

# **Waste Diversion Ontario**

## **Recommended Process to Identify and Address Printed Papers and Packaging that are Problematic for Recycling Programs**

**February 26, 2010**



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# 1 Introduction

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## 1.1 Background

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### 1.1.1 Blue Box Program Plan Review and Direction from Minister

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Section 6.4, Problematic Wastes, of the Blue Box Program Plan Review Report<sup>1</sup> submitted by Waste Diversion Ontario (WDO) to the Minister of Environment in April 2009, under part 2 of Recommendation # 9, states:

*To address management of problematic waste printed paper and packaging once introduced into the Ontario marketplace by:*

- *Authorizing WDO to identify problematic materials, evaluate options for collecting and managing the materials in co-operation with Stewardship Ontario and provide direction to Stewardship Ontario on the management of problematic materials.*

In his letter, received August 14<sup>th</sup>, 2009, the Minister directed WDO to review and report back with recommendations by February 28, 2010 on:

*A process, and identification of appropriate parties to be involved, to establish mechanisms for the identification and management of problematic materials for the Blue Box.*

The addendum to the Minister's letter further describes his direction:

- *Recommend a process for establishing mechanisms to identify and address types of printed papers and packaging that pose operational or materials management problems in maximizing diversion within material categories. Recommendations on process should include:*
  - *Identification of appropriate parties to be involved recognizing that the parties will vary depending on the nature of the problem;*
  - *Role of involved parties recognizing that the roles will vary depending on the nature of the problem; and*
  - *The range of possible steps involved.*

### 1.1.2 WDO's Mandate

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WDO's mandate under the Waste Diversion Act is to develop, implement and operate waste diversion programs including the Blue Box Program. This mandate does not include considering broader life cycle and sustainability issues such as energy inputs or greenhouse gas emissions associated with various types of printed paper and packaging. When addressing Problematic Materials, WDO has authority to consider material collection, sorting and marketing aspects but has no authority to require changes to

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<sup>1</sup> The Blue Box Program Plan Review Report can be found on WDO's website at: <http://www.wdo.ca/content/?path=page80+item126294>

the design of printed paper and packaging that are problematic for recycling programs. Please refer to Section 3.3.1 for more information.

It is noted that, while both the WDA and the Blue Box Program Plan are under review, revisions are subject to completion of the consultation process and subsequent provincial decisions. This report is prepared in accordance with the current WDA and Blue Box Program Plan.

It is also noted that the Canadian Council of Ministers of the Environment (CCME) is developing “Sustainability Guidelines” for packaging<sup>2</sup>. It is recommended that Ontario pursue this issue within CCME, particularly as it relates to being proactive in screening new forms of packaging that may become problematic for recycling programs.

In addition, a number of industry associations are reporting that sustainability issues are increasingly taken into consideration during corporate decision making regarding packaging.

## 1.2 Process for Developing Recommendation to the Minister

In developing this process to recommend to the Minister, it was recognized that there are other factors in addition to recyclability, such as the requirement to comply with health regulations and overall sustainability considerations such as “total carbon footprint”, that producers take into consideration when designing packaging. This recommended process addresses the Minister’s direction to maximize diversion of printed papers and packaging.

This draft recommendation for review by the WDO Board was developed by initially applying a draft process, developed by WDO staff, to two potentially problematic materials. The process was subsequently refined and expanded by a Problematic Materials Steering Group, established to assist in developing the recommended process, by considering how to identify and address the two identified potentially problematic material examples. These efforts led to the preparation of a November 17, 2009 Draft for Consultation which was placed on the WDO web site. This draft was presented at a November 23 workshop /web cast and comments were received up until December 15, 2009. These consultation activities, including comments received and WDO responses, are documented in a separate report on consultation. The Problematic Materials Steering Group met to consider the comments received on the November 17<sup>th</sup> draft and provided direction for a January 11<sup>th</sup> Draft to be presented to the WDO Board. This draft, along with the Report on Consultation, was considered by the WDO Board on January 27<sup>th</sup>. Direction was provided on a number of points at this meeting. These points were addressed and the final version of this recommended process, along with the Report on Consultation, was approved for submission to the Minister by the WDO Board at its February 24, 2010 meeting.

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<sup>2</sup>See [http://www.ccme.ca/ourwork/waste.html?category\\_id=128](http://www.ccme.ca/ourwork/waste.html?category_id=128)

## 2 Definition and Procedural Mechanisms

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### 2.1 Definition of Problematic Materials

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Problematic Materials are those types of printed papers and packaging that pose operational or material management problems in maximizing diversion within material categories. In broad terms, Problematic Materials for recycling programs are those materials that cause recycling system net costs to increase and/or that prevent diversion from increasing or cause it to decrease. Problematic Materials could include:

- Forms of printed papers and packaging that are currently being collected that are problematic; and/or
- Forms of printed papers and packaging that are not currently collected because they are problematic.

Greater clarity on what constitutes Problematic Materials is provided in the following Section 3.1, Step 1: Identifying Problematic Materials for Recycling Programs.

### 2.2 Principles to Govern Process

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The principles to be employed in following this process to resolve issues associated with Problematic Materials are:

- To develop solutions based on the principle of Extended Producer Responsibility;
- To minimize cross subsidies where fees from one or more stewards subsidize costs created by products supplied into the marketplace by other stewards; and
- To seek to ensure that Ontario's marketplace is affected in a fair manner.

Given the diverse nature of this issue, a problem solving process, rather than a definitive classification, is proposed for identifying and addressing Problematic Materials. Some problems may be addressed with a relatively straight forward solution and may be readily resolved. Other problems may require a more prolonged process to identify and implement a solution. Once the problems associated with a material are resolved the material would cease to be considered problematic.

### 2.3 Problematic Materials Steering Group

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It is recommended that a Problematic Materials Steering Group, responsible to the WDO Board, be established to address Problematic Materials for recycling programs by following the process recommended in this document. The core members of this Group shall be appointed by the WDO Board on an annual basis. In general, the members of this Group shall include:

- Representatives of municipalities operating Blue Box recycling programs;
- Representatives of Stewardship Ontario, as the industry funding organization designated to implement the Blue Box Program Plan;
- Representatives of WDO; and
- Representative of the public interest.

The representative of the public interest would be nominated, for consideration by the WDO Board, by the other members of the Steering Group on the basis of the following guidelines:

- That the individual has a strong knowledge of the Blue Box Program and the issues associated with collection and processing of printed papers and packaging and the markets for these materials;
- That the individual not be directly affiliated with any stakeholder group including a municipality, a steward or steward organization or specific non-government organization;
- That the individual be available to participate in Steering Group meetings during business hours; and
- That the individual agree to sign a confidentiality agreement.

In addition, the core members of the Problematic Materials Steering Group may invite advisors to join the Group to assist in addressing specific problems. These advisors may include:

- Individuals with specific technical knowledge relevant to the problem being considered;
- Representatives of the sector experiencing the problem;
- Representatives of the sector whose products are causing the problem; and/or
- Representatives of industry groups that may be involved in addressing the problem being considered.

Decision making by the Problematic Materials Steering Group is to be on a consensus basis. Should the Steering Group fail to reach a consensus on a critical issue, the issue may be deferred for future consideration or referred to the WDO Board for advice and direction.

### **3 Steps for Addressing Problematic Materials for Recycling Programs**

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#### **3.1 Step 1: Identification of Problematic Materials for Recycling Programs**

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The first step in the process is to identify potentially Problematic Materials and confirm that they are in fact problematic. A proposed set of criteria for doing this is as follows:

- The material creates difficulties or inefficiencies for householders to participate in the recycling programs;
- The material creates collection difficulties or inefficiencies;
- The material creates sorting difficulties or inefficiencies at Material Recycling Facilities (MRFs);
- The material creates processing difficulties or inefficiencies for downstream processors;
- The material reduces quality or value of processed material when marketed; and/or
- The material creates risks to the ultimate marketing of products containing recycled content.

In general terms, potentially Problematic Materials are put forward to the Problematic Materials Steering Group by the parties experiencing the problem and could involve any one, or more, of the problems identified under the above criteria.

### 3.1.1 Requirements for Party Identifying Problem

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To be considered as a potentially Problematic Material, the problem should be identified by a substantive number of those organizations providing the specific service (e.g. collection, processing or marketing) where the problem is arising. A problem could be raised by an existing association with members that represent a substantive number of the organizations. Alternatively, a problem could be raised directly by a substantive number of the organizations providing the service co-operating among themselves to raise the issue directly with the Steering Group. A problem identified by a single organization or a small number of organizations relative to the total number of organizations providing the service will not be considered a potentially Problematic Material until a substantive number of the organizations providing the service take a similar position.

### 3.1.2 Establishing that a Problem Exists and Efforts to Resolve it

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In order to move forward with the problem solving process, the party(s) bringing the potential problem to the Steering Group should submit the following information to WDO.

Qualitative and supporting quantitative<sup>3</sup> information that substantiates that the problem exists and that the problem is having a material impact<sup>4</sup> on the recycling of specific items. This information may include:

- Summary description of the problem and its implications;
- Publicly available policy and/or position statements from credible organizations documenting the problem and its implications;
- Meeting minutes and/or resolutions from credible organizations whose members are experiencing the problem documenting the problem and its implications;
- Letters from markets or contractors documenting the problem;
- Quantitative information documenting the size and implications of the problem (e.g., quantity of problematic material in relation to total amount of material in Ontario marketplace or quantity of material affected by the problematic material);
- Quantitative information estimating the cost (including revenue loss) implications of the problem; and
- Other quantitative information to support the qualitative description of the problem and its implications.

Available detailed information on efforts made, and being made, to resolve the problem. This information may include:

- Summary description of efforts to solve problem;
- Technical reports or memos documenting efforts and associated costs to solve the problem; and
- Meeting minutes or correspondence documenting efforts and associated costs to solve the problem; and

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<sup>3</sup> The requirement to submit quantitative information in no way implies a quantitative threshold for determining that materials are problematic for recycling as a small quantity of some materials can create significant problems for recycling.

<sup>4</sup> Sufficiently significant as to influence a change.

- Information from appropriate industry associations documenting their efforts to resolve the problem.

In the case of a material that is problematic because it is presently not collected and recycled in Ontario, the submission should detail:

- Why the material is not collected and recycled; and
- Efforts that have been made to attempt to collect and recycle it.

Upon receipt of a submission containing this information identifying a potential problem, the Steering Group may, in its sole discretion:

- Accept the submission and proceed to address the problem via the process set out in the following steps;
- Request that the party(s) bringing forward the potential problem provide specific additional information (i.e., Steering Group will specify what additional information is required) to more adequately address the above two points (i.e. problem exists and is causing a material impact and efforts to resolve it);
- Retain, at WDO expense<sup>5</sup>, an independent third party to undertake due diligence investigations to verify the information submitted by the party(s) bringing forward the potential problem and/or provide additional information;
- Require the party(s) bringing forward the potential problem to retain an independent third party to undertake due diligence investigations to verify the information submitted and or provide additional information;
- Park the problem until the results of identified R&D efforts to resolve the potential problem become available or industry initiatives resolve the problem; and/or
- Reject the potential problem and not consider it further. Party(s) bringing forward the potential problem may appeal this decision via access to WDO's dispute resolution mechanism.

In general, the Steering Group should consider an initial submission or a submission of additional information and make a decision regarding the next step in the process within one month of receiving the submission.

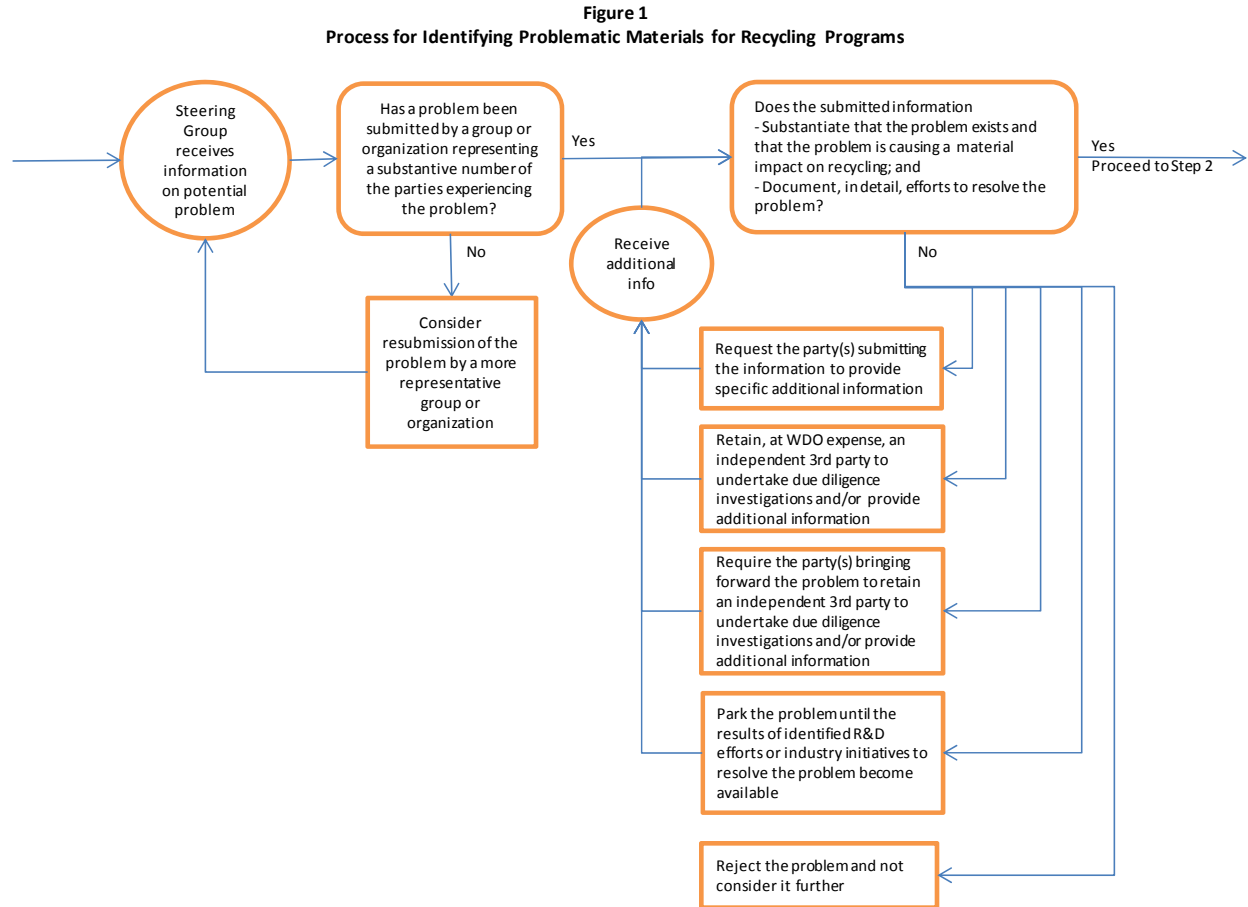
Once a material is accepted for further consideration by the Problematic Materials Steering Group, it will be referred to as a Problematic Material for recycling programs rather than a potentially Problematic Material for recycling programs.

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<sup>5</sup> WDO costs related to the Blue Box Program are recovered from Stewardship Ontario.

### 3.1.3 Illustration of Process to Identify Problems

The following Figure 1 illustrates the recommended process for conducting this initial step to formally identify the problem.



## 3.2 Step 2: Identification of Parties to be Involved and Establishing Priorities

### 3.2.1 Parties to be Involved

Section 2.3 sets out the recommended composition of the Problematic Materials Steering Group. Once a specific Problematic Material is accepted for further consideration by the Problematic Materials Steering Group, it may be appropriate, as recommended in Section 2.3, to invite advisors with specific expertise to join the Group to assist in addressing the Problematic Material under consideration.

### 3.2.2 Establishing Priorities

When multiple problems are under consideration by the Steering Group and priorities must be established, the following guidelines should be employed to prioritize the problems under consideration:

- Address those problems first that best fit with the principles set out for the process in Section 2.2;
- Address problems associated with materials that are already being collected in the Blue Box system<sup>6</sup> ahead of problems associated with materials that are not yet collected;
- Address those problems first that have larger implications for net system costs or diversion (i.e., address those Problematic Materials that pose a greater threat to the Blue Box system first); and
- Address those problems first that have a viable solution (i.e., if based on an initial consideration of the problem there does not appear to be one or more viable alternative solutions to the problem, then afford it a lower priority than a problem that has one or more viable solutions).

When applying these guidelines, the Problematic Materials Steering Group should ensure that materials that are not presently collected due to their problematic nature are not excluded from consideration and the opportunity for the technical barriers preventing collection and recycling to be addressed through the process.

### 3.3 Step 3: Identifying and Implementing Solutions for Problematic Material

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#### 3.3.1 Meet With Stewards and Attempt to Develop a Solution

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The first step in solving the problem would be to meet with stewards of materials that are causing the problem. Where feasible, this meeting should occur within one month of the Steering Group making the decision that the material is problematic for recycling programs. During this meeting the Steering Group would make these stewards aware of the problem, its implications and efforts to date to resolve it. The Steering Group would share a summary of the information considered when determining that the material was a problem and would invite the stewards to propose a timely solution to the problem. The stewards of the Problematic Material would be given a period of two months from the date of the initial meeting with the Steering Group to propose a solution.

Stewards will be encouraged to modify the design of printed paper and packaging to resolve problems for the recycling system, taking into account principles of sustainable packaging, available sustainability guidelines, industry ‘scorecards’ or standards, product or packaging options and other regulatory requirements (e.g. food safety).

If the stewards of the materials causing the problem propose a solution or alternative solutions to the problem within the specified time frame, the Steering Group would review the proposed solution(s) with the parties that identified the problem in the first place and determine if they agree that the proposed solution will resolve the problem.

Some examples of possible solutions are as follows:

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<sup>6</sup> In parallel with this recommendation on problematic materials, recommendations for consistent materials to be collected in the Blue Box system are being developed by WDO.

- Have stewards modify the product to prevent the problem from occurring;
- Use new equipment or processes to address the problem;
- Use additional labour to address the problem;
- Modify downstream processes and procedures to address the problem;
- Shift the material from the curbside collection system to another collection system (e.g., return by householders to collection points such as retailers and/or depots); or
- Accommodate the material within the system, while tracking and allocating associated costs to the responsible stewards.

If all parties agree with the proposed solution, implementation would occur as described in Section 3.3.5 below or by another agreed mechanism.

### 3.3.2 Post Information on WDO Web Site

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If the stewards fail to propose a solution or if the parties disagree with the solution proposed by the stewards, the Problematic Materials Working Group will proceed to implement the remaining steps in the process. Information on the Problematic Material would be posted on the WDO web site. The wording of the posted information, to be developed by WDO in collaboration with the Steering Group, would ensure reasonable disclosure of the issues associated with the material while protecting any commercially sensitive information compiled during consideration of the issue.

### 3.3.3 Meet and Liaise with Appropriate Industry Groups

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Many members of the printed papers and packaging industries are becoming more aware of and proactive on sustainability issues including recycling. The influence of the “Wal-Mart Score Card”<sup>7</sup> for packaging is an example.

The Steering Group would identify any appropriate industry group or association and bring the Problematic Material to their attention. As soon as the material is determined to be problematic for recycling programs and throughout the problem solving process, the Steering Group would liaise with these groups to keep abreast of any North American/global efforts by these groups to resolve the problem.

### 3.3.4 Resolve Disputes and Identify a Solution

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If all parties do not agree with the solution proposed by the stewards, the Steering Group may decide if one or more of the proposed solutions will resolve the problem. If the Steering Group is not able to decide if proposed solutions will resolve the problem, the Steering Group may, at this point, seek the opinion of an independent expert. The cost of retaining the expert is to be borne by WDO<sup>8</sup>.

If there are several options identified, these options would be evaluated and a preferred course of action to resolve the problem selected. Some examples of potential criteria for conducting this evaluation are:

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<sup>7</sup> See <http://walmartstores.com/FactsNews/NewsRoom/6039.aspx>

<sup>8</sup> See footnote 5.

- Material quality;
- Material revenue;
- Capital investment requirement;
- Material specific gross and net cost, including both capital and operating costs;
- Total system gross and net cost, including both capital and operating costs;
- Impact on collection, reuse and recycling rates;
- Implications for stewards' fees;
- Ease of implementation; and
- Likelihood that the course of action will effectively or substantively resolve the problem.

If efforts by the Steering Group, the parties experiencing the problems, and the stewards of the material causing the problem do not clearly identify a preferred solution, the Steering Group, through WDO<sup>9</sup>, may retain a third party to identify and recommended a solution or confirm that there is no reasonable technical solution to the problem.

These efforts to resolve any disputes and identify a preferred solution to address the problem should, wherever possible, be completed within a period of four months.

### 3.3.5 Implement Technical Solutions

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If a reasonable technical solution (e.g., implement an additional optical sorting step) has been identified it would be implemented, in accordance with agreed timelines. In general, it is anticipated that technical solutions can be implemented province wide within a period of one to three years. Operating costs associated with the technical solution would be included in the overall material processing costs. Capital costs may be amortized and included in the overall material processing costs or may be supported by special grant funding, if agreed by the parties.

Stewardship Ontario should track the quantity of the Problematic Material being placed into the Ontario market and undertake activity based costing studies to identify the additional costs associated with managing the Problematic Material. This information should then be used in setting the fees for the stewards of the Problematic Material. In this manner the stewards of the material causing the problem will pay for the management of their material.

This approach to track and allocate costs associated with Problematic Materials is a continuation of Stewardship Ontario's use of cost allocation studies and fee aggregation/disaggregation which aims to correlate fees to material management costs and recycling performance. For example, when the Blue Box Program Plan commenced, stewards of all types of plastic containers were levied a single fee. With refinement of the fee setting methodology and information compiled from steward reports and activity based costing studies, differential fees are now levied for containers made out of different plastic resin types.

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<sup>9</sup> See footnote 5.

### 3.3.6 Inform Parties of Lack of a Technical Solution

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If the problem solving process fails to identify a reasonable technical solution, the Steering Group should, within a period of one month of determining there is no reasonable technical solution, inform the party(s) bringing forward the Problematic Material, stewards of the Problematic Material and appropriate industry groups and associations of the situation and that the next and final step in the process will be to refer the problem to government for a regulatory solution. This communication is intended to provide industry and supplier chains with a final opportunity to resolve the problem in a timely fashion.

### 3.3.7 Refer Problem for Regulatory Solution

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If no reasonable industry or technical solution is identified, the documented problem and efforts to resolve it would be referred to government for consideration of regulatory action three months after the date on which the party(s) bringing forward the Problematic Material, stewards of the Problematic Material and appropriate industry groups and associations were notified of the lack of an identified technical solution.

### 3.3.8 Post Information on Outcome of Process on WDO Web Site

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Following the completion of the above process information on the outcome of the process for each problematic material would be posted on the WDO web site. This could include information on:

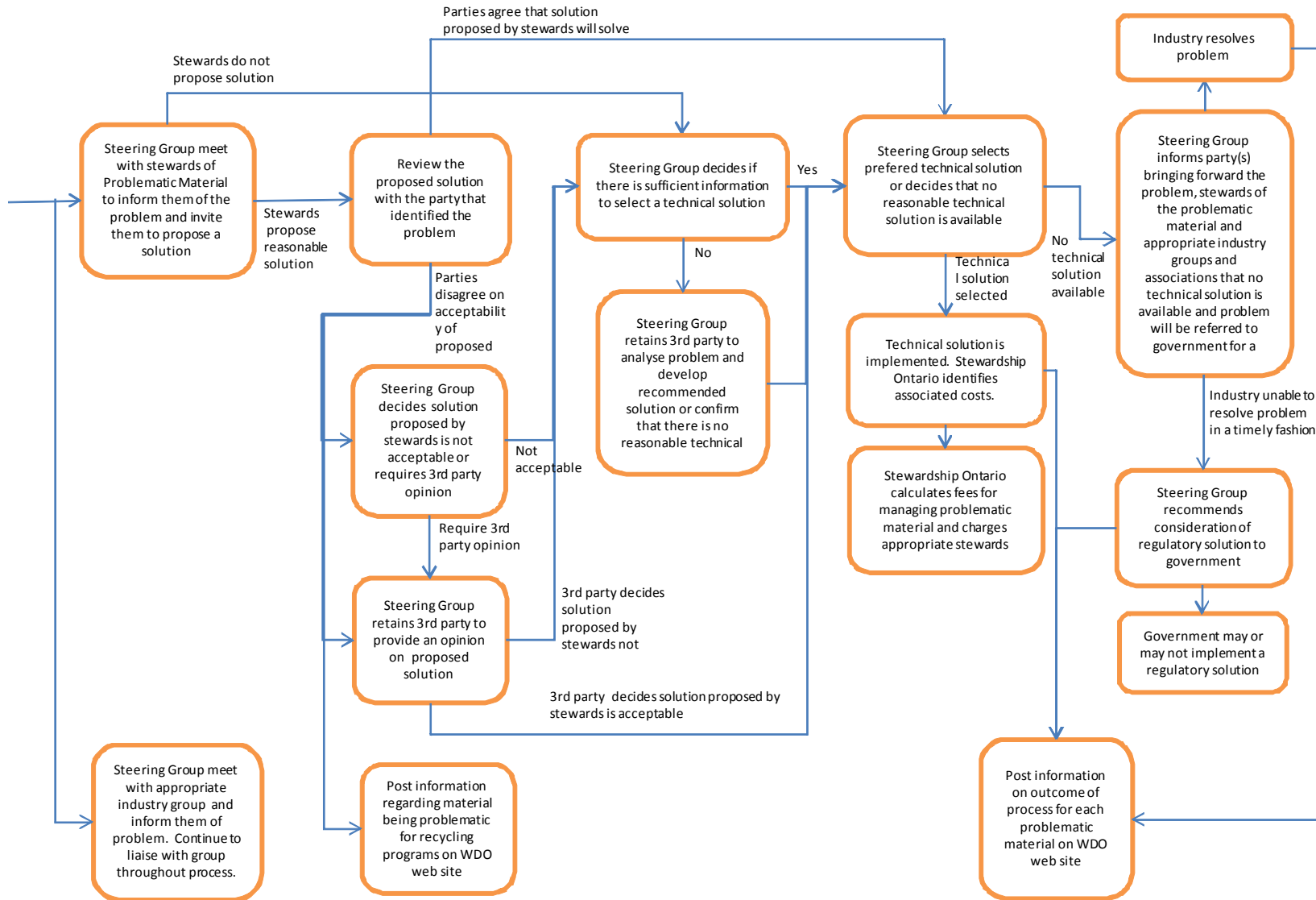
- how the problem was resolved and the fact that the material is no longer problematic; or
- that no solution was identified, the material remains problematic for recycling programs and has been referred to government for consideration of a regulatory solution.

### 3.3.9 Illustration of Process to Address Problems

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The following Figure 2 summarizes the above recommended process for addressing problems.

**Figure 2**  
**Process for Addressing Problematic Materials for Recycling Programs**



### 3.4 Step 4: Monitoring of Chosen Course of Action

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The final step in the proposed process involves monitoring the implementation of the selected course of action and its effectiveness in resolving the problem.

In accordance with Section 5 (a) of the Waste Diversion Act, WDO will be responsible for monitoring the implementation of the selected course of action and its effectiveness in resolving the problem.

Implementation will involve co-operation with Stewardship Ontario, as the industry funding organization for printed papers and packaging, and appropriate action by the responsible parties within the timelines agreed.