

**Waste Connections of Canada Response to
A proposed regulation, and proposed regulatory amendments, to
make producers responsible for operating blue box programs**

**Ministry of the Environment, Parks and Conservation
ERO Number: 019-2579**

Introduction

Waste Connections of Canada (WCC) is pleased to respond to the regulatory amendments to make producers responsible for operating blue box programs. In general, Waste Connections' position on this proposal as currently written, is that it risks creating more hurdles, due to the short timelines proposed, lack of clarity and key directive parameters. As outlined, it could lead to uncompetitive practices, all of which would increase costs.

As we emerge from the economic restrictions from the pandemic, Ontarians are going to need as much help as possible to recover. The proposal as outlined is set to ignore ever-changing market forces, further exacerbated by the pandemic and has been confirmed by industry stakeholders that it could make life for everyday Ontarians more expensive.

Waste Connections knows it is possible to strengthen Ontario's economy while protecting the environment but this proposal to make producers responsible for operating blue box programs, especially at this uncertain time, could do the opposite. Our sector is key to supporting the goal of strengthening Ontario's economy while protecting the environment, and we believe that to recover from this pandemic we will need to increase business competitiveness, confidence, and certainty with clarity of purpose. Our response focuses on achieving these goals.

Waste Connections of Canada and its Role

Waste Connections is the premier provider of solid waste collection, transfer, recycling and disposal services in primary and secondary markets across Ontario, Canada and the US, serving millions of customers daily. Whether it is single or multi-family residences, commercial institutions, industrial locations, construction sites or special events, Waste Connections can provide the service.

Waste Connections of Canada is a subsidiary of Waste Connections, which is traded on both the TSX and NYSE, and is the 3rd largest industrial traded company in Canada. In the US we operate in 33 of the 50 states. We own and operate 2 landfill sites in Ontario and employ over 1200 people across the Province in approximately 20 locations.

Our main landfill facility in Ontario, the Ridge Landfill, receives non-hazardous industrial, commercial and institutional waste from across the province as well as residential waste from local municipalities.

Policy Development

One of the main concerns Waste Connections has with the policy proposal is there appears to be some key guidelines and parameters not clearly articulated. When reviewing the policy there does not appear to be a clear division of responsibilities (opportunities) among producers (and PROs), collectors and processors.

From the proposed wording it appears that producers and PROs could get into the collection and/or processing businesses if they wish. Furthermore, there is no mention of competition anywhere in the regulation to ensure it remains healthy and fair during or following the transition.

What sustains this concern is that when these questions are raised, the answer is always along the lines of that it will fall to the producers and or PRO's to work out these details. While the intention appears to be to "leave it to the experts", the reality may well be that 'the experts' in the delivery of blue box recycling collection and processing services will not be at the table.

The Risk of Uncompetitive System

As a principle, EPR is a concept that has difficulty accounting for the fluctuating and often volatile commodities marketplace. The ongoing regulatory changes that began in China a couple years ago are a prime example of the volatility of the global waste and recycling market and how one change in an end destination can turn a market upside down. These changes create instability in the marketplace and usually lead to unintended or unforeseen consequences.

This can result in increased costs to businesses, market distortion and monopoly situations, or worse, misbehavior in the marketplace. All this results in a reduction in Ontario's competitiveness while doing little to increase, recovery, diversion, or recycling rates. A reduction in competition will only hurt Ontario's recovery from the pandemic.

The Competition Bureau of Canada has issued rulings and warnings on similar producer responsible policies and it appears this proposed policy could fall into the same category. With the threshold to be an invited PRO to work out the final regulatory details set at a minimum of 10% of material in the blue box, means a maximum of 10 PROs, will set the final parameters for this highly complex system. This could be further skewed if the 10% threshold is determined by weight rather than volume, which would further reduce the stakeholders around the table. Furthermore, there is a concern that most of these stakeholders will likely lack waste/recycling sector experience and could potentially destroy what is currently an effective collection and processing system.

The Prospect of Blue Box Success, Not IC&I

While the government has committed to transitioning the Blue Box Program to producer responsibility by 2026, we agree with the findings of the Lindsey report, in that the same strategy cannot be feasibly applied to the Industrial Commercial & Institutional sector.

While it might be possible to transition the municipal blue box to extended producer responsibility because the blue box is relatively mature and largely standardized across municipalities, the same is not true for the IC&I sector. But again, we caution the need for greater clarity and direction.

The ICI sector has a completely different dynamic of work, including different servicing arrangements, diversion contracts and a regulatory framework that the IC&I sector already has and operates within. Trying to extend EPR to the IC&I sector would significantly harm businesses and increase customer and consumer costs. The business and industrial sectors would be burdened with additional red tape and costs which would further harm economic recovery.

Like many businesses, waste is a commodity whose value is determined by global market forces. Extended Producer Responsibility (EPR), especially in the IC&I sector, could lead to an unlevel playing field, lower diversion rates and reduced service levels.

Respecting Market Forces

What goes into the blue box needs to have an end market when recycled, otherwise that material is waste. This is a basic principle that needs to be adhered to, in order to avoid situations like what we saw when diverted materials were exported to Asia as recyclable only for it to be shipped back to Canada as garbage 2 years later.

Diversion goals should reflect what there is a market for, so if there is no market, whether it has no use or the costs to process are not viable, then that material should not be included in the list of materials that go in the blue box. Ultimately, the market decides if a material is a recyclable or garbage.

WCC strongly recommends that any waste diversion and recycling policies and regulations that aim to target the IC&I sector be subject to rigorous consultation with industry stakeholders so that these policies are outcomes-based and segmented into specific waste streams (construction & demolition, multi-family residential, industrial, commercial etc.).

WCC also recommends that any targeted action like bans, fees or recycled content requirements undergo a science-based life cycle and economic analysis before approval and implementation so as not to cause any unintended economic and environmental consequences. Bans are of particular concern to WCC, as they are a

form of prohibition that are very difficult to enforce and can lead to unethical behaviour as recently seen by the return of recyclables that were actually garbage from Asia.

Pragmatic Policy and Alignment

As previously noted, what goes into the blue box needs to have a viable end market and needs to be compatible with recycling infrastructure and policy. As it is written in the current proposal, single use items such as forks, spoons, straws etc. will be included for collection and processing in the Blue Box program.

The inclusion of these items also poses a number of problems from a recycling processor point of view that will eventually undermine the over-arching policies and goals. Due to the size of these items they will not be able to be effectively separated into the individual plastic grades to actually be recycled. Their inclusion will do nothing other than to force an increase in residue rates while incurring increased collection, processing and ultimately disposal costs.

Waste Connections feels inclusion of these types of materials works against one of the goals of this policy proposal, standardizing the blue box, for included materials. It also takes away from the focus on materials which were best suited to this type of collection, processing method and diversion program. There is no automated or manual processing equipment that can effectively separate materials of this size from other “residue” materials, leading to costly unintended consequences.

Given the current and future situation of the pandemic, the presence of food residuals and saliva on Blue Box material raises the risk of viral presence, particularly Covid-19. The inclusion of these single use materials will result in their “pass through” on the processing line and full inclusion as facility residue due to their diminutive size.

Additionally, the inclusion of these single use materials will cause other issues both in the form of contamination of materials that are viably recyclable, and processing cost increases, including

- Contaminating materials such as mixed broken glass, as this material is sorted using trommel screens and to remove this material will require additional capital for cleanup systems, such as blowers and fans, adding operating costs to the blue box system.
- Contaminating paper materials as they get lodged between the paper sheets and then baled, causing downstream processing residue at paper mill facilities.
- Greater curbside collection costs as many PRO's will place residue restrictions at the curb and a need for curbside operators to spend additional time at the curbside.

A concern stemming from the inclusion of contaminating materials is what ability or authority will the PRO have over the resident to ensure they adhere to placing the proper products into the Blue Box? This authority has historically been the responsibility

of the municipality which has the enforcement tools and resources available when needed.

Therefore, issues like single use items necessitate the development of alternative collection systems as is permitted under the proposed regulation. This ultimately leads to increased system costs, most notably transportation. This further contradicts any provincial agenda toward GHG emissions reductions.

Finally, including these single use materials in the blue box is not aligned and conflicts with the Federal Government's effort to ban their sale. Mandating PROs, collectors and processors to attempt to deal with these materials while the federal government works to prevent them entering the marketplace in the first place seems to set up stakeholders to be left with stranded assets and wasted capital.

Conclusion

Waste Connections of Canada, plans to participate in Ontario's new system, however it must ask, what problem is this new proposal fixing when compared to the current blue box system?

Other than shifting the cost and responsibility from the municipality to the producer or brand owner?

While this occurs, Ontario residents and businesses will still pay for the system, even more in the case of this proposal?

Waste Connections is as always ready, willing, and able to share our industry expertise and be a trusted resource to your government. However, this proposal has generated more questions about workability and is unproven and is unlike extended producer responsibility programs enacted in any other jurisdiction, which are not a resounding success.

Waste Connections, with its extensive experience as a waste and recycling service provider throughout North America, struggles to see

- How diversion rates will increase if market/commodity prices are not taken into account, and
- How there will not be more collection vehicles and increased GHG emissions, if more stakeholders are responsible for the products put into the system.

We struggle to see how this will succeed when the collection, processing and disposal is moved from the experts, waste/recycling management companies and municipal waste divisions, to product producers and brand owners.

We also do not see how enacting this proposal will help Ontario and its citizens recover from the economic impacts of the pandemic, particularly when the proposal lacks any financial disclosure or savings language.

When Ontario's economy is doing well, we all benefit, but this proposal is certain to drive up the cost of consumer products while there is no obligation for municipalities to reduce residents tax bills as they are relieved of the responsibility and 50% cost of the existing blue box programs. This in the end could result in double taxation of Ontario residents.

The reality is that the current blue box system, while imperfect, is efficient and operates smoothly. The effort of this proposal, could be redirected to amend and fix the issues the current system suffers from and avoid creating a more complicated and fractured system that will lead to no more diversion, more GHG emissions and higher costs for Ontarians.

Nonetheless, Waste Connections will continue to share its experience and expertise to help shape a system so that Ontario residents have an efficient and cost effective EPR/Blue Box program that they can be proud of. To have any chance of achieving this, it will require more time to work with stakeholders and more time to transition.