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Blue Box Transition Update Staff Report to Council

Report Number: 2023-41

Department(s): Public Works Services

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Recommendations

1. That the report titled “Blue Box Transition Update” be received; and,
2. That the Town of Newmarket does not pursue Circular Materials Ontario’s (CMO) Requests for Proposals (RFP) for residence and facility collection of Blue Box materials on behalf of producers post-transition; and,
3. That staff be authorized to negotiate and execute an amendment to waste contract CRFP2016-02 with GFL Environmental Inc. (GFL), to reflect the removal of Blue Box collection services on terms acceptable to, and with the approval of the Chief Administration Officer; and,
4. That staff report back to Council on ineligible sources and a proposed approach regarding post-transition recycling collection; and,
5. That staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

On June 3, 2021, the Ministry of the Environment, Conservation & Parks (MECP) released the finalized Blue Box Regulation (O. Reg. 391/21) that transitions the current Blue Box program to full producer responsibility. The current Blue Box program, administered by Stewardship Ontario on behalf of stewards and operated by municipalities, will transition to the new framework between July 1, 2023, and December 31, 2025.

During transition, producers of products and/or packaging will be required to make best efforts to implement or continue operation of the Blue Box program as established in

each municipality as defined by the regulation. Producer Responsibility Organizations (PROs) will be responsible for negotiating agreements with municipalities and contractors for the transition of municipal Blue Box programs to full producer responsibility.

As of January 1, 2026, producers are required to implement a standardized Blue Box program (common collection system) across the province of Ontario in accordance with O. Reg. 391/21.

Changes to the regulations were delayed and finally approved on April 30, 2022, which resulted in some short timelines for both producers and municipalities. In response, Circular Materials Ontario's (CMO) preferred model is to use existing infrastructure and collection services during transition through existing municipal contracts or extensions where possible. Post-transition, producer's responsibilities will change, but they will have had more time to prepare for a new and/or different common collection system for 2026 and beyond.

In late May 2022, CMO released a survey to determine if municipalities would be interested in continuing recycling collection between their transition date and December 31, 2025. The process for negotiations and contracts are still being developed and solidified.

The Town of Newmarket is scheduled to transition on December 31, 2025.

Purpose

The purpose of this report is to provide Council with an update on the transition of Ontario's Blue Box program to full producer responsibility and to discuss a recommended approach that takes into account the expiration of the Town's current waste collection contract.

Background

In October 2020, the Ministry of the Environment, Conservation and Parks (MECP) released the Blue Box regulation in draft form which passed on June 3, 2021 (O. Reg. 391/21) and was amended on April 14, 2022 (O. Reg. 349/22). The regulation establishes the transition of the current Blue Box Program to full producer responsibility, making producers of Blue Box material financially and operationally responsible for the end-of-life management of their products and/or packaging.

The transition schedule, an attachment to the Blue Box regulation, indicates that all Ontario municipalities will transition between July 1, 2023, and December 31, 2025. Transition will occur throughout the province gradually with different geographical areas transitioning at various times. York Region, including all nine lower-tier municipalities, will transition to full producer responsibility on December 31, 2025. Residents will

continue to receive uninterrupted blue box collection services throughout the transition period.

Under the Blue Box Regulation, a producer responsibility organization (PRO), or group of PROs that entered into an agreement with one another, that supply more than 66 per cent of Blue Box tonnage in Ontario, were required to submit a report (Initial Report) to the Resource Productivity and Recovery Authority (RPPA) by July 1, 2022, outlining how they will operate the Blue Box system.

RPPA published the Initial Report submitted by Circular Materials Ontario (CMO) and Ryse Solutions Inc. (Ryse), who together, represent over 66% of the aggregate weight of Blue Box material supplied to consumers in Ontario in 2020.

As the Blue Box collection system administrator, CMO is managing the procurement of curbside collection, depot collection, public space collection, promotion, and education, and receiving facilities. Individual PROs or producers would be responsible for processing and marketing collected Blue Box materials.

Given the extensive scope of work and limited timeline to implement a province-wide collection system, CMO presented a standard offer (“Interim Collection Offer”) to municipalities to provide residence and facility collection service during their transition period. As the Town of Newmarket is set to transition at the end of the transition schedule, the Town will not be affected by transition.

The Interim Collection Offer contained significant risks that were identified by staff as well as external organizations (as documented in coordinated responses organized by the Municipal Resource Recovery and Research Collaborative (Association of Municipalities Ontario, Regional Public Works Commissioners of Ontario (RPPWC), Municipal Waste Association, and City of Toronto) on May 26, 2022¹, and July 26, 2022² and the Ontario Waste Management Association on June 8, 2022³). CMO published revisions to the Interim Collection Offer documents but, in the opinion of staff, significant issues remain as it is anticipated that the terms outlined in the initial Interim Collection Offer may be the same terms outlined in post-transition collection contracts.

The Interim Collection offer would cover the transition period up until January 1, 2026. For longer-term contracts (i.e., receiving materials, post-collection management, and collection following the transition period), CMO has also launched competitive Requests

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<https://amo.informz.ca/AMO/data/images/Waste%20Diversion%20Mailing%20Materials/2022/CMO%20LTR%20AMO%20Toronto%20MWA%20RPPWC%20Proposed%20Blue%20Box%20Master%20Service%20Agreement%20and%20Accompanying%20Statements%20of%20Work%202022-05-26.pdf>

² https://cdn.ymaws.com/municipalwaste.ca/resource/resmgr/news_items/cmo_ltr_amo_toronto_mwa_rppwc.pdf

³ <https://silkstart.s3.amazonaws.com/b4daa030-c5b4-4902-af71-8ac91e1ec1d4.pdf>

for Proposals (RFPs). These RFPs are anticipated to be for multi-year periods and cover regional waste catchments.

The RFPs are being released in stages with the first RFPs released in fall 2022. The RFP that captures the Town of Newmarket (catchment #10 – York), is anticipated to be released Q4 2023.

To continue using long-term municipal contracts into post-transition (January 1, 2026, and beyond) to provide Blue Box collection services, municipalities would be required to bid on CMO's RFP as a contractor. It is important to note that RFPs for Blue Box collection services post-transition will be for catchment areas made up of multiple municipalities.

Discussion

Data Submission Reports

Municipalities must provide the Resource Productivity and Recovery Authority (RPRA) with information regarding their individual established waste and recycling collection systems through an Initial Report and a Transition Report. The Initial Report was submitted by staff to RPRA by the September 30, 2021, deadline. The Transition Report, which includes additional details, will be submitted by staff to RPRA by the August 31, 2023, deadline.

The information collected as part of the Initial Report and Transition Report will help producers and their delegated PROs understand existing municipal recycling programs that will need to be replicated as part of their responsibility under the Blue Box regulation during the transition period.

It will also help PROs as they collaborate to determine how they will collectively service all eligible sources and public spaces in transitioned municipalities.

Municipalities as a Producer

Under the Blue Box regulation, municipalities could meet the definition of a producer for the supply of Blue Box material to residents (e.g., paper-type correspondence and information such as water bills, handouts, and other notices). If this is the case, municipalities may also need to fulfill the requirements of a producer (i.e., registration, reporting, collection, management, and promotion and education).

The Blue Box regulation exempts producers that:

1. Generate less than \$2 million gross annual revenue from products and services in Ontario; and/or
2. Supply less than the minimum management requirements for a material category.

Blue Box Material Category	Supply-based Exemption Level (kg)
Paper	9,000
Rigid plastic	2,000
Flexible plastic	2,000
Glass	1,000
Metal	1,000
Beverage containers	1,000

If a producer (including municipalities) exceeds the revenue-based exemption, and their supply weight in at least one material category is above the tonnage exemption threshold, they are required to meet all producer obligations⁴.

Based on a preliminary analysis of current exemption criteria, the Town would not meet either criteria and would therefore be designated as a producer and be subject to fulfilling producer obligations. Obtaining the services of a PRO to help meet producer requirements would need to be carefully considered.

Waste Collection Contract

The Town of Newmarket is part of a shared waste collection contract between the Northern Six municipalities (N6) comprising of the Towns of Aurora, East Gwillimbury, Georgina, Whitchurch-Stouffville, and Township of King and GFL Environmental Inc. (GFL). In anticipation of regulatory changes, termination clauses allowing the N6 to terminate the contract were negotiated into the contract. The collection contract has two 12-month extension options, at the discretion of the N6.

Collectively, N6 staff support transition of the Blue Box program to producers. As a result, PROs would be responsible for securing their own service provider(s) for residential Blue Box collection as well as for providing containers, promotion and education, and customer service. As a result, the N6 would have two broad options for collection of the other waste streams (garbage, organics, yard waste, metal items, and bulky items):

1. Issue procurement documents in Q4 of 2023 for a new collection contract to begin in January 2026; or
2. Exercise available extension options and amend the current contract to remove Blue Box collection services.

⁴ <https://rprr.ca/programs/blue-box/regulation/municipalities/>

This approach would allow the N6 to delay the procurement process for up to two years and may result in price adjustments; however, annual total contractual costs are expected to decrease.

Staff recommend pursuing the second option and is seeking authority to negotiate an amendment on behalf of the N6 to waste collection contract CRFP2016-02, including price adjustments, to reflect the removal of Blue Box collection services.

Collection of Blue Box Recyclables from Ineligible Sources

The Blue Box regulation lists a number of eligible sources from which producers must collect Blue Box recyclables including single-family homes, multi-residential buildings, not-for-profit long-term care and retirement homes, schools, and some public spaces (parks, playgrounds, transit stations and sidewalks).

Sources that are not eligible for collection by producers after transition, and that are currently serviced under the Town's recycling program include, but are not limited to, municipal buildings, community centres and libraries, not-for-profit organizations, places of worship, daycares, and BIAs.

The Town of Newmarket services approximately 300 ineligible sources which are comprised of the BIA, small businesses, Town facilities, and not-for-profit organizations. Currently, these locations are co-collected with multi-residential buildings or single-family homes along residential collection routes. Town staff currently service 32 locations. As these locations are not designated in the Regulation as an eligible source, they would not receive Blue Box collection under the new producer-led system.

Staff will report back to Council in Q3 2023 regarding ineligible sources and a proposed approach on post-transition recycling collection.

Post-transition Service Level Impacts

Beginning January 1, 2026, more types of materials will become accepted in the Blue Box program that are not currently accepted including flexible plastic, polystyrene foam, and single-use items. Accepted materials in the Blue Box program will be consistent across the province.

It is important to note that other changes are possible such as changes to when and how Blue Box material is collected. Under the regulation, producers are only obligated to collect Blue Box material at least every other week, and some municipalities that currently have single-stream collection may be converted to dual-stream in order to align receiving facility logistics. Details about what the Blue Box collection program will look like post-transition are unknown at this time.

Waste Collection By-Law

Waste Collection By-Law #2017-19 will require an amendment prior to December 31, 2025, to reflect the new regulatory changes with emphasis on what will not be accepted in the garbage or organic waste stream. Staff will also be conducting a comprehensive review of the By-law to ensure information reflects current waste collection program requirements.

Conclusion

Staff will continue to monitor the development and implementation of the new Blue Box Program and identify learnings from those municipalities scheduled to transition in 2023 (e.g., City of Toronto, City of Ottawa, and City of London).

If the N6 chooses to end its current waste collection contract on the current end date of December 31, 2025, without exercising option years or otherwise extending them, the procurement documents for a new collection contract, which would commence on January 1, 2026, would need to be issued in Q4 2023 to give the successful vendor sufficient time to procure collection vehicles.

The procurement documents would need to include assumptions and provisional items that may increase cost and risk. To mitigate this risk, staff is recommending that the N6 take advantage of available contract extensions with the existing collection service provider and delay the procurement process for a new collection contract for up to two years.

Business Plan and Strategic Plan Linkages

This report aligns with Council's Strategic Priority of being well-equipped and managed through leading proactive planning and action related to providing municipal services that meet existing and future needs of residents.

Consultation

Legal Services

Procurement Services

Human Resource Considerations

Not applicable to this report.

Budget Impact

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

Attachments

None.

Approval

Mark Agnoletto, Director, Public Works Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Contact

For more information on this report, contact Amanda Romano, Waste Program Coordinator, Public Works Services, at 905-953-5300, ext. 2578 or by email at aromano@newmarket.ca.