivity and Recovery Authority's (RPRA) annual report (not Stewardship Ontario's) to address:
 - list of municipalities that have transitioned and those which have not;
 - the percentage of eligible Ontario households that have transitioned;
 - those expected to transition that year or in the following year;
 - expiry dates for collection & processing contracts in all municipalities (transitioned and non-transitioned);
 - barriers to those that are not expected to transition and discussion on how these barriers will be overcome; and,
 - a list of issues and resolutions associated with transitioning municipalities.
- Require RPRA to complete a review and evaluate the transition process under the amended Blue Box Program Plan (a-BBPP) and make recommendations on full transition to the *Resource Recovery and Circular Economy Act* (RRCEA) in the 4th year of an approved a-BBPP to be delivered in the beginning of 5th year.
- The Authority would set the evaluation criteria and the review team would need to include representation from municipalities (selected by the Association of Municipalities of Ontario (AMO) and City of Toronto), from service providers (Ontario Waste Management Association (OWMA) or equivalent), from environmental non-governmental organizations (ENGOS) (Recycling Council of Ontario or equivalent), and from the public (Minister's selection).
- The a-BBPP would expire 5 years after approval.
- Contracts between Stewardship Ontario and municipalities, service providers and with obligated stewards/members must not impose barriers to transition to or to fair competition under RRCEA.
- Contracts held by Stewardship Ontario for all collection and processing services for paper products and packaging (PPP) must be transferrable to a third party without penalty upon regulation of PPP under the RRCEA.
- Contracts between Stewardship Ontario (or its affiliated organizations such as CSSA) must not prohibit, excessively delay or impose penalties on obligated stewards/producers/members that under the RRCEA wish to:
 - Discharge their obligations through self-compliance; and/or,
 - Join an alternative collective compliance organization.

- An independent body should be established as a clearing house for individual producers and collective management organizations to ensure fair access to obligated PPP under existing collection and processing contracts through the transition to individual producer responsibility (IPR).
- The a-BBPP should include a description of the consultation process to be led by RPRA to determine how this “clearing house” will function.
- The consultation process and policy decisions needed on the proposed “clearinghouse” function should be completed within 18 months of approval of the a-BBPP to allow adequate time for market participants to prepare for a transition to a competitive compliance market.
- The Competition Bureau of Canada should be requested to participate in the consultation process and/or to review the proposed transition plan.

Background:

- On August 14, 2017 the Minister of Environment & Climate Change sent a [letter to Stewardship Ontario and the Resource Productivity and Recovery Authority](#) requesting them to formally initiate a consultation and bring forth a proposal on amending the Blue Box Program Plan (BBPP).
- The Minister stated:

My expectation is that this proposal will outline the first phase of transition for the Blue Box Program under the WDTA, and will set the stage for a second phase of transition that will result in individual producer responsibility under the Resource Recovery and Circular Economy Act, 2016 (RRCEA).
- There is a concern that an a-BBPP could lead to the perpetuation of Stewardship Ontario’s control over the market and the program will never move under the RRCEA.
- It is not possible to create a mechanism that will force the government to move forward with a new regulation under the RRCEA as the Minister’s decision cannot be fettered. However there should be a process included in the a-BBPP that provides the government with an opportunity to assess the transition process under the a-BBPP and consider transition to the RRCEA.

Granted the pace at which the process is moving, we will likely provide additional comments on this issue.



Draft Collaborative Process Concept

November 17, 2017

Note: This document is a draft with additional work required and is intended to form an Appendix to the a-BBPP.

Agreement between Stewardship Ontario (SO), the Association of Municipalities of Ontario (AMO), the City of Toronto and the Ontario Waste Management Association (OWMA) respecting the aspects of the operation of the amended Blue Box Program Plan (the a-BBPP).

Preamble

Stewardship Ontario (on behalf of Industry Stewards), the Association of Municipalities of Ontario (on behalf of Municipalities), the City of Toronto, and the Ontario Waste Management Association (on behalf of waste management service providers) each acknowledge the others interest in the successful transition of the Blue Box Program from a municipally managed and industry steward cost-shared program to a 100% industry steward managed and funded program.

The parties support the principles contained in the a-BBPP related to the open, transparent and competitive procurement of goods and services for delivery of the Blue Box Program in Ontario by Stewardship Ontario, or by municipalities as agents of Stewardship Ontario.

The parties also acknowledge the need to consistently apply these principles to operational and administrative decisions that may have a material impact on the program or on those who provide services to the program.

The parties further recognize that from time to time ongoing effective program delivery may require decisions that might be inconsistent with these principles, and that these operational decisions may materially impact the a-BBPP as approved by the Minister. However, these decisions must be exceptions rather than practice.

The parties also agree that the success of the a-BBPP requires a cooperative working climate, and a common understanding of relevant decision-making authorities and processes.

This agreement outlines those circumstances or situations where operational decisions will be subject to prior consultation and agreement of all three parties, and articulates the process whereby such an agreement may be reached, including related timelines.

Acknowledgements

1. The right of Stewardship Ontario to make operational and administrative decisions outside the scope of this agreement to implement the Plan as approved.
2. The interest of municipalities in continuing to provide their ratepayers with effective, efficient, and easy to use recycling and diversion opportunities.
3. The value of a competitive marketplace for goods and services associated with the collection and processing of Blue Box material, and to pay for services according to competitive pricing.
4. The need to ensure that the a-BBPP sets the appropriate stage and preconditions for the successful transition to the Blue Box Program in Ontario to a fully competitive market-based system based on individual producer responsibility.
5. The key role that waste management service providers (public and private) play in providing expertise and capital investment critical to the success of the Blue Box Program Plan goals and targets and the overall waste management and recycling systems in Ontario.

Situations Requiring Agreement

The parties agree that the following situations will require consultation among the parties consistent with the process identified in this Appendix.

1. Any proposed extensions of processing and collection services that were secured as part of the a-BBPP through an open competitive procurement process that would carry the contract beyond the duration identified in the initial RFP/Contract
2. Any boundary change for collection service areas (i.e. amalgamating service areas, boundary adjustments such that individual municipal boundaries no longer form the service area, etc.)
3. Changes in frequency of collection service within a service area
4. Determination of catchment areas and adjustments, alterations to same, as pertains to post-collection activities
5. Changes to the standardized list of materials collected and processed
6. Changes to the contamination management process

PROCESS

Notification

In writing a minimum of 180 days (or with mutual consent) prior to:

- the end of a contract where there is a desired contract extension;
- a proposed service area change for collection services;
- a proposed change to the frequency of collection;
- proposed changes to the standardized list of materials collected and processed.

Information to be provided

Stewardship Ontario to present a case with rationale within 14 days (max) of notification regardless of whether the situation was obvious to some or all players.

- Rationale for desired change;
- Details re: proposed change(s);
- Assessment of expected financial or operational implications;
- Duration requested where it is a contract extension.

Sign Off

Within 60 days of receiving written request from requesting party signed response from (as appropriate):

- Stewardship Ontario
- Association of Municipalities of Ontario
- City of Toronto
- Ontario Waste Management Association

No Agreement Reached - Appeals

Parties agree that a failure to reach an agreement can be adjudicated.

If despite an informed discussion parties do not achieve consensus, the following adjudication process is agreed to:

1. The Resource Productivity and Recovery Authority (RPRA) retains a mediator/arbitrator (Med-Arb) that both parties agree to.
2. If parties cannot agree on a mediator/arbitrator, RPRA chooses from a roster of Ontario mediator/arbitrators that they develop.
3. If the parties are not successful in arriving at a settlement in the mediated portion of the process, then the parties have agreed to have binding arbitration with the Med-Arb official.

4. Parties cover own costs.
5. Appeal heard within 30 days of application.
6. Hearing and decision within 30 days.

DRAFT CONCEPT

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November 29, 2017

Re: Early feedback on Stewardship Ontario's Amended Blue Box Plan Proposal

The undersigned environmental and public interest groups expect an effective approach to resource management in Ontario that reduces environmental harm and impacts on human health. The goal of zero waste must be upheld in the amended Blue Box Program Proposal (A-BBPP).

We support the following:

- directions in the Minister's letter, especially those related to improved environmental performance and waste reduction
- the Resource Recovery and Circular Economy Act (RRCEA) and the goals of full individual producer responsibility and a circular economy.
- a fair, equitable, timely and effective transition of responsibility for existing municipal blue box programs to individual producer stewards
- the provincial standardization of blue box program services and designated materials
- the development of enforceable performance targets by material and by municipality
- detailed and transparent auditing, reporting and evaluation to ensure public transparency and accountability.

We have serious concerns however, based on the information provided in Stewardship Ontario's (SO) early consultation on their Amended-Blue Box Plan Proposal (A-BBPP). The minimal information that we have seen is not entirely consistent with the spirit of the goals and intent of the RRCEA. Key changes need to be addressed to ensure the amended Blue Box Plan makes any environmental progress beyond the current system.

These changes are summarized here and detailed below, including:

- Include a mechanism or trigger to end this transition plan, to ensure a full transition to EPR under the RRCEA as soon as possible
- Increase the total recycling rate target to 80% and increase the material specific target for plastics to 75%.
- Develop a strong and transparent mechanism, with timelines and consequences, to address problematic materials. If they still can't be recycled or collected effectively after a set time, they should be subject to a ban.
- The A-BBP needs a plan to identify and address the serious issue of hazardous and toxic substances in materials that, through processing, are recycled into new products.
- Address compostable packaging immediately - identify methods to collect and manage compostable products not managed by municipal systems
- Ensure that promotion & education (P&E) is effective, well-funded and regularly evaluated to reduce contamination and reach all Ontarians.

1.0 TRANSITION APPROACH

The proposed A-BBPP as presently discussed takes steps in the right direction, but won't move Ontario towards an effective circular economy. While SO has demonstrated the complex process of transitioning municipalities, producers and processors into an amended Blue Box program, it does not provide sufficient information or assurance that this will facilitate a transition out of this plan to a new full Extended Producer Responsibility (EPR) system under the RRCEA.

Without quick transition, the A-BBPP will face many of the same problems with a lack of producer responsibility in the current system, and may become entrenched making it harder to make the most important transition to a full EPR and circular economy system. The vision presented to date appears to focus primarily on early transition without a clear timetable or mechanism to take the second step to individual producer responsibility.

Recommendation: The A-BBPP should include an end date or a trigger to transition to full EPR under the RRCEA and to have components that make the transition to full EPR easier.

We also have concerns about the lack of competition that this A-BBPP sets in place in terms of service provision and meeting obligations. The spirit of the RRCEA is to leverage innovation and market forces to improve environmental performance, and this requires rewarding stewards that are innovative in meeting their obligations and eliminating penalties that discourage innovation.

Recommendation: The A-BBPP needs to immediately promote innovation and competition, for example, by allowing individual producers to meet their obligations if they offer take back systems.

2.0 ENVIRONMENTAL PERFORMANCE

A key goal of the RRCEA is to improve environmental performance of Ontario's resource management and to fundamentally shift how resources are managed in Ontario. From what we've seen, however, the environmental performance measures outlined are insufficient to do that.

The management of materials and calculation of recycling and diversion in the A-BBP should be consistent with the goals of zero waste, and promoting a circular economy, that is, that materials are reused or recycled into new materials of the same, or higher quality. As we have stated in the past, Ontario needs to push for the highest and best use of materials at the end of life, and definitions in regulation and policy statements for recycling should reflect this.

We support the Minister's direction that collected materials shall be: *reused, used in the making of new products, packaging or other activities in end-markets, or used as a nutrient for improving the quality of soil, agriculture or landscaping.*

In consultation sessions, SO outlined an overarching approach to calculating diversion that looks at downstream destination of materials, excluding residuals and contamination. Pending further details, we support this approach in principle.

Recommendation: Ensure that recovery and diversion rates are measured by quantity of materials that are actually reused, recycled or reintegrated into valuable materials.

However, the information we have seen lacks clarity on how this new measurement and definition for recovering materials will be measured and verified, by whom and how it will be reported and available for public review.

Registration, inspection and auditing of processing facilities, downstream (secondary or later) processors, and final end-markets are essential to provide accurate information and accountability on actual diversion rates. This information is essential to demonstrate environmental performance, inform market development, packaging design and collection methods.

Public reporting of material end markets by materials is crucial to accountability and the public interest to prove that the diversion approach is effective. This information is also crucial for informed policy-making and stakeholder decision-making for the transition to EPR under the RRCEA.

Recommendation: The A-BBPP should include extensive material tracking, auditing and evaluation to calculate diversion and include measures to ensure transparency and accountability to demonstrate environmental performance.

2.1 Performance targets for recycling are too low

We are glad to see the Minister's direction to increase the diversion performance of the Blue Box in Ontario to 75%. Nevertheless, this target is low and the A-BBPP lacks a timeline of how to achieve it.

In the consultation session, SO noted that they expected to achieve 75% recycling within two years of SO assuming collection and processing responsibilities, however there was no mention of increasing targets beyond the initial two years. Considering this A-BBPP is expected to take 5 or more years, the A-BBPP should outline plans to make continual improvement.

Recommendation: To truly have an impact on the environmental performance of the Blue Box there needs to be a higher overall performance target (80%) and a timeline for achieving this.

The proposed diversion rate targets for each material type as presented in the slides was a serious disappointment, and pose two major problems: the categories are too broad, and the targets are too low.

First, the categories should be disaggregated for targets to reflect the broad range of material types used for packaging and products that are not captured here. For example, multi-layered pouches or boxes that include various plastics, metal and paper, and a breakdown of plastic types.

Plastics in particular includes a wide range of plastic materials, some with much higher diversion rates than others. Isolating the resin types with separate targets will provide the information necessary for the public and stewards to identify problem areas, and incent innovation in collection and processing.

Recommendation: Create disaggregated material diversion targets

The proposed target of 40% for plastics is far too low considering the environmental impact of plastics. Plastics pose significant environmental harm as they are made of non-renewable fossil fuels, and they pose significant environmental harm to our waterways, land and health when not captured effectively.

Plastics have consistently low recycling / diversion rates in Ontario, and the A-BBPP should not maintain the status quo, continuing to offload plastic products and packaging onto municipalities and our environment.

Innovation and aggressive action to dramatically increase plastic recycling is consistent with the goals of the RRCEA and the Minister's direction letter. Much higher plastics diversion rates are possible, and being achieved in other jurisdictions given the right tools and incentives. For example, while only 50% of non-refillable drink containers are recycled in Ontario despite widespread Blue Box access, in Canadian provinces with deposits on all drink containers the recycling rate is much higher - 86% in Saskatchewan, 84% in BC. (CM Consulting 'Who Pays What' report 2016).

These systems are proof that there are functioning and effective systems that achieve higher rates of plastic diversion. As such, there can be no justification for such a low target.

Recommendation: Increase the material specific target for plastic to 75%.

In an effort to make continual improvement and increase environmental protection, the A-BBPP should include regular reviews. Recycling rates and provincial, municipal and material specific targets should be reviewed regularly in light of such issues as actual program performance, technology improvements and market development. Such a review should take place every 2 years.

Recommendation: The A-BBPP should include a formal process to review and revise overall recycling rate targets by material every 2 years.

SO has indicated that during the transition, a standardized list of targeted materials will be collected across Ontario, and that a number of materials will not be targeted during the transition phase to ease the transition and ensure high quality recycling. Currently non-targeted materials are those that are difficult to collect, have insufficient end markets produce poor quality end uses, and that cause contamination in the stream. Notably, virtually all non-targeted materials presented at the consultation session are plastic materials.

We understand the need to manage the transition, however have concluded that there needs to be a time limit or a clear staging plan for non-targeted materials to be included in the diversion efforts.

Additionally, to ensure a seamless transition and reduce public confusion, it is undesirable for municipalities to reduce the materials collected, thereby reducing services to Ontarians. As the A-BBPP is a temporary plan meant to transition to full EPR under the RRCEA, dramatic changes to materials collected in municipal blue box should be avoided, as they will result in confusion, or reduce confidence in the blue box system.

Recommendation: The A-BBPP should avoid reducing the materials collected in municipal blue box programs, and work to expand the list of materials collected as broadly as possible.

2.2 Problematic (non-targeted) materials & waste reduction

As the goal is to eliminate waste and to create a circular economy, this plan and the new Act must address and eliminate problematic materials that have no high value end markets, or that cause contamination and problems for other materials, or that can cause environmental or human health impacts.

We strongly support the Minister's direction regarding reducing waste and eliminating problematic materials. Addressing reduction is complex, and we are glad to see that it is a key issue. The Minister's direction letter stated: *"Use means to discourage the use of materials that are difficult to recycle and have low recovery rates; and, • Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.*

To do this, the A-BBPP needs to provide the levers and incentives to push for better product design, reducing packaging and increased recyclability.

During the consultation sessions, SO described the formation of 'collaboration forums' between stewards and processors to evaluate and address problematic materials to bring them into the system by identifying new collection methods, creating new end markets etc.

While this is a good starting point, and collaborative approaches are essential, this is wholly insufficient to deal with problematic materials. During the November 17, 2017 ENGO consultation, SO representatives noted that, to their knowledge, differential packaging fees and collaboration forums formed to address problematic materials in BC had not resulted in packaging redesign or changes, but had only resulted in innovation or alternative collection and processing methods.

Recommendation: The A-BBPP needs a clear mechanism to address problematic materials as quickly as possible.

- **Work should begin immediately for materials already identified as problematic: those on the non-targeted material list**
- **Deadlines should be used to drive innovation and problem-solving for problematic materials.**
- **Problematic materials that cannot be addressed by the deadline should be banned.**

As directed by the Minister, the A-BBP needs to outline ‘*effective economic methods to incent behaviour changes leading to waste reduction of PPP*’. This should include an aggressive fee structure that provides significant fee differences for materials that are not easily diverted or recycled. This should also include an annual fee review that evaluates whether the fees are incenting behaviour change and waste reduction choices by stewards, including product redesign or product choices.

Recommendation: The A-BBPP steward fee structure must provide sufficient incentive to reduce waste. The fee structure should be reviewed regularly to ensure it is having the desired effect.

2.3 Toxic substances

The Minister’s direction letter directs SO to develop an A-BBPP that supports the “[r]eduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability”. This cannot be done without considering hazardous substances in materials that can limit the safe downstream reusability or recyclability of materials.

Currently, the A-BBPP lacks a plan to tackle the issue of hazardous substances, including in packaging and products targeted for recycling. The ENGO community has repeatedly raised concerns about toxics in the circular economy - chemicals and toxic ingredients from one product can get inadvertently recycled into new products without better controls.

A key solution is to fully phase out the use of toxic substances in the production and treatment of materials. Regardless, toxic substances that are already on the market and incorporated in materials (e.g. plasticizers) need to be addressed, especially in materials management. As our knowledge about chemicals emerges, we lack control mechanisms to manage materials at the end of life to ensure that materials containing toxic ingredients are identified, and processed separately from other materials For example:

- International studies have found children’s toys that include neurotoxic flame retardants as a result of using recycled plastic that included flame retardant residue.
- Some forms of expanded polystyrene foam may contain PBDE flame retardants that are persistent, toxic to humans and the environment and that bio-accumulate in the food chain. Without controls, this could end up in polystyrene recycling facilities.
- Canada has banned the use of BPA in baby bottles because it is a recognized endocrine disruptor that can affect human hormones in high dose. Yet, it is widely used in a range of product packaging, including food packaging and also in thermal paper (sales receipts). When paper pulp containing BPA is recycled, it stays in the system and continues to expose users of paper with potential negative health impacts.
- One example is polyvinyl chloride. PVC is the most toxic plastic to manufacture, it requires toxic plasticizers and stabilizers (these leach out of products), PVC emits volatile vinyl chloride (a highly toxic chemical), and it is difficult to re-use or recycle. This material should be among the first to be banned from packaging, as there is no unique need for PVC.

As we push forward to develop a circular economy, it is essential that we consider what information, restrictions and controls we can use to prevent the perpetuation of toxic chemicals, and to deal with newly identified toxins. Some options include:

- Set rules to ensure that processing facilities do not co-process materials that may contain toxic components.
- Develop a mechanism to identify materials that include toxic chemicals, and to monitor materials that include potential emerging toxicants (chemicals that have been identified as potentially toxic)
- Create a reporting and tracking system for materials with toxic chemicals, especially in processing and end market reporting.
- Ensure that problematic material collaboration forums consider and address hazardous substances found in packaging.
- Consider alternative processing of hazardous materials in the appropriate hazardous facilities for those packaging materials that cannot be safely processed into new resources. This minimizes opportunities for re-circulating hazardous materials into manufactured products using recycled material (including plastics)

Recommendation: The A-BBPP should develop safeguards to prevent hazardous and toxic substances being perpetuated in recycling and processing.

2.4 Compostable Packaging

We are happy to see that the definition of packaging in the RRCEA was used in the consultation, a definition that looks at function, not material type, to indicate obligation. This ensures that the increasing use of compostable packaging and products will not eliminate a steward's responsibility.

Compostable packaging is a rapidly growing category of packaging, and we have serious concerns that well-meaning producers and consumers are not aware of the serious problems that compostable material poses in residential waste.

Currently, there are many compostable materials that are not accepted in municipal green bin programs. Due to the technology and timing of municipal systems, much compostable material is simply removed as residue and landfilled. For example, compostable coffee pods and plastic cutlery are promoted by producers as compostable, but not accepted in Toronto, Hamilton or Ottawa organics programs.

Plastics made of compostable material, such as PLA, pose additional problems since they can appear identical to conventional plastic resins and frequently end up in recycling systems where they contaminate the plastic material stream.

All compostable packaging should include

- Clear labelling to indicate the appropriate discard location and to avoid contamination of other streams
- International or national biodegradable certification
- Diversion targets like all other materials to drive environmental performance
- Efforts by producers to improve collection and reduce contamination of organics or recycling programs

Recommendation: The A-BBPP should outline how compostable materials will be addressed. Steward fees on compostable materials should be used to develop alternative collection systems and mechanisms to avoid contamination.

3.0 IMPLEMENTATION

As directed by the Minister, it is essential that SO develop geographically-based standards for collection and management, including rural, remote and northern areas. Expanding packaging recycling / Blue Box collection to all municipalities in Ontario, especially to remote and First Nations communities is not only an issue of environmental benefit, but also a crucial question of environmental equity. Northern and remote municipalities have fewer financial resources to manage materials and less capacity to operate recycling programs.

As the obligated stewards are profiting from the sale of their products to those communities, it should also be their responsibility to ensure that there are not collateral adverse effects, and to find solutions to recover those products at the end of life.

Recommendation: The A-BBPP needs to ensure environmental equity by expanding service to remote and First Nations communities, as early as possible.

We strongly support the Minister's direction to serve residents in multi-residential buildings. This means maintaining service to those residents who already receive service from their municipality, and rapidly expanding to those who now receive service from the private sector.

Too many Ontarians have inadequate or no recycling service, and a swift expansion of services to these residents will increase equitable access to environmental services and an opportunity for all Ontarians to reduce waste costs and impacts.

At the same time, product stewards have not been held responsible, or paid their fair share of residential packaging waste from multi-residential buildings. This means that residents are subsidizing a producer obligation, and this should end as quickly as possible.

It is essential to note that 'multi-residential' dwellings is a very broad category including townhouse complexes, community housing, low medium and high rise rentals and condominiums of varying ages. This wide variation in multi-residential building types needs to be considered in the A-BBPP and during the transition in terms of varying contamination rates, and different approaches to promotion and education.

We have concerns with the strict contamination limits suggested by SO for collectors of multi-residential waste. Multi-residential buildings typically have very high contamination of recycling streams, and this must be taken into account. Strict contamination limits and penalties could result in municipalities and collectors being reluctant to invest in recycling education and infrastructure in the face of uncertain funding, or abandoning the recycling program altogether, or receiving no stewardship funding.

Each jurisdiction faces its own challenges, and high levels of contamination cannot be used as an excuse to shift the financial and environmental costs back to municipalities or to residents.

Recommendation: The A-BBPP must use evidence based research, evaluation and innovation to set appropriate contamination thresholds and to achieve high collection rates in multi-residential buildings.

We support the A-BBPP plan to include recycling collection in other spaces to increase convenience for Ontarians and to improve environmental performance. The majority of Ontarians do not perceive or understand the differences between recycling systems at home, where they work and where they play. For example, they do not understand that recycling rules for a soft drink container they use at home may be different from the rules at a library, at the mall or at the office. There is no valid reason for the rules to be different.

Recommendation: The A-BBPP should expand recycling collection to public spaces, parks, sidewalks, malls, and publicly supported institutions (e.g. schools, universities, hospitals)

A shift to consistent material collection across Ontario will be a major step to reduce resident confusion and contamination, and we look forward to this consistency as would also be provided by full EPR under the RRCEA

That said, as requested by the Minister, the A-BBPP must include further detail on an effective promotion & education (P&E) plan, as this will play a central role to reduce contamination and to increase recycling rates in Ontario.

The SO representative in the consultation session noted an estimated \$1 per household per year as a typical cost for Blue Box education. However we would argue this significantly underestimates the cost of effective P&E, as demonstrated by the following facts:

- the high contamination rates of Blue and Green bin programs experienced in most municipalities, especially in multi-residential buildings
- the low diversion rates for a number of materials, especially plastics

Effective recycling promotion & education is complex, and requires customization of messages and approaches for the wide variety of audiences across Ontario in a wide range of housing types.

Adding urgency to the need for effective P&E is the consequences of failure to do so: contamination rates will result in penalties for collectors and offload stewards' obligations to municipalities and residents.

Recommendation: The A-BBPP should include a solid plan and more extensive budget for province-wide P&E. This should include a robust evaluation program to measure effectiveness of different P&E approaches with different audiences and a plan for continual improvements.

Recommendation: The A-BBPP should include a plan to address confusing and misleading and incorrect labelling by stewards that indicate products and packaging is recyclable or compostable when they are not collected locally/in Ontario.

The transition of Ontario's packaging recycling system is a vitally important environmental issue that must set the stage for a circular economy and a healthier environment for all Ontarians. Without the right plan municipalities - and the environment - bear the consequences and face the burden of unmet obligations.

The undersigned environment and public interest groups look forward to further consultation on this plan and hope to see improvements to address the concerns raised and detailed above.

Respectfully submitted,

Emily J. Alfred, Sr. Campaigner, Toronto Environmental Alliance

Fe de Leon, Researcher, Canadian Environmental Law Association

Ashley Wallis, Program Manager, Water, Environmental Defence Canada

John Jackson, Chair, Citizens' Network on Waste Management

Duncan Bury, Spokesperson, Waste Watch Ottawa

January 15, 2018

Ms. Glenda Gies, Chair
Resource Productivity and Recovery Authority
4711 Yonge Street, Suite 408
Toronto, Ontario M2N 6K8

RE: ENGO Comments on Stewardship Ontario's draft Blue Box Program Plan

Dear Ms. Gies,

The information Stewardship Ontario (SO) provides in its Blue Box Program Plan: Draft for Consultation (the Plan) makes it clear that it will be well over a decade before the second and real transition happens and we start working seriously for a circular economy and full producer responsibility under the Resource Recovery and Circular Economy Act (RRCEA), which was proclaimed in 2016.

Instead of making serious progress by the end of that decade, the Plan is full of actions that may actually set us back:

- Paper products and packaging (PPP) materials, especially problem materials and products, that are still not being diverted;
- a whole new set of problem materials and products on the market;
- some materials that are currently being collected no longer being collected;
- discouragement of innovative producers from implementing more effective collection systems, such as deposit-return; and
- discouragement of innovative producers from redesigning their materials and products to stimulate a circular economy.

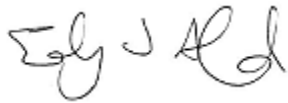
We fear that the Plan will result in a more entrenched SO, instead of one that has stepped aside to allow for individual producer responsibility. We also fear that under this Plan important parts of Ontario's waste-free program will get stalled for ten years or more.

In this brief, the environmental groups who have been working together on this issue explain our concerns and describe the types of changes that we believe are necessary. Two of these recommendations are for supportive action that we believe is needed from the Minister to make the plan work. These are recommendations # 4 and 12 in the attached brief. We will be conveying these recommendations directly to the Minister.

We have also signed onto the January 15th letter with the members of the Municipal Resource Recovery & Research Collaborative, the Ontario Waste Management Association and the Recycling Council of Ontario that you are receiving. These two letters, while having different emphases, reach the same conclusions and point towards similar types of solutions.

Jointly with the Municipal Resource Recovery & Research Collaborative, the Ontario Waste Management Association, and the Recycling Council of Ontario, we are asking that RPRA not approve the proposed a-BBPP in its current form and furthermore that RPRA lead a collaborative process to make needed amendments to the proposed plan. We request to meet with the RPRA board at their earliest convenience to discuss these issues further.

Respectfully submitted:



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ENGO Comments on Stewardship Ontario's draft amended-Blue Box Program Plan (A-BBPP)

PART 1: Basis for our Evaluation

We are environmental activist organizations who have worked on waste issues in Ontario for the past few decades. During that time we have seen progress on some waste issues in Ontario, but this progress has largely stalled at a level that is still incredibly wasteful of valuable used materials.

Recycling and composting have not reached satisfactory levels. Industry continues to create and put on the market new ill-designed products that compromise established recycling and composting systems, and introduce products containing toxics into the waste system. Reduction and reuse still go largely ignored instead of being seen as the core of the system.

This means that we are wasting huge amounts of valuable materials resulting in substantial environmental harm as used products are thrown into the disposal stream instead of being put back through the production system. It causes dramatic damage to the environment and human health as a result of extracting raw materials at a much higher level than would be needed if we were more effectively substituting materials from the waste stream to make new products. This creates a system that generates much more greenhouse gases and results in substantial losses to our economy.

The last few years have seen an awakening in Ontario to the need to make dramatic changes in our approach to waste in order to break through this stalled system. Ontario has passed legislation and created a policy based on two fundamental and potentially transformative principles: a circular economy, and full individual producer responsibility (true Environmental Producer Responsibility [EPR]) for the products created and sold. The two provincial documents that are to guide that transition are the *Waste Free Ontario Act*, comprising the *RRCEA* and the *Waste Diversion Transition Act* [proclaimed in late 2016], and the *Strategy for a Waste-Free Ontario: Building the Circular Economy* [February 2017].

This brief from some environmental groups responds to SO's Plan of December 2017, and a "Draft Blue Box Program Plan Agreement" developed jointly by the Resource Productivity & Recovery Authority (RPRA), and SO, which were released for consultation in December 2017.

There are two transitions in the scheme the government has set up. Transition one is to begin the process towards full stewardship for the Blue Box program, which is still carried out by SO and is in some respects only partial EPR. The two documents now released by SO and RPRA for consultation are for the conduct of transition one. The second transition is when the RRCEA will come into effect. This is where full individual producer responsibility will be required and when

all the mechanisms for a zero waste and circular economy come into effect, including the power for the Province to use all the powers in the RRCEA.

The main basis of our comments on these two consultation documents is a judgment on the extent to which and the speed with which this proposed Plan would get us from transition one to transition two. Prime questions in our minds as we review these documents are: 1) will the provisions in transition one do the maximum possible to get us to all the goals in transition two? 2) are there provisions in transition one that could slow down progress to transition two or stall us at a point that puts off reaching transition two? 3) are there factors in transition one that could take us on a path counter to some of the goals for transition two?

Our fear is that we could get stalled in the system set up in transition one and not get to the system envisioned after transition two – the one that we have all agreed is essential for the well-being of our environment and economy.

PART 2: Assessment

On November 17, 2017, SO met with some environmental groups to present the outline of their amended Blue Box Program Plan.¹ In response to their request for input from us to help them in developing their Plan, on November 29, 2017 we submitted a letter re: “Early feedback on Stewardship Ontario’s Amended Blue Box Plan Proposal.” Unfortunately, none of the comments and recommendations that we made are reflected in changes on the Plan. Indeed, in some ways, the Consultation Document is weaker and less clear than was the powerpoint presentation and the discussion that we had in November. Some of these will be pointed out later in this document. The plan needs to be significantly rebalanced to focus on the needs of the community, the environment, and the economy instead of being so focused on steward desires.

We here present our chief concerns and recommendations for improvement.

No Plan for Moving from transition one to transition two

We are alarmed by the timelines in the proposed Plan. In section 7.2 of the Plan, SO says that all communities will be “transitioned by May 31, 2025” to full SO control. That is seven years from the time the program is meant to begin implementation. The proposed plan says nothing about the steps after that to move to transition two and provides no estimates of how long it will take to be ready for the second transition. The information SO provides in its plan makes it clear that it will be well over a decade before the second transition happens and we start working seriously for a circular economy and full producer responsibility under the RRCEA. This legislation was proclaimed in 2016. This means that more than a decade will have passed

¹ *Developing an Amended Blue Box Program Plan: Consultation with Ontario Environmental Non-Government Organizations*, Stewardship Ontario, powerpoint presentation, November 17, 2017.

before we start to use this critically important legislation for our environment and our economy.

This contrasts sharply with the amount of time that it has taken other jurisdictions to move from systems similar to Ontario's present Blue Box program to full individual extended producer responsibility. British Columbia moved to full 100% producer responsibility in terms of funding and operation over a period of approximately two years; Quebec made a transition from 50% funding to 100% funding in about the same time. This is the amount of time it took those jurisdictions to move through both transitions (doing it in one step) in contrast with SO's plan where it would take them at least four times as long and still be only part-way to individual producer responsibility.

Recommendation 1: The period for completing the first transition and moving to full SO control should be reduced from 7 years by at least two years, ideally to as short as 3 years.

Minister Ballard's letter to RPRA and SO on August 14, 2017 Re: First Phase Transition – Direction for Proposal for an Amended Blue Box Program Plan (the Minister's Letter) said that in addition to outlining the "first phase of transition for the Blue Box Program" under the WDTA, SO was to "set the stage for a second phase of transition that will result in individual producer responsibility under the RRCEA." Transition one is focused on moving to industry having one hundred percent of the responsibility for recycling by having SO take over full responsibility for PPP diversion programs. Transition two in the development of the circular economy and full producer responsibility program is moving from SO control of managing the system to individual stewards responsibility for their own products. The only reference in SO's Plan to "winding up" is in the "Ensuring Competitive, Fair and Open Markets" section 8. There is nothing else in this plan that discusses how their plan "sets the stage" for the second transition and nothing on how SO will wind itself down. Because of SO's failure to do so, it is impossible for us to know whether SO's proposed Plan will actually support the transition or will it result in another lengthy stall.

SO explains its omission of discussion of transition two by saying that they have no power over this because it is the Minister of ECC who has the power to initiate transition two and to instruct SO on when it is to close down its program. This is true; however, unless SO has an image of what transition two will look like, they cannot "set the stage for the second transition" as instructed to do by the Minister's Letter, or make an estimate of how long it will take to get to transition two. If they don't have such an image, SO's entire proposed Blue Box plan has little validity.

Recommendation 2: SO should add a section to its Plan that details how their proposed Plan will facilitate the transition to individual stewardship. This should include an assessment of whether any components in their Plan may work contrary to the second transition and how the Plan could be improved to better facilitate the transition. They should show how they changed the program or why they didn't change the program to address these findings.

Recommendation 3: The Plan should include an estimate of when SO thinks their proposed Plan would put the Minister into a position where stewards would be ready for the second transition.

Recommendation 4: The Minister should set a second transition trigger date and should state punitive actions that will be taken by the Minister if the second transition has not begun by then.

Steps Forward, Steps Backwards, and Steps Missing in Diversion of Paper Products & Packaging

The Minister's Letter requires SO to increase the diversion rate for PPP by "Working towards the circular economy by supporting reduction, reuse, recycling and reintegration of PPP materials into the economy" and by "providing for continuous improvement of environmental outcomes."

Diversion Targets

Before discussing the diversion targets, it is important to see how the diversion rate will be calculated. Figure 7 page 34 of the SO Plan is supposed to define the point in the PPP recovery stream at which the diversion rate will be measured.

This section of the Plan is very unclear and seems to contradict information we were given during the consultations. The choice of this point is extremely important because it can make a major difference in the validity of the diversion target measurement. Each stage, (e.g., collection, processing, selling, and transformation of materials into an actual product that goes back into the economy,) ends up with materials going on to the next step for processing or selling **plus** release of "residues", material that becomes waste. The quantity of these lost materials at each stage can be substantial. At each stage contamination, i.e., non-PPP materials and PPP materials that are unusable, that is taken off of the recycled stream should not be included in the diversion figure. The only figure for diversion that is not misleading is one that includes only the PPP materials that are reintegrated into product. It is clear from the SO report that the point at which they would measure diversion rate does not go to the point at which the materials have been turned into usable product.

Therefore, SO's reporting on diversion rates will not be the true diversion rate and will be seriously misleading to the public. To see if the diversion objective is being achieved, the figure should be calculated only after the amount of waste off the end of the material production stream has been subtracted. The approach we recommend is consistent with the Minister's Letter.

Recommendation 5: Ensure that recovery and diversion rates are measured by quantity of materials that are actually reused, recycled or reintegrated into valuable materials. This

means that the amount diverted should only be the amount that ends up in usable materials for product.

The quality of the data collection and verification by RPRA is essential to public faith in the outcomes of this report in terms of progress on waste diversion.

Recommendation 6: The Plan should include extensive material tracking, auditing and evaluation to calculate diversion and include measures to ensure transparency and accountability to demonstrate environmental performance. All data should be reported and easily available to the public.

The SO Plan proposes a 75% diversion target to be achieved two years after all communities have transitioned to the SO system. With the present SO timetable, that means a 75% diversion rate in 2027 [sec. 10.2.3 and 2.3.1]. SO reported a Blue Box materials diversion rate of 64% for 2015. This means that in the twelve years from 2015 to 2027, the PPP materials diversion rate would increase from 64% to 75%. If we are to move seriously forward to the “waste free” goal that the Province has set, we will have to make more rapid progress than this.

We have serious concerns about the target being an aggregated province-wide target. A provincial target disadvantages smaller and more rural and remote communities because it could be possible to meet the provincial targets by focusing attention solely on the better performing large urban centres. This would result in no incentive to maintain or improve diversion performance in smaller communities. The target should be disaggregated to the proposed catchment area and by community.

Recommendation 7: To result in serious improvement in the environmental performance, there needs to be a higher overall performance target. We recommend that this target be changed from 75% to 80% for PPP.

Recommendation 8: SO should commit to achieving that target in each community within two years of each community’s transition.

Also, targets should be developed for increasing the diversion rate every two years thereafter.

Recommendation 9: The Plan should include provisions for a formal public process to review and revise diversion rate targets by material type every 2 years.

We are pleased that the Plan contains some disaggregation of its target by type of materials [10.3.1.1]. This is critically important to help us determine which materials are being successfully diverted and which are being less successfully diverted. But the material categories should be further disaggregated for targets to reflect the broad range of material types used for packaging and products that are not captured separately here. For example, multi-layered pouches or boxes that include various plastics, metal and paper, and a breakdown of plastic types should be shown separately.

Plastics in particular includes a wide range of plastic materials, some with much higher diversion rates than others. Isolating the resin types with separate targets will provide the information necessary for the public and stewards to identify problem areas, and stimulate product design changes and innovation in collection and processing.

Recommendation 10: The Plan should provide for PPP material diversion targets that are disaggregated by a greater range of materials and sub-materials.

In our November 29 submission to SO and RPRA we recommended that SO's then target of 40% diversion rate for plastics be increased to 75%. In its Plan dated December 2017, SO increased their original proposed rate from 40% to 50%. We appreciate the recognition that 40% was too low, but 50% is still too low. Also we question the seriousness of a target given that is this low level and still doesn't have to be met for a decade. Plastics pose significant environmental harm as they are made of non-renewable fossil fuels, may contain toxic substances (e.g., Bisphenol A, Phthalates, and flame retardants), and they pose significant environmental harm to our waterways, land and health when not captured effectively and are not prevented from use in packaging and products.

Innovation and aggressive action to dramatically increase plastic recycling is required to be consistent with the goals of the RRCEA and the Minister's Letter. Much higher plastics diversion rates are possible, and are being achieved in other jurisdictions given the right tools and incentives. For example, while only 50% of non-refillable drink containers are recycled in Ontario despite widespread Blue Box access, in Canadian provinces with deposits on all drink containers the recycling rate is much higher - 86% in Saskatchewan, 84% in BC. (CM Consulting 'Who Pays What' report 2016). These examples are proof that there are currently functioning systems that achieve much higher rates of plastic diversion.

Recommendation 11: SO should increase the material specific target for plastic to 75%, and require the target to be met by 2022. In addition, where systems exist to achieve higher

recycling rates for specific materials or products, SO should make sure targets are revised to be high enough to ensure adoption of best practices.

Locations of PPP Materials Covered

To achieve the purpose of the legislative goals, maximum effort must be made to include all the locations where wastes related PPP materials are generated. In this respect SO makes some suggestions but most of them fail to make serious positive change. In some cases, the service currently provided will be reduced. This is likely to mean that the recovery has been reduced for at least ten years.

Multi-unit Residential Buildings

We strongly support the Minister's direction to improve service to residents in multi-residential buildings. This means maintaining and substantially improving service to those residents who already receive service from their municipality (1.1 million households in Ontario), and rapidly expanding to those who now receive service from the private sector instead of municipalities (300,000 households). It is impossible to meet the diversion targets for PPP without making a dramatic increase in the collection of PPP from all multi-residential households.

It is essential to note that 'multi-residential' dwellings is a very broad category including townhouse complexes, community housing, low, medium and high rise rentals and condominiums of varying ages. This wide variation in multi-residential building types and waste-related facilities in them needs to be considered in the Plan and during the transition in terms of varying infrastructure challenges in separating PPP in an uncontaminated condition, and different approaches to promotion and education.

In the Plan, SO puts particular emphasis on getting the 300,000 households in multi-family residences not currently in the municipal collection system into the SO system (Section 7.8.5 to 7.8.5.1). This is basically through a system of offering financial incentives to private collectors. We support the goal of having all of these households in the system and of incentives being provided by SO. However, we are not confident that the incentives alone will be enough motivation unless the government puts into place regulatory requirements for multi-family residences to fully participate, e.g., by refusing to allow PPP to go to disposal facilities mixed with other materials.

Recommendation 12: The Provincial government should support SO's efforts to include all multi-family residential buildings in the SO system and to ensure high quality PPP materials collected in the system through regulatory means, such as banning "waste" mixed with PPP from disposal. And, of course, the Province should more effectively enforce its existing 3rs

Regulations, which already apply to all multi-unit residential buildings over six units, as well as to many institutional, commercial and industrial buildings.

SO makes reference to requiring collectors of wastes from multi-unit residential buildings to “adhere to performance standards” (Sec 7.8.5.1). This is an important factor because we will not get PPP that can be reintegrated into the economy unless we minimize contamination levels. We have concerns, however, that strict contamination limits for collectors of multi-residential waste could become a major problem. Multi-residential buildings typically have very high contamination of recycling streams, and this must be taken into account. Strict contamination limits and penalties could result in municipalities and collectors being reluctant to invest in recycling education and infrastructure in the face of uncertain funding, or abandoning the recycling program altogether, or receiving no stewardship funding, especially if SO can hit their target without tackling multi-residential buildings.

Recommendation 13: SO should include in its amended-Blue Box Program Plan provisions for how they will help multi-household buildings meet acceptably low contamination levels.

Public Spaces, Parks and Public Buildings

The SO Plan includes a provision to discontinue existing public space and parks recycling unless the community agrees to continue to be the collection agent. They would then develop a contract with SO. However, SO will only “consider” recycling “at a future date” (sec 7.8.6) for existing public space and park services where the community does not agree to continue to provide the collection service and for communities that do not now have public spaces and parks service. This is not acceptable. This will not help us increase convenience for Ontarians and will not improve environmental performance. It will create confusion in the waste program in Ontario and undermine the goals of our waste strategy. It will result in decreased service for many public spaces and parks.

Recommendation 14: SO should take responsibility for collecting and improving collection of PPP in all public spaces and parks whether or not a municipality currently has such service.

SO does not define “public spaces” in its Plan. Many municipalities provide collection and recycling services to public institutions such as schools and these programs must be maintained. The promotion and education value of a recycling program in public buildings, especially in schools, should be viewed as key components of an effective promotion and education plan.

Recommendation 15: SO should define “public spaces” to include all public spaces, such as parks, sidewalks, and publicly supported institutions (e.g., municipal offices, schools, universities, hospitals), and have expanded public space service to all these facilities in all communities by the end of the proposed Plan.

Communities Receiving Service:

In section 7.8.7.1, SO says that it “will consider expanding Collection services to new Communities over time once it is satisfied that such expansion will not negatively disrupt the transition of existing programs.” The conditions they put on the extension of this service to other communities are such that it is highly unlikely that the extension of services will occur. This is especially true for the conditions requiring that the necessary infrastructure be in place, and whether “proximity to Post-Collection recovery warrant expansion of Collection services.”

The responsibility of stewards who sell PPP to take responsibility for that PPP after use should extend to every community in Ontario – not just those now receiving it. To go through the first transition phase of the movement to full extended producer responsibility without addressing the failure to reach all communities would mean that we are not prepared for the second transition. This is not only an issue of environmental benefit for all parts of Ontario but also a matter of environmental equity.

The obligated stewards profit from the sale of their products to all parts of Ontario, including those communities, such as some northern and remote municipalities, and aboriginal communities, who currently receive no or only limited recycling recovery services from the stewards. Tragically these communities who generally have fewer financial resources to manage materials and less capacity to operate recycling programs, are the ones who get stuck with the problem.

In addition, in some communities there is not a satisfactory collection system in all parts of the community. Services should be extended and developed to ensure that people in all parts of the community have convenient access to systems for collecting all materials collected in other parts of Ontario.

Recommendation 16: The Plan needs to provide for expansion of their services to northern, remote and aboriginal communities, and to any other communities or parts of communities where PPP recovery services are not now being adequately provided. This expansion should be completed by the end of 2025, the same time at which SO plans to have completed transition of communities to full extended producer responsibility.

Range of Blue Box Materials Covered

This section of the SO Plan is very confusing and the commitments in it do not have enough precision to hold SO accountable for delivery. This extremely important part of the Plan is unfortunately one of the weakest parts of the Plan.

SO begins by stating that “The list of accepted and Targeted PPP will be standardized and uniform in all transitioned Communities” (sec. 7.10). We support this commitment to taking responsibility for the same kinds of PPP in all communities. But the material listings are very general in nature so there is no clarity on what is included and excluded. This should be changed to show a list of specific packaging types.

Recommendation 17: The Plan should be modified to include clear definitions of each material type and of what is included and excluded in the targeted PPP. The Plan should also include explanations for each exclusion.

This list, of course, will need to be constantly updated as new packages are brought into the marketplace. The decisions as to what is added and excluded from targeted PPP are too important to leave to SO. A mechanism should be put into place to assess these new packages and determine whether they belong on the list. A special body that is not just SO members should be set up to assess these new packages.

Recommendation 18: An on-going multistakeholder committee should be set up to assess what PPP will be targeted.

The Plan goes downhill from there when it says: “Although Stewards report and pay fees for all PPP, not all PPP has Diversion End-Markets and therefore the list of PPP targeted for Collection will be a subset of all PPP.” A recurring theme throughout the part of the Plan on which materials are to be collected is the need for reliable markets. This is an important part of achieving the circular economy. However, the way this Plan reads, lack of viable markets becomes the prime reason for taking items off the list of materials to be collected.

Markets fluctuate substantially. How is SO defining an acceptable end-market? And how long is the market weak or down before you decide it is no longer an acceptable market? And when do you decide that it is not an acceptable material to use or product to make because there isn't a recycling market for it?

To effectively achieve a circular economy and use economic levers to promote innovation, decisions about what PPP material is targeted cannot be based solely on existing end-markets.

A key principle of EPR is that the product stewards bear the responsibility and consequences of packaging decisions, and the lack of end-markets is a key signal to reduce or stop the use of a certain material. Allowing producers to simply stop recovering that material is to offload that responsibility to the environment and municipal waste streams, counter to the goals of EPR. This will simply perpetuate the existing problems.

Producer responsibility means that the stewards have the responsibility to proactively develop the necessary markets for the PPP that they put on the market regardless of the current technical and market challenges before they put the product on the market. And if they can't develop a market, the product should be redesigned or not sold in the marketplace.

Recommendation 19: In an EPR system, the steward is responsible for PPP regardless of economic viability of the market. Having this responsibility would be a powerful economic incentive to redesign their products. The SO Plan should replace its emphasis on viable markets as a reason for not having a material on the targeted PPP list.

Some communities will find that after the transition some PPP materials that were being collected will no longer be collected. Substantial changes to materials currently collected should be avoided, as they will result in confusion, reduce confidence in the Blue Box recycling system, and even generate anger. This could unfortunately prove to be a poor start for the transition in some communities.

Recommendation 20: The Plan should avoid reducing the PPP now collected in municipal programs as much as possible. Instead the focus should be on expanding the list of materials up to the most comprehensive list rather than reducing collection of materials to the lowest common denominator.

The Plan lists two principles for establishing the targeted list of materials for current collection. These are aimed at making sure that even if they don't currently have Diversion End-Markets, "then the materials have alternative management options to landfill that are environmentally favourable" (Sec 7.10). This line must be amended to change "landfill" to include "incineration" as in Ontario both landfill and incineration are at the bottom of the waste hierarchy as "disposal".

The Ontario Government's definition is appropriate because incineration and energy from waste are forms of disposal that destroy resources instead of making them available for reintegration into new products. This runs counter to Ontario's circular economy goal.

Recommendation 21: Section 7.10 should be changed to make it clear that both landfill and incineration, including energy from waste, are a form of disposal and that, therefore, both are unacceptable options.

We are pleased to see SO's commitment in the Plan to develop "Collection strategies that allow for the effective Collection of expanded and extruded polystyrene foam to enable these materials to be included in the list of collectable materials in the Collection and Post-Collection statements of work to be finalized in November 2018" (sec 11.1.1). This is an example of the sort of clarity that we would like to see added by SO throughout the entire Plan.

A clear staging plan with time-lines such as this for collection of other excluded materials should be developed a year later and the materials should be included in the collection systems before the end of the first transition. This can become a positive selling point for the program as people see assurances of being able to soon have access to diversion programs for some materials they currently don't.

Recommendation 22: The Plan should include a commitment by SO to develop a workplan for determining how to expand the list of standardized materials collected to all obligated PPP materials. These plans should be implemented by the end of the program Plan period.

Problematic (non-targeted) materials & waste reduction

As the goal is to eliminate waste and to create a circular economy, this Plan and the new Act when it is being implemented must address and eliminate problematic materials that have no high value end markets, or that cause contamination and problems for other materials in the collection system, or that can cause environmental or human health impacts even when diverted.

We strongly support the Minister's direction regarding reducing waste and eliminating problematic materials as a key issue. The Minister's Letter stated: *"Use means to discourage the use of materials that are difficult to recycle and have low recovery rates; and, • Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle."*

To do this, the Plan needs to be vastly improved to provide the levers and incentives to push for better product design, reducing packaging and increased recyclability.

On page 38 of its proposed Plan, SO says that it may convene ‘collaboration forums’ between stewards and processors to evaluate and address problematic materials to bring them into the system by identifying new collection methods, creating new end markets, etc.

While this is a good starting point, and collaborative approaches are essential, this is wholly insufficient to deal with problematic materials. During the November 17, 2017 ENGO consultation, SO representatives noted that, to their knowledge, differential packaging fees and collaboration forums formed to address problematic materials in BC (the two mechanisms SO proposes to use) had not resulted in packaging redesign or changes, but had only resulted in innovation in collection and processing methods.

Recommendation 23: The Plan needs a clear mechanism to address problematic materials as quickly as possible.

- **Work should begin immediately for materials already identified as problematic: those on the non-targeted material list**
- **Deadlines should be used to drive innovation and problem-solving for problematic materials.**
- **Problematic materials that have not been addressed by the deadline should be banned by the Minister when the RRCEA comes into effect at the end of the SO transition period.**

Compostable Packaging

We are happy to see that the definition of packaging in the RRCEA was used in the Plan, a definition that looks at function, not material type, to indicate obligation. This ensures that the increasing use of compostable packaging and products will not eliminate a steward’s responsibility.

Compostable packaging is a rapidly growing category of packaging, and we have serious concerns that well-meaning producers and consumers are not aware of the serious problems that compostable material poses in residential waste handling systems. Currently, there are many compostable materials that are not accepted in municipal green bin programs. Due to the technology and timing of municipal systems, much compostable material is simply removed as residue and landfilled. For example, compostable coffee pods and plastic cutlery are actively promoted by producers as compostable, but not accepted in Toronto, Hamilton or Ottawa organics programs.

Plastics made of compostable material, such as PLA, pose additional problems since they can appear identical to conventional plastic resins and frequently end up in recycling systems where they contaminate the plastic material stream.

All compostable packaging should include:

- Clear labelling to indicate the appropriate discard location in the community where it is sold and to avoid contamination of other streams
- International or national biodegradable certification
- Diversion targets like all other materials to drive environmental performance
- Efforts by producers to improve collection and reduce contamination of organics or recycling programs

Recommendation 24: The Plan should outline how compostable materials will be addressed. Steward fees on compostable materials should be used to develop alternative collection systems, mechanisms to avoid contamination, and cover municipal composting costs when relevant.

Toxic Substances in PPP Materials

The Minister's Letter directs SO to develop a Plan that supports the "*[r]eduction or elimination of the use of any substance in the material that compromises the materials reusability or recyclability*". The SO plan fails to address one of the most serious related problems: hazardous substances in materials, packaging and products that can limit the safe downstream reusability or recyclability of materials.

The ENGO community has repeatedly raised concerns about toxics in the circular economy - chemicals and toxic ingredients from one product can be inadvertently recycled into new products.

A key solution is to phase out the use of toxic substances in the production and treatment of materials. Regardless, toxic substances that are already on the market and incorporated in materials (e.g., plasticizers) need to be addressed, especially in materials management. We lack control mechanisms to manage materials at the end of life to ensure that materials containing toxic ingredients are identified, and processed separately from other materials. For example:

- International studies have found children's toys that include neurotoxic flame retardants as a result of using recycled plastic that included flame retardant residue.
- Some forms of expanded polystyrene foam may contain PBDE flame retardants that are persistent, toxic to humans and the environment and that bio-accumulate in the food chain. Without controls, this could end up in polystyrene recycling facilities.

- Canada has banned the use of BPA in baby bottles because it is a recognized endocrine disruptor that can affect human hormones in high doses. Yet, it is widely used in a range of product packaging, including food packaging and also in thermal paper (sales receipts). When paper pulp containing BPA is recycled, it stays in the system and continues to expose users of paper with potential negative health impacts.
- PVC is the most toxic plastic to manufacture; it requires toxic plasticizers and stabilizers (these leach out of products). PVC emits volatile vinyl chloride (a highly toxic chemical), and it is difficult to re-use or recycle. This material should be among the first to be banned from packaging, as there is no unique need for PVC.

As we push forward to develop a circular economy, it is essential that we consider what information, restrictions and controls we can use to prevent the perpetuation of toxic chemicals, and to deal with newly identified toxins. Some options include:

- Set rules to ensure that processing facilities do not co-process materials that may contain toxic components.
- Develop a mechanism to identify materials that include toxic chemicals, and to monitor materials that include potential emerging toxicants (chemicals that have been identified as potentially toxic)
- Create a reporting and tracking system for materials with toxic chemicals, especially in processing and end market reporting.
- Ensure that problematic material collaboration forums consider and address hazardous substances found in packaging.
- Consider alternative processing of hazardous materials in the appropriate hazardous facilities for those packaging materials that cannot be safely processed into new resources. This minimizes opportunities for re-circulating hazardous materials into manufactured products using recycled material (including plastics)

Recommendation 25: The Plan should develop safeguards to prevent hazardous and toxic substances from PPP being perpetuated and spread in recycling and processing.

Collection Methods

SO should be creatively looking for and supporting collection mechanisms that are not necessarily the standard curbside pickup or depot system. For problematic materials in particular, other collections systems may be more effective than these. For example, deposit-refund systems have proven to be very effective in Ontario and elsewhere. On page 28 of SO's Plan it says that consumers will "be encouraged" to use the deposit-return systems for Liquor Control Board and The Beer Store's products. At the least, it makes sense to develop similar programs for all beverage containers.

There is nothing in the SO plan that encourages individual stewards to develop their own collection systems during the first transition period, which is expected to continue for more than ten years. It would be a tragedy for the environment and for the circular economy to stall on the development and implementation of new collection systems for that long.

Recommendation 26: The SO Plan should be amended to encourage stewards to explore and start using collection systems different from the standard ones that SO has been using, especially for problematic materials. This should be seen by RPRAs as allowing individual producers to meet their obligations.

Stalling Collection System Changes

The basic plan that SO has is to stall the system at where it is today even when there are proven ways to increase diversion rates. For example, in Appendix C on sample terms and conditions for collection agreements it says that curbside collection will be on a bi-weekly basis except in communities where curbside collection is already occurring on a weekly basis. Community after community has found that diversion rates are higher when recyclables and compostables are collected weekly and garbage is only collected every two weeks. But if a municipality hasn't already switched, the change won't happen under SO. This means stalling a major improvement for ten or more years.

In addition, the cut-off point of 15,000 population for the distinction between curbside and depot service is arbitrary and unacceptable. There are many municipalities with less than 15,000 residents already operating curbside service.

Recommendation 27: Provisions in the Plan that restrict the ability to upgrade collection systems to systems currently in common practice should be removed.

Steward Fees

The Minister directed SO to use *“effective economic methods to incent behaviour changes leading to waste reduction of PPP”*. To achieve this, the SO plan should develop a fee structure that provides more significant fee differences for materials and products that are not being diverted at satisfactory levels. The purpose here should be to encourage product redesign and environmentally preferable material choices. The experience in most jurisdictions is that the standard EPR fee structure has not been sufficient to result in product redesign.

Recommendation 28: The Plan should explore how the steward fee structure can be improved as a mechanism to provide sufficient incentive to encourage product redesign as a mechanisms to reduce waste. The current fee structure should be reviewed regularly to ensure it is having the desired effect.

Post-Collection Processors and Markets

The Draft SO plan proposes providing incentives to processors of collected materials to choose the “best” markets for the materials their processed materials will be sold to. SO’s definition of “best” is inadequate. The criteria listed are “reliable markets that command the highest commodity prices and that are not at risk of border restrictions” (Sec 7.9, page 27). We think that additional criterion should be added, including: the extent to which the market company turns the processed material into new products, and the extent to which they are processed into products of equal or higher value (upcycling).

Recommendation 29: SO should revise its Plan to ensure that incentives to processors for choice of end markets consider the extent to which the materials are processed into raw materials of equal or higher value and the extent to which they are reincorporated into new products instead of becoming residue.

Promotion and Education Plan

SO’s shift to consistent material collection across Ontario will make it much easier to reduce resident confusion over what materials they can put into the recycling system. Currently when each municipality collects different materials residents get incorrect information for their municipality because of P&E campaigns that reach far beyond any one municipality (e.g. radio, news and transit ads). This confusion also arises when people move to a different municipality. More consistency in materials collected throughout the province will make the education program much more effective.

That said, as requested by the Minister, the Plan should include much more detail for an effective promotion & education (P&E) plan, as this will play a central role to reduce contamination and to increase diversion rates in Ontario. From page 28 in the Plan, we are assuming that SO plans to have a communications plan developed within the first year and ready for implementation as the first set of communities are about to be transitioned to the SO system. We are assuming that the communications plan will be evaluated as each annual update is carried out.

The SO representative in the ENGO consultation session noted an estimated \$1 per household per year as a typical cost for Blue Box education, although many large municipalities in Ontario are spending over \$1 and in some cases and in some years upwards of \$2 per household. A dollar per household significantly underestimates the cost of effective P&E, as demonstrated by the following facts:

- the high contamination rates of Blue and Green bin programs experienced in most municipalities, especially in multi-residential buildings
- the low diversion rates for a number of materials, especially plastics

Effective recycling promotion & education is complex, and requires customization of messages and approaches for the wide variety of audiences across Ontario in a wide range of housing types.

Adding urgency to the need for effective P&E is the consequences of failure to do so: contamination rates will result in penalties for collectors and offload stewards' obligations to municipalities and residents.

Recommendation 30: SO's Plan should contain a commitment indicating that \$1 per household per year is the absolute minimum that will be regularly allocated to the P&E program and the allocation should be closer to \$2 per household per year. The plan should also include a robust evaluation program to measure effectiveness of different P&E approaches with different audiences and a plan for continual improvements. In addition to including information on how to use the collection system, the outreach should include information for the public on progress under the diversion program as well as pointing out where progress is weak.

Consumer confusion also occurs due to product labelling that is unclear, ambiguous, or irrelevant to local conditions. The problem is the use of the recycling messages and symbols on many containers that may not be accepted in Ontario's system. As noted above, this is also a growing problem with compostable packaging. Promotion and education efforts must work to counter consumer confusion caused by product labelling. The promotion and education plan should also include efforts to address labelling by stewards to ensure messaging on labels is consistent with direct and media P&E.

Recommendation 31: The education program should include a plan to address confusing and misleading and incorrect labelling by stewards that imply that products and packaging are recyclable or compostable when they are not collected within the system in Ontario.

Who Decides?

As we read the SO Plan, we are very wary as it is focused on transition to SO control, and does not outline a clear plan to step back to allow individual stewards to feel more ownership and to get enthusiastic about a new EPR system. In so many places, the Plan reads like a system run and controlled by SO. For example, in section 4 on what will be included in targeted materials, the plan says: “Stewardship Ontario will make decisions regarding specific inclusions and exclusions that may arise in the context of operating the plan and will provide direction to affected Stewards using the Rules for Stewards.” Similar statements occur throughout on matters such as what materials will be collected, etc., that are more than administration of a program. These are decisions that are of fundamental importance to the entire operation of the program and to people throughout the province.

Instead SO should, as directed by the Minister’s Letter, facilitate the second transition to the RRCEA by making it clear to individual stewards that they will need to begin planning for and preparing for their materials and products management after SO is gone. As it is currently framed, there is nothing in the program that would make you think SO will ever disappear.

The tone and content of the plan contradicts the Minister’s Letter which said that they shall “develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan.” In addition, within the Plan, the role of the RPRA is rarely mentioned.

Program Evaluation

We are pleased to see SO’s planned ongoing evaluations and updates in the Plan. These are essential as continual improvement is a critical goal for increasing environmental protection.

In addition to these, RPRA should carry out annually a review that assesses the extent to which SO’s actions meet the requirements in the Minister’s Letter and to make recommendations for improvements. To ensure a broad range of perspectives, RPRA should include a range of public consultation mechanisms. RPRA should also consider setting up a multi-stakeholder committee to play a major role in this review. This would ensure a broad perspective being brought to the review.

Recommendation: The SO Plan should be revised to include an annual evaluation by RPRA of SO progress in comparison with the provisions in the Minister’s Letter. This evaluation should include a range of public consultation mechanisms, including having a non-SO multi-stakeholder committee to play a leadership role in the evaluation.

November 17th, 2017

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RE: Amended Blue Box Program Plan

The Ontario Waste Management Association (OWMA) is the province's largest, most effective environmental services association representing the waste management and resource recovery sector. Its membership includes more than 250 companies and organizations in the private and public sectors, which manage 85% of Ontario's waste.

The association works with its members to develop detailed research and provide expert advice with the objective of increasing recycling, addressing climate change and fostering investment and innovation in the waste management sector. The OWMA also provides opportunities for members to network together while supporting their professional development and career growth with educational events and webinars. The OWMA and its members are principle players in the development and delivery of recycling collection, transfer and processing services in Ontario and, as such, critical stakeholders to the successful transition to the Amended Blue Box Program Plan (a-BBPP). We are prepared to work cooperatively to develop an a-BBPP that recognizes the needs of all parties, and our organization has and continues to support the Province's efforts to build a circular economy under the Resource Recovery and Circular Economy Act (RRCEA), including the transition to Individual Producer Responsibility (IPR) as envisioned in the Waste Diversion Transition Act (WDTA).

To this end we appreciate this opportunity to comment on the proposed a-BBPP, the approval of which could have significant impacts on our membership. There are aspects of the a-BBPP that clearly align with our members strategic objectives and are seen as being helpful to the attainment of the province's longer term waste diversion and Individual Producer Responsibility (IPR) goals. If achieved, the standardization of a robust list of collected materials and the potential expansion of services are considered to be positive and desirable outcomes. Overall, the a-BBPP appears to support open competitive procurement and payment according to competitive pricing, which OWMA considers critical to the waste management industry and which was referenced in the Minister's direction regarding fair and open competition. This approach is supported by OWMA.



As proposed, however, the OWMA has several concerns or cautions with the a-BBPP concepts as have been presented during discussions and consultations. The full range concepts being developed for the aBBPP have not been available or discussed with the OWMA and our comments are provided without the full context of the proposed aBBPP. The following comments reflect the most significant cautions and concerns identified through the consultation process:

Need for an Embedded Collaborative Process: The OWMA and member organizations will be making significant investments that will underpin achieving the goals and objectives of the aBBPP. These types of business decisions are made within a 'risk assessment' framework where detailed information and a clear understanding of processes are critical. While the OWMA recognizes the impediment to providing this type of detailed information is related to the tight timelines for the aBBPP development there needs to be certainty on how details and processes will be developed post aBBPP approval. The OWMA proposes that the a-BBPP include provisions that commit to and outline in detail a meaningful collaborative process, inclusive of the major program delivery partners, within which the development of critical aBBPP plan aspects such as catchment areas, collection terms & conditions, post-collection service standards and procurement processes would occur. As additional detail to address such issues will be unavailable at the time that stakeholders will need to determine their support for the aBBPP, a well-conceived collaboration commitment and process is essential. OWMA respects that as product stewards assume full financial responsibility for the recycling system they will seek to manage the operation that they are paying for, however recourse from unilateral decision-making will be viewed positively by the OWMA.

Need for a Built-in Dispute Resolution: The proposed a-BBPP, if approved, would appear to bestow on SO a high degree of authority to arbitrarily impose undefined measures and policies on the system and on other stakeholders. The addendum to the Minister's letter of August 14, 2017, is quite clear about this in that it calls for the establishment of issue management approaches; however nothing presented to this point suggests that there will be an impartial arbitrator or mechanism to ensure that measures are balanced, fair, effective, and directed at the appropriate party or parties. To this end OWMA has proposed the incorporation of a defined collaborative process, with every hope that it will be workable and successful. OWMA, however, remains concerned that the existing Operating Agreement definition of materiality, in other words what constitutes a material change to the approved a-BBPP, will remain intact. (This is a distinct issue from the collaborative approach for future aBBPP operational concepts and processes referenced above.) The materiality definition has been problematic in the past under WDA programs whereby competition, procurement and the service marketplaces were negatively impacted by IFO actions for which there was no recourse. We believe that there will be far greater acceptance of the a-BBPP if the ability of SO to make unilateral post-approval changes to the final a-BBPP are limited and subject to review where it is anticipated that a change to the a-BBPP will affect the servicing marketplace or where a change is disputed. It may be beneficial to the consultation process to engage in the development of criteria governing what

constitutes a material change to the plan, based on the input of all major players including the OWMA.

Waste Reduction: To date the OWMA has seen little evidence in the current a-BBPP proposal that demonstrates any commitment by product stewards with respect to waste reduction and packaging reform as suggested in the Minister's letter. It's possible that this part of the plan, which we recognize would be directed internally at the steward community, has not been shared as part of the consultations. This information, however, would be of interest to other stakeholders.

Data Sharing/Transparency

The OWMA also supports the need for aBBPP data to continue to be provided to all stakeholders. The continued sharing of even basic information (e.g. recovery rate, contamination rate by community/area) should be included in the aBBPP.

OWMA members are service providers, and have developed a close relationship to their public and private sector customers. Services have developed over time as OWMA members have responded to the needs of their client base. In our view there are opportunities to improve the proposed a-BBPP such that it will represent less risk to the OWMA membership. A few specific examples are presented below:

Catchment areas: The first and most apparent issue with the proposal to develop a new jurisdictional approach to post-collection activity is that the operating details are critical yet underdeveloped. There is little information that the OWMA can consider about how this new marketplace alignment will unfold, and how current infrastructure and operations will be affected and how future investments can be rationalized. It is particularly noteworthy that the implementation of the "catchment area" concept has been framed by representatives promoting the a-BBPP as "a commercial problem", in other words the system will be altered with the expectation that the waste management industry will figure out how to make it work.

This proposition may arise from the knowledge that OWMA members have themselves been responsible for the development of informal catchment areas where population and geography lend themselves, to service providers acting as processors and managers for municipal collectives, most notably in rural settings. These consolidation scenarios, however, are outcomes of natural and localized competitive conditions and not a centrally controlled and conceptual approach to material management in Ontario.

We appreciate that the managers of the future a-BBPP are attempting to impose order on the transition, but until it is clear what risks and benefits are realized by the imposition of this approach (and to whom the benefits and risks accrue) we would suggest that more clarity and certainty will be helpful to our understanding of these impacts. The focus on predictability, security for investments, clear process and understanding as to how and when catchment areas are defined and services initiated will contribute to OWMA's ability to determine whether the concept is workable and supported by the OWMA. A commitment to the previously referenced collaboration process will also be a welcomed approach.

Contamination: The a-BBPP proposal outlines a "contamination management process" which includes discussion of financial penalties. We fully understand that market pressures for uncontaminated recycled feedstock are increasing. Product quality is critical. Financial

penalties as applied to collection service providers be it for contamination, material targets or any other obligation of the contracting party, has the potential to increase contractor risk. Many of our members, particularly those in the collection field, may have few options when this type of risk is introduced, especially when they have little control over the material sold in the marketplace, purchased by the consumer and eventually placed at the curb, and all according to a shared SO/Transitioned Municipality P&E program for which service providers have no meaningful input. Additional consideration in the a-BBPP concerning collaborative, step-wise and effective quality control measures will be helpful to our broader membership, who represent the processing and collection aspects of the contamination issue. Again, a stronger assurance of a collaborative approach, based on reasonable expectations for improvement over time, may help to minimize any perceived risk that might otherwise be built into contractor pricing, driving up program cost. There is cause to be cautious in the approach with respect to contamination: Some programs, as an example, operate using carts and/or are subject to user-pay policies which may present barriers to a quick solution to the contamination problem. Imposing penalties on the collector may do little to solve problems caused by program design and diversion policies. Resulting improvised curbside strategies – in other words what collectors may feel forced to do to avoid penalties - may inadvertently discourage participation and public goodwill.

Overall, more detail or a commitment to a collaborative process will be required for OWMA to fully assess the a-BBPP, as we believe will be the case for other stakeholders. Our organization welcomes the opportunity to continue working with all stakeholders in an effort to gain a better understanding of the proposal, and so that we are better positioned to educate our members on the benefits of the change.

The a-BBPP appears to us, subject to the concerns expressed, to have the potential to deliver many of the principles outlined in the Minister's letter:

- The collection aspect provides every opportunity for a seamless transition since it permits continuing municipal involvement;
- Continuous improvement through expansion and harmonization of collected materials;
- Municipal choice to opt in or out;
- Support for meaningful consultation;
- Improved recovery, and;
- Consistent, province-wide promotion and education campaigns.

The OWMA is committed to working with all parties to support the principle of driving innovation through cooperative and competitive efforts, and supports a plan which we can feel assured will not create barriers to competition for OWMA members and prospective PROs when the program transitions to IPR. We are concerned with the potential length of time that the a-BBPP will be operational and the potential delay that it may cause to the winding-up of SO and moving to an IPR system. We believe that government should make a clear commitment to transition the Blue Box program to IPR and while artificial dates are not practical, a relative timeline for the existence of the a-BBPP and the subsequent SO wind-up would be helpful in confirming that the a-BBPP does not simply extend the status quo around SO and IFO control indefinitely.

We look forward to continuing a dialogue that will allow us to resolve and eliminate concerns with the proposed a-BBPP.

Yours truly

A handwritten signature in blue ink, appearing to read "Robert Cook". The signature is fluid and cursive, with a prominent horizontal stroke at the top.

Robert Cook
Chief Executive Officer
Ontario Waste Management Association



Nov. 29, 2017

David Pearce
Managing Director
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RE: Early feedback on Stewardship Ontario's amended Blue Box Program Plan Proposal

Recycling Council of Ontario (RCO) is a multi-stakeholder, not-for-profit organization committed to minimizing society's impact on the environment by eliminating waste. Members include municipalities, retailers, manufacturers, material management companies, brand owners, industry associations, schools, academics, and individuals. We are an independent organization that develops policy positions based on research, experience and unfettered discussion with stakeholders.

Policy positions are taken with a focus on environmental outcomes based on a hierarchy that prioritizes waste prevention, resource reutilization, and conservation. Our mission is to inform and educate all members of society about the generation of waste, the avoidance of waste, the more efficient use of resources, and the benefits and/or consequences of these activities.

On behalf of RCO I would like to thank Stewardship Ontario for the opportunity to provide feedback on information received during consultations for the proposed amended Blue Box Program Plan (a-BBPP) to date. However, it must be noted that there are significant obstacles that hinder proper feedback and recommendations. While the transition of printed paper and packaging (PPP) under individual producer responsibility (IPR) is an important and overdue policy objective, seeking feedback and support from stakeholders while providing limited detail is problematic. RCO has attempted, in good faith, to provide recommendations and highlight critical elements that require additional attention prior to full evaluation or support for the a-BBPP. To that end, we look forward to reviewing the full draft a-BBPP that Stewardship Ontario has committed to make available on December 22, 2017.

We would also like to preface our comments by recognizing the enormity of the task to transition the existing Blue Box Program that has been led and refined by the municipal sector for more than four decades.

It is our organization's desire to ensure this exercise focuses on transitioning the responsibility of the management of PPP to producers under the *Resource Recovery and Circular Economy Act, 2016 (RRCEA)* with no negative impact to its current performance, and will be evaluating it with that as the main objective.

RCO's comments for consideration were informed by:

1. *Waste Diversion Transition Act, 2016 (WDTA)*
2. *Resource Recovery and Circular Economy Act, 2016*
3. *Strategy for a Waste-Free Ontario: Building the Circular Economy, 2017*
4. The Minister of Environment and Climate Change's letter to Resource Productivity and Recovery Authority and Stewardship Ontario, August 14, 2017
5. Consultations with various stakeholder groups by Stewardship Ontario
6. RCO discussions with other affected and interested stakeholder groups

Setting the Stage for Second Phase of Transition

The Minister of the Environment and Climate Change has invoked Section 13 of the *WDTA* to require an amendment to the Blue Box Program Plan. The overarching purposes of the *WDTA* in Section 1:

- a. to promote the reduction, reuse and recycling of waste;
- b. to provide for the operation of waste diversion programs; and
- c. *to promote the orderly winding up of waste diversion programs and industry funding organizations in order to allow responsibility for waste to be governed under the Resource Recovery and Circular Economy Act, 2016 or otherwise* [emphasis added].

The Minister's August 2017 letter provides direction for an a-BBPP that states:

My expectation is that this proposal will outline the first phase of transition for the Blue Box Program under the *WDTA* and *will set the stage for a second phase of transition that will result in individual producer responsibility under the Resource Recovery and Circular Economy Act, 2016 (RRCEA)* [emphasis added] (page 1).

While RCO appreciates the necessity to begin this process by shifting operational responsibilities from municipalities to Stewardship Ontario in the short term, the proposal as provided to date seems to solely focus on this objective and does not provide any details on the transition beyond that point.

To that end, Stewardship Ontario has estimated a seven-year timeframe to identify municipalities that wish to transition and complete the contracting with it for collection and processing of PPP.

It has suggested a geographical catchment design to respond to the requirement of providing an orderly transition and suggests pace of one (or two) catchments per year.

Stewardship Ontario Consultation with Stewards – presentation slide 34:

We will know in advance of each program year which communities will be transitioning, and can therefore develop resource plans and budget accordingly.

It is our understanding that part of the suggested timeframe derives from a limitation on how many municipalities Stewardship Ontario can transition at any given time.

It is our understanding that municipalities have indicated that they can transition contracts more quickly than Stewardship Ontario is proposing as long as the terms of existing contracts allow for amendments and the contract offer from Stewardship Ontario is fair.

We are also aware that many municipalities' current service contracts already include provisions that align with elements proposed in the a-BBPP and specific language that accounts for regulatory or policy changes. In addition, the Continuous Improvement Fund has a template clause – available to all municipalities – that is already part of many existing municipal service contracts, and recognizes and requires service providers to expect and adjust to regulatory and program changes: thecif.ca/procurement-2/key-clauses/change-of-law-change-management/

Recommendations and Requests for Additional Detail

1. How the transition plan, as being proposed, will result or facilitate (not just prevent) a timely transition to IPR under the *RRCEA*.
2. Rationale behind the seven-year process, and why the transition timeframe cannot be completed with more expediency (i.e., three- or four-year process).
3. Contract information acquired to inform the suggested transition timeframe; describe how the expiry dates or other contractual conditions have informed the proposed plan; and outline a schedule and corresponding mapping of the transition based on the three criteria (have expired, have been terminated early, self-delivers) used to guide the transition process and timeframe.
4. Rationale for placing limitations on the number of municipalities that can transition at any given time.
5. In mapping out the timeframes to complete the transition from Phase 1 (*WDTA*) to Phase 2 (*RRCEA*) we suggest the a-BBPP include:
 - a. Expiration date that triggers a review of progress toward a-BBPP implementation
 - b. Description, budget estimations, and implementation details to acquire internal capacity and resources required by Stewardship Ontario to implement a-BBPP.
 - c. Estimated timeframe when municipalities can begin to declare their intent to transition and complete the transition process.
 - d. Description and suggested timeframes (i.e., weeks or months) for the internal processes to implement the transition, which includes receipt of municipal declarations; review and offer contracts for services; review catchment areas; bundle services if necessary; issuance of ROI or RFPs, review and reward.

Performance Requirements to Drive Environmental Outcomes

The Minister's letter set out a number of performance requirements (page 2) that includes:

- Working toward the circular economy by supporting reduction, reuse, recycling, and reintegration of PPP into the economy.
- Expanding and harmonizing the list of materials in the existing Blue Box Program that are accepted from Ontario residents.
- Developing methods to support waste reduction.
- Providing effective methods to incent behavior changes leading to waste reduction of PPP.

In addition to the above, the addendum to the Minister's letter specified that the a-BBPP include several measures to improve waste reduction objectives. It is our understanding that Stewardship Ontario predominately relies on a change to the producer pay-in methodology (moving from three-step to a four-step) that enables a higher charge to stewards that choose packaging that poorly perform in the Blue Box (i.e., challenging to recycle, has a low recovery rates, or contaminates other higher performing materials).

RCO agrees that this shift is an important mechanism to align costs to less performing materials, however, no details have been provided as to how the methodology and formula will be changed, nor further details on how, in practice, the change will achieve the desired objective.

Recommendations and Requests for Additional Detail

6. Producer pay-in methodology: how performance is defined; how it will be changed; and the rationale for doing so. In that regard, additional details as to how proposed changes address each of the performance requirements as they have been asked for in the Minister's letter. It would also be helpful for the a-BBPP to demonstrate how the new methodology will treat high- versus low-performing PPP with examples.

Other Mechanisms to Incent Better Performance

Stewardship Ontario has indicated that it will allow stewards to self-manage materials outside of the Blue Box. However, Stewardship Ontario also indicated it will not compensate producers that choose this option. It is our opinion that this compensation should be allowed and implemented through a rebate, credit, or deduction in producer pay-in fees. RCO considers this allowance a direct approach to incenting responsibility and performance. Removing materials from the Blue Box and successfully managing them, in an alternate manner that is in keeping with the required performance measures, should be allowed and rewarded through steward fees.

Recommendations and Requests for Additional Detail

7. Include in the a-BBPP an intent to recognize and reward stewards that manage obligated PPP materials, as long as it is in keeping with the required performance standards and provide a mechanism for a deduction and/or credit system on producer pay-in fees.

Measuring and Reporting Performance: Establish Clear and Measurable Collection and Management Standards with a High Level of Environmental Protection

A central tenet to the a-BBPP is to improve the environmental outcomes through greater PPP management. The Minister's letter specifically calls for the a-BBPP to integrate clear standards for management of PPP materials, including, but not limited to, an overall Blue Box diversion rate of 75 per cent, materials-specific targets, and management standards. While the proposed a-

BBPP commits to the 75 per cent overall diversion target it does not reveal how this target will be measured and reported, nor or a timeframe in which to meet it.

Calculating Blue Box Diversion Rate

At the Minister's request, the a-BBPP is to include an expanded list of material for collection and processing. Simultaneously, Stewardship Ontario proposes to introduce management standards that tracks material collected that are successfully marketed from those that are lost to disposal at all points in the management chain. To that end, only the material that is marketed and reintegrated back into production cycles will count toward the 75 per cent diversion target.

Given that current Blue Box diversion rates are calculated based on net marketed tonnes from municipal Material Recycling Facilities, calculating diversion to include downstream residuals and losses will likely mean an adjustment downward of the Blue Box diversion rate and, therefore, create a new baseline from which to measure performance.

Stewardship Ontario Consultation with Stewards – presentation slide 38:

Expand programs to include materials that have sorting capabilities and stable end markets (e.g. mixed rigid plastics and coffee cups).

Initially exclude materials that do not yet have stable end markets (e.g. coffee pods, plastic laminates, and foam packaging).

RCO strongly supports proper and transparent performance reporting of the Blue Box as a whole, as well as all of the material categories throughout the entire management chain: collection, transport, sorting, and processing. RCO also supports extending reporting requirements that help track materials to their final disposition to ensure what is counted toward the 75 per cent overall or material-specific targets are materials reintegrated into new production cycles.

However, the methodology that will be used to inform that calculation has not been made clear, nor have reporting protocols that will be used to support that calculation.

Recommendations and Requests for Additional Detail

8. Explanation as to what materials are considered to have sorting capabilities and the criteria to inform that explanation; what is considered a stable market; and the criteria and information that will be used to inform the definition of stable.
9. Contents of what will be in the standard list of materials, as well as a preliminary list of materials in a secondary and tertiary list that demonstrates a schedule of priorities for how Blue Box service will be expanded to successfully accommodate them in the future.
10. Comparison of the materials supplied by producers onto the marketplace, and how that relates to the standardized list of what is sortable and has a stable market.
11. All methodology details the a-BBPP will use to calculate performance of the entire Blue Box Program and each of the material-specific targets.
12. Methodology should include a definition of what will be considered marketed, and outline proof required to verify marketed tonnes.

Material-Specific Targets

The Minister has made clear that the a-BBPP must establish material-specific management targets for PPP supplied by stewards to transition municipal households. Stewardship Ontario has presented the following:

Material	Today*	Amended BBPP	Improvement
Paper products/packaging	94%	95%	+ 1 %
Glass packaging	73%	75%	+ 2 %
Plastic packaging	35%	40%	+ 5%
Metal packaging	55%	65%	+ 10 %

*Assumed based on changes to definitions of PPP and other proposed changes

Given the scope of obligated materials has expanded and those used to calculate diversion are reduced (only marketed) it is difficult to provide feedback to the proposed targets without understanding the methodology used to project these targets.

Recommendations and Requests for Additional Detail

13. Baseline data used for both the numerator and denominator to establish the material-specific targets. Clearly demonstrate how the supplied material list connects to the collected/processing target.
14. Rationale, with corresponding data, as to why plastics targets are low and projected to improve by only five per cent.
15. Timeline as to when each target will be achieved: overall Blue Box as well as material-specific.
16. Reporting schedule that includes what information will be made public. RCO recommends the a-BBPP includes each material categories collection, processing performance, and net per tonne cost to manage in the system.
17. Schedule for auditing the system, including details on scope, timing, and criteria; and explain how these audits will be made public. RCO recommends the scope includes audits of the disposal stream, and that criteria match how material is reported by stewards on supplied lists and materials reported toward marketed. For Blue Box audits, clearly reported lists of contamination levels and the materials that are part of what is considered contaminated.

Disaggregating All Material-Specific Targets

General material categories likely include a wide variety of PPP materials that have different market conditions, values, and performance realities. For example, RCO assumes that the PPP categories include a wide range of paper-based packaging that includes, but not limited to, aseptic and polycoat containers, newspapers, boxboard, and cardboard.

Furthermore, plastics as category is broad as it includes an extensive variety of resin types each composed of unique and distinct properties. Performance of different resins within plastics category also varies greatly. Historically, many of the plastic types experience low recovery rates, high contamination, and significant volatility in market values and availability. Consequently, the a-BBPP should emphasize improving overall performance of plastics as a category, and track and report performance of each resin type separately.

To evaluate and provide feedback to Stewardship Ontario on the a-BBPP's ability to achieve required expansion and performance improvements outlined in the Minister's direction letter, more detail is needed for each material-specific target, including how each package contributes or will contribute to the overall target. This information would then link to the a-BBPP strategies related to the producer pay-in methodology, research and development (R&D), and promotion and education (P&E).

Recommendations and Requests for Additional Detail

18. Disaggregate all packaging types within each material category list and assign each their own target that reflects the current performance as it is presently known; explain how each of these different PPP types contribute to the proposed materials category and overall Blue Box targets.

Expanding Services

The Minister's direction letter requires the a-BBPP to expand services in several areas:

Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities within an identified timeframe (page 6).

Consider accommodating associated public spaces, parks, and other related services provided by these municipalities (page 7).

Stewardship Ontario Consultation with Stewards – presentation slide 39:

Stewardship Ontario will begin offering financial incentives to waste management service providers once the program begins to stabilize.

This will likely be community by community and occur some time after each community transitions.

Stewardship Ontario Consultation with Stewards – presentation slide 40:

Before proceeding, certain criteria need to be satisfied, such as:

- The collected public space material comes from residential sources (i.e. is stewarded) and is relatively contamination free.

Recommendations and Requests for Additional Detail

19. How expanded services will be integrated into service contracts of transitioning municipalities with timing that offers these expanded services.
20. Explanation of methodology Stewardship Ontario will use to determine whether materials collected in public spaces are from residential sources.

Market Fairness and Promoting Competition

The Minister's direction letter requires of the a-BBPP:

Describe how contracts held by SO for the collection and management of PPP will be managed upon wind up of the Blue Box Program to enable competition once materials are regulated under the *RRCEA* (page 7).

Stewardship Ontario has indicated it will meet the objective of promoting competition by ensuring a fair and open marketplace for Blue Box services under the *WDTA*, and not create barriers to competition when the program transitions to IPR under the *RRCEA*.

Stewardship Ontario Consultation with ENGOs – presentation slide 8:

Over time Stewardship Ontario will systematically replace the agreements that exist today with hundreds of its own agreements with communities and service providers for collection and management of PPP. Today:

- Several hundred collection and processing contracts (~400) with varying expiry dates (>90% by tonnes)

Despite assurances that ongoing service contract offerings will be fully transferable without interference, details of how this objective will be achieved have not been provided. While RCO appreciates that not all details of an ROI or RFP can be revealed during plan development we do believe that some of the key provisions can be provided in the a-BBPP.

Recommendations and Requests for Additional Detail

21. Include the following as it relates to establishing new contracts with municipal and private service providers.

Service Contracts:

- I. Where municipal contracts have expired a suggested term of the contract between Stewardship Ontario and the service provider, and how those terms will be managed under wind-down of Stewardship Ontario under the *RRCEA*
- II. Provisions to extend rollover contracts on a short-term basis when service contracts expire.
- III. Details on the basic (main) service standards for collection and processing.
- IV. Details on criteria and processes for identifying and measuring contamination, and the management approach for collection and processing

Producer Rules / Agreements:

- I. Based on a standardized methodology developed by Stewardship Ontario an ability for stewards to report residential-only materials with provisions on how this is to be verified on what the steward's responsibilities are in that regard.
- II. Based on standardized reporting protocol and process allow for credits/deductions from steward's fees for any materials that are steward self-managed under the provision that these can be verified through a standardized audit.
- III. No punitive clauses for stewards to exit or terminate their relationship with Stewardship Ontario when they are given notice to wind down under the *RRCEA*.
- IV. Clear audit protocols and processes of steward's reports

Market Development and Research Investments

Stewardship Ontario has committed to address the Minister's request to provide for continuous improvements by expanding the list of materials accepted in the Blue Box.

Stewardship Ontario Consultation with Ontario Waste Management Sector – presentation slide 101:

Establish a list of materials that are targeted in all transitioned communities because they can be sorted and have end markets

Expand programs to include materials such as coffee cups and mixed rigid plastics that have sorting capabilities and end markets

Initially exclude materials, such as coffee pods, and expanded polystyrene packaging that do not yet have robust end markets

- Expand material list as end markets, sorting technologies become available
- Conduct R&D to advance these outcomes

Recommendations and Requests for Additional Detail

21. Clarify the process to define and identify materials that have sorting capabilities and stable markets that will be used to inform the standard list of materials.
22. Explain how the a-BBPP will identify priority materials that do not fall within this standard list and, therefore, require R&D support.
23. Describe how Stewardship Ontario will identify and engage stakeholders, and how the information discussed will be made transparent. It is critical that Stewardship Ontario details its internal processes to support these activities in this regard.
24. Commit in the a-BBPP that Stewardship Ontario will not own nor have any financial interest with regard to intellectual properties that may result from the R&D activities it engages in.

Promotion and Education

The Minister's direction letter requires the a-BBPP include details for an effective promotion and education program that promotes activities to residents with an effort to solicit their feedback. During its consultations Stewardship Ontario only referenced P&E activities in relation to collection contracts.

Stewardship Ontario Consultation with Ontario Municipalities and First Nations Communities – presentation slide 56:

Deliver prescribed P&E and ensure the contractor executes any P&E related tasks in its agreement with Stewardship Ontario

Given the importance of P&E activities to Blue Box Program performance and its related effects on service standards the a-BBPP should include a detailed section on the planned P&E program, including, at minimum, a basic strategy and timeframe.

In-Kind Contribution from the Newspaper Industry

There has been no information provided as to how the a-BBPP intends to deal with issues related to in-kind contribution that the newspaper industry has been assigned in lieu of cash. RCO supports full and direct cost accounting and assignment of those costs directly to stewards and the specific PPP material they supply into the marketplace. In that regard, newspaper stewards that are captured by the definition of stewards, and whose PPP fall within the definition, should be subject to producer fees like every other obligated steward.

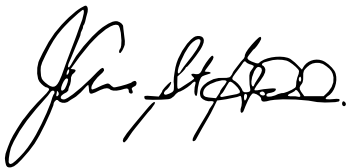
Finally, the Minister's direction letter includes:

... a clear and transparent process by which municipalities demonstrate the benefit their taxpayers will receive (page 3).

While we expect that this requirement is only applicable to the municipalities that enter into transitional contracts with Stewardship Ontario, there has been no mention of how this requirement will be satisfied in the consultations to date.

RCO appreciates the efforts undertaken by Stewardship Ontario to begin this important transition, the opportunity to participate in consultations, and invitation to offer early feedback to the elements of the a-BBPP.

Yours Sincerely,



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