

Introduction

On August 14, 2017, the Minister of the Environment and Climate Change sent a letter to the Resource Productivity and Recovery Authority (the Authority) and Stewardship Ontario directing the two parties to develop a proposal for an amended Blue Box Program Plan (a-BBPP). This direction was issued under the *Waste Diversion Transition Act, 2016* (WDTA) S. 13 (1), which allows the Minister to “require the Authority and an industry funding organization to develop a proposal for a change to a waste diversion program”. The Minister issued the direction after receiving a letter from a number of municipalities and producers requesting an opportunity to amend the Blue Box Program Plan.

Since receiving this letter, the Authority and Stewardship Ontario have worked jointly to develop and implement a Stakeholder and Indigenous Peoples Engagement and Communications Plan to solicit advice and recommendations on how best to respond to the Minister's direction to transition the Blue Box Program from shared to full producer responsibility.

On December 19, 2017 Stewardship Ontario posted a draft a-BBPP for consultation. It can be found here: <https://stewardshipontario.ca/draft-a-bbpp/>

The purpose of this commentary is to:

- Outline the Authority's role and mandate in this initiative;
- Explain how the Authority has undertaken that role to date;
- Provide an assessment of the consultation process to date; and,
- Outline the actions the Authority will undertake in 2018 to fulfill its mandate and address the Minister's directions.

The commentary also provides context, including the purpose and key terms, for the draft Program Agreement between the Authority and Stewardship Ontario, which is a required element of the a-BBPP. The Authority has posted a draft Program Agreement for consultation, along with an introduction to the agreement, on its website at: <https://rpra.ca/amended-blue-box-program/>. A final Program Agreement will be included with the final a-BBPP proposal if approved by the Authority for submission to the Minister.

As directed by the Minister in his August 14, 2017 letter, the Authority will review the final a-BBPP proposal submitted by Stewardship Ontario to the Authority. The Authority will:

- Assess the a-BBPP for compliance with the WDTA and its regulations;
- Assess the a-BBPP for consistency with the Minister's direction;
- Have regard for the provincial interests set out in the RRCEA; and
- Consider the views of stakeholders and Indigenous Peoples.

If the Authority approves the final a-BBPP proposal, it will submit it to the Minister for consideration by February 15, 2018, along with particulars of any matters that are unresolved at the time of the submission.

Process to Develop an a-BBPP Proposal

In September 2017, the Authority and Stewardship Ontario jointly released a [Stakeholder and Indigenous Peoples Engagement and Communications Plan](#) for the Development of the Proposed Amendment to the Blue Box Program Plan. This plan defines the agreed roles and responsibilities of the Authority and Stewardship Ontario throughout the consultation process to develop an a-BBPP proposal. It also sets out principles for collaboration with stakeholders and the consultation process to be undertaken.

The Authority's Mandate and Role

The Authority was established by the Government of Ontario to support the government's objectives to advance a circular economy and achieve a waste-free Ontario, as outlined in the [Strategy for a Waste-Free Ontario: Building the Circular Economy](#). The Authority was established on November 30, 2016, with responsibility to oversee programs continued under the WDTA and enforce compliance with regulations established under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

The Authority's Role in the a-BBPP Proposal

Pursuant to S. 13 of the WDTA and as further outlined in the Engagement and Communications Plan, the Authority's role to date has included:

- Working closely with Stewardship Ontario on all aspects of the engagement process;
- Reviewing draft documents prepared by Stewardship Ontario, providing comments and suggesting revisions;
- Meeting with stakeholders and ensuring that all stakeholder comments received by the Authority are provided to Stewardship Ontario;

WDTA S. 13 (1) - The Minister may require the Authority and an industry funding organization to develop a proposal for a change to a waste diversion program.

(2) The Authority and the industry funding organization designated for the waste diversion program shall consult about any proposed change with,

- (a) representatives of municipalities;**
- (b) representatives of persons who are designated under rules made by an industry funding organization under section 33 or regulations made under subsection 73 (3) as stewards in respect of the designated waste to which the waste diversion program applies; and**
- (c) any other persons the Authority and the industry funding organization consider to be affected by the proposed change.**

(4) If the Authority approves the proposed change, it shall submit the change to the Minister for his or her consideration and shall include particulars of any matters that are unresolved at the time of the submission

(5) After reviewing the Authority's submission, the Minister may approve the proposed change or make such changes to the program as he or she considers advisable in the public interest for the purposes of this Act and shall give the decision in writing.

(6) If no submission is received under subsection (4), the Minister may make such changes to the program as he or she considers advisable in the public interest for the purposes of this Act.

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- Reviewing all stakeholder comments submitted to Stewardship Ontario;
 - Participating in and monitoring consultation activities;
 - Meeting regularly with Stewardship Ontario and Ministry of the Environment and Climate Change staff to review the status of the initiative and discuss stakeholder concerns and other related issues; and
 - Preparing a draft Program Agreement for the a-BBPP for negotiation with Stewardship Ontario.

How the Authority Has fulfilled its Role to Date

Since receiving the Minister's direction on August 14, 2017, the Authority has shared information on key issues with Stewardship Ontario and relayed the views of stakeholders who have communicated with the Authority. The two organizations have met at least weekly since the Minister's direction was received in August. The Authority provided comment to Stewardship Ontario on the following key matters:

- Compliance with the WDTA and applicable regulations;
- Consistency with the Minister's directions; and
- Responsiveness to the issues of concern to stakeholders.
- Authority staff attended all formal consultation sessions and presented on the Authority's role and mandate in the first round of consultations.

The Authority has met directly with numerous individuals and organizations during the consultation process.

Comments on the Consultation Process to Date

Many stakeholders have commented on the challenges presented by the limited timeframe for consultations on this initiative and the Authority acknowledges those concerns.

The Authority is appreciative of the participation of organizations and individuals in the consultations to date. Valuable advice and recommendations have been provided to inform the process. We are also appreciative of the work Stewardship Ontario has undertaken to engage stakeholders in the consultations. We look forward to continuing discussions with stakeholders and hearing views on the draft a-BBPP proposal and draft Program Agreement.

Based on the Authority's assessment of the consultation process to date, the following findings are noted:

- Stewardship Ontario has conducted the consultation process to date consistent with the process outlined in the Engagement and Communications Plan.
- The consultation process to date has been consistent with the Minister's direction letter of August 14, 2017

Draft Program Agreement

Section 10(4) of the WDTA requires that a Program Agreement between the Authority and Stewardship Ontario be included in an a-BBPP. The Program Agreement governs the role of Stewardship Ontario in the operation of the program and the exercise of Stewardship Ontario's powers under the WDTA.

The Authority has engaged Stewardship Ontario in negotiating a draft Program Agreement. The Agreement should be read in conjunction with the draft a-BBPP proposal and the WDTA. The Authority seeks feedback on the draft Program Agreement.

Consultation on the Draft Program Agreement

The Authority has posted the draft Program Agreement along with a summary to assist stakeholders in reviewing the Agreement on its website at: <https://rpra.ca/amended-blue-box-program/>

The Authority will present the Program Agreement as part of Stewardship Ontario's Phase 2 Consultation meeting on January 8, 2018. Registration details are available at: <https://stewardshipontario.ca/draft-a-bbpp>

Next Steps in Developing an a-BBPP Proposal

The Authority will participate in formal consultations and meet with stakeholders to seek feedback and comments on the draft a-BBPP and the draft Program Agreement during Stewardship Ontario's Phase 2 Consultations between December 19, 2017 and January 15, 2018.

The Authority will consider comments from stakeholders received during the next phase of the consultation process and continue to engage with Stewardship Ontario as Stewardship Ontario develops its final a-BBPP proposal.

The Authority will consider stakeholder comments on the draft Program Agreement and negotiate any revisions that may be appropriate.

After completion of the consultation process, the Authority will formally review the final a-BBPP proposal submitted by Stewardship Ontario and determine whether to approve it for submission to the Minister. The Authority will report to the Minister by February 15, 2018 on the outcome of the process including particulars of any matters that are unresolved at the time of the submission.