

Member Update: New Blue Box Program Fees

September 2021

Background

Legislation passed in June 2021 requiring all companies that package product, or import packaged produce for sale at the retail level to register with the Resource Productivity and Recovery Authority (RPRA) and pay a registration fee. This is in addition to the new requirement to pay for all costs of recycling or disposal of packaging sent into the market.

This document is a brief update for OPMA members with some frequently asked questions. It is not a complete guide.

Timeline

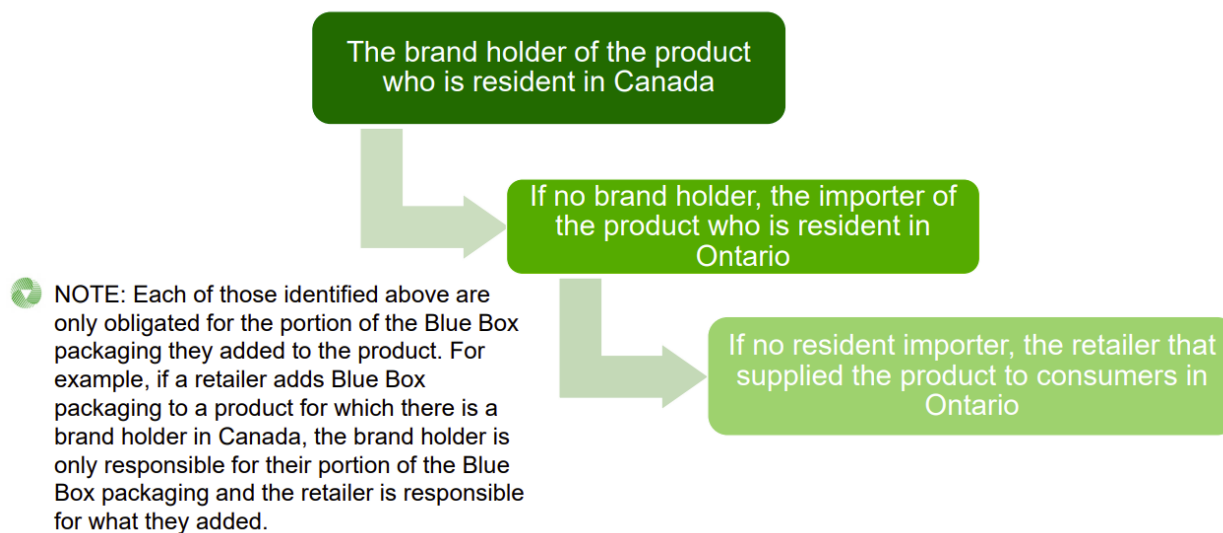
All producers are required to register with RPRA by October 1, 2021. Annual fees will apply from 2021.

Definition of a Blue Box Producer

A person is considered a producer under the Blue Box Regulation if they supply Blue Box material (packaging, paper products or packaging-like products) comprised of paper, glass, metal or plastic, or a combination of these materials to consumers in Ontario for personal, family, household or business purposes.

Producer hierarchies

Blue Box packaging



Produce Industry Questions

The OPMA requested information from RPRA on topics specifically related to the fresh produce industry. Responses to these questions are provided

Question 1

In the case of Private Label goods, who is the responsible producer? For example, Loblaw owns the President's Choice brand. If they ask a packing company to pack apples in bags and add a President's Choice label, is the brand holder Loblaw's?

Response

The brand holder, who causes the blue box packaging to be added to the product would be obligated as the producer. Depending on individual situations, there may be other possibilities that would come up with private label goods, for example if there is more than one brand on the product, the producer is the brand holder who is most closely connected to the manufacture or production of the blue box material. If your members have questions regarding this type of scenario they should contact the Compliance and Registry Team directly to discuss their particular situation.

Question 2

Fresh produce may be provided to a national grocery chain by the brand holder and delivered to the grocery chain distribution centre in Ontario. The grocery chain may then decide the next day to move the product to Quebec or Manitoba for sale in their stores. The brand holder may have no idea this has happened because they delivered the product to Ontario and no longer have possession of the product. Who is responsible for reporting this to RPRA?

Response

The obligated producer is responsible for reporting the supply of their products to RPRA. Where someone ships products to Ontario that may then be shipped out of province, they have two options. First, they can work with their customers to get accurate data about which products are shipped out of province and which are supplied into Ontario. Second they can report their supply into Ontario based on their Canada National sales using the formula at Appendix A of the Blue Box Verification and Audit procedure: https://rpri.ca/wp-content/uploads/Blue-Box-Verification-and-Audit-Procedure_ENG.pdf. It may also be helpful to review Section 1 – Blue Box Supply Data of this procedure.

Question 3

If the brand holder supplies to a retailer distribution centre in the GTA, the retailer may then transport it anywhere in Ontario. How do we determine responsibility/ fees in different municipalities given it is a three-year transition?

For RPRA reporting – all products supplied into Ontario must be reported regardless of whether or not a community has transitioned. RPRA does not set or collect fees for the collection or recycling of materials. Questions regarding fees for collection and recycling should be directed towards Producer Responsibility Organizations.

Question 4

For take away from a restaurant to be eaten at home, is the restaurant the brand holder?

The restaurant, may or may not be the brand holder for the packaging but that is not necessarily important for determining who is the obligated producer. See the producer hierarchy for blue box packaging at Section 9 of the regulation. It would depend if the restaurant is adding the blue box packaging to the product, or if the brand holder is adding the blue box packaging to the product (think a can of pop). If the brand holder adds the packaging to the product and they are resident in Canada, they would be obligated. If the restaurant adds the packaging to the product, then they would be the producer.

Question 5

Fresh produce packing companies often source their product from many small-scale fresh produce growers. It may be interpreted that if these small-scale growers have a turnover of less than \$2million then they are exempt. However, is it the case that the brand holder is in fact the packing company as it's their label on the packaging that goes to consumers. Clarity on this would be helpful.

If the small-scale growers are the producer, then they would be exempt. However, if the producer is not the small-scale grower, then they would not be exempt based on their suppliers revenue. They would only be exempt if their own revenue in Ontario was less than 2 million.

Question 6

What is the role of the RPRA inspectors?

Response

RPRA is a delegated authority appointed by the Government of Ontario to oversee and enforce regulations, including the BB regulation in Ontario. Under the Resource Recovery and Circular Economy Act (RRCEA), 2016, RPRA is able to appoint inspectors to carry out it's role as a regulator. See Section 47 of the RRCEA. For more information on RPRA's role as a regulator, see the attached slides.

Question 7

What oversight and enforcement processes will be in place? How will you be finding producers and contacting them? What about ones that currently don't report to Stewardship Ontario? What will the penalties be for non-compliance?

Response

See the slides on RPRA's role as a regulator (available from the OPMA on request). You can also see the RPRA Risk Based Compliance Framework for information on how we approach compliance.

RPRA will be communicating with companies that currently report to Stewardship Ontario as stewards. However, ultimately it is a producers responsibility to be in compliance with the Regulation, whether or not we reach out to them directly. You will also see noted in the presentation that free riders are a compliance priority for us, if you or any of your members are aware of a producer who has not

registered with RPRA, they can contact us with that information. As producers register we will post a list of registered producers on our website.

More Information

- RPRA website <https://rpra.ca/programs/blue-box/regulation/producers/>
- RPRA Information Session <https://www.youtube.com/watch?v=H23C7J88zaE>
- Slide deck 'Understanding Your Requirements as a Blue Box Producer'
https://rpra.ca/wp-content/uploads/Blue-Box-for-Producer_August-18-2021_Final.pdf
- Contact RPRA's Compliance and Registry Team. The team is there to help producers understand how and what to report. registry@rpra.ca or (647) 496-0530 or toll free at (833) 600-0530.