



December 2, 2020

Jamelia Alleyne
Ministry of the Environment, Conservation and Parks
Resource Recovery Policy Branch
40 St. Clair Avenue West, Floor 8
Toronto, ON M4V 1M2

Dear Ms. Alleyne:

RE: York Region response - a proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Blue Box Programs – ERO 019-2579

York Region staff thank the Ministry of the Environment, Conservation and Parks (the Ministry) for the opportunity to comment on the proposed Regulation, and proposed regulatory amendments, to transition Blue Box Program operation to producer responsible under the *Resource Recovery and Circular Economy Act, 2016*. This submission is aligned with comments jointly submitted by the Regional Public Works Commissioners of Ontario, Association of Municipalities of Ontario, Municipal Waste Association, and City of Toronto on behalf of the municipal sector. Municipalities such as the Regional Municipality of York are strong partners to assist in determining an effective path forward.

Region staff support this draft regulation as it reinforces the municipal advocacy position and promotes improved environmental outcomes

Region staff were pleased to see many key components previously advocated for reflected in the draft regulations. It is critical that the Province maintains these key components in the final regulations as there is concern these may be removed or weakened as seen in the battery and electronic waste final regulations. Staff recommend the following key components be maintained in finalizing the draft regulations.

Establishing a producer responsibility framework through a common collection system across the Province

- Making producers financially responsible to collect a consistent set of materials across the Province including all designated products and packaging from all eligible sources will not only shift the burden from taxpayers but will reduce confusion across municipal borders.

Expansion of designated materials list to include problematic single-use items

- Expanding the designated materials list to include single-use packaging like products, and single-use food and beverage service items as designated materials is an improvement to the current Blue Box Program.
- Shifting the responsibility for managing these problematic materials from municipalities to producers increases the likelihood that solutions for collection and recycling of these materials will be developed and has potential to decrease litter associated with these materials.

Inclusion of schools, long-term care facilities and some public spaces as eligible sources

- Including public spaces and parks, long-term care facilities, schools and multi-residential buildings as eligible sources in the proposed regulation ensures equal access to recycling whether at home, office or within the community.

High performance management targets including the subcategory for non-alcoholic beverage containers are critical to driving environmental outcomes

- Targets in the draft regulation are applicable to multiple material categories and are in line with best-in-class comparable programs. Compared to the current program where only one aggregate target is measured without any enforcement or consequences for non-performance, this is a substantial improvement.
- Staff were pleased to see the addition of non-alcoholic beverage containers as a separate category as this will ensure accountability and drive higher performance.

Establishing certainty in the proposed transition schedule is appreciated with added flexibility to negotiate earlier transition

- Region staff appreciate the level of certainty that the proposed schedule accomplishes.
- Flexibility to transition earlier than the date noted in the Regulation Schedule should be maintained in the final version of the Regulations, as articulated in Part IX of the draft Regulation.

Staff recommend revisions to improve convenience and customer service levels as well as strengthen transparency

Upon review of the draft Regulations, staff noted opportunities to strengthen transparency, improve convenience and ensure no negative impacts to residents and their experience with the Blue Box Program. These recommendations are outlined below:

Public space eligible sources should include municipal parks and community buildings, along with businesses in downtown core areas

- In keeping with Special Advisor David Lindsay's recommendation, producers should provide blue box collection wherever it was provided by municipalities.

Recommendation:

1. Final Regulation must provide clear definitions and include as eligible sources all municipal parks, public facing municipal buildings and community facilities, super mailboxes, and businesses and not-for-profit organizations located in Business Improvement Areas. By including these sources as eligible, it will help the Province achieve its goal of reducing litter in our communities.

Performance targets must be established for problematic materials like compostable and single-use packaging

- Subcategory targets and reporting will prevent low performing recyclers such as those who produce single-use packaging from hiding behind high performing recyclers in their broad target category.
- The green bin cannot be used as a tool for producers to shift costs to municipal taxpayers under the guise of extended producer responsibility. The Region's Source Separated Organics Program is one of the most cost intensive waste programs delivered to regional taxpayers at a unit cost of \$270 per tonne, for a total annual cost of \$27 million. The proposed definition of compostable material could allow producers of fibre-based products (e.g., pizza boxes, coffee cups, etc.) to be categorized as compostable material to avoid management costs.

Recommendations:

2. Subcategories should be added to more closely track performance of problematic materials to expose low performing problematic packaging that often contributes to litter.
3. The Blue Box regulation and the Food and Organic Waste Policy Statement must be aligned with a clear definition of compostable materials and performance targets specific to compostable packaging to make these producers responsible for the end of life management of their packaging.

Recycled content component of the regulation should be removed and addressed in collaboration with the federal government

- Recycled content requirements would be best addressed by coordinating with federal efforts to introduce national recycled content requirements for plastics and encouraging similar standards for other blue box materials.
- Many producers already include recycled content or have committed to doing so in the future. This provision may inadvertently lower capture rates without driving

new growth in recycling markets. It is very difficult to audit recycled content and identify the quantity and source of recyclable material. Furthermore, there is potential to create advantages for larger multi-national producers over smaller producers as they may have greater access to recyclable materials.

Recommendation:

4. Encourage recycled content in packaging separately from regulations and that the Province establish recycled content targets in collaboration with the federal government.

Increase transparency and support continuous improvement by requiring annual audits

- A consistent annual audit cycle aligned with Ontario's Deposit Return program would provide municipalities and producers with better line of sight on program performance and provide an opportunity to improve programs year over year.

Recommendation:

5. The regulation must require annual performance audits rather than the proposed cycle at every three years which increases risks and does little to reduce administrative burden.

Producers charging 'recovery fees' must provide reporting and audits on how the funds are managed

- Producers who charge consumers a "resource recovery" or similar fee at the point of sale should be required to report on fees collected, perform audits, and ensure consumers are properly informed of; the purpose of the fees charged, how the fees are determined and how the funds raised are spent.
- These requirements are included in Ontario's Used Tire Regulation (O. Reg. 225/08) and Ontario's Deposit Return Systems to ensure consumer transparency, while providing flexibility for the producer.

Recommendation:

6. The requirements related to resource recovery fees in Ontario Regulation 225/18 under the *Resource Recovery and Circular Economy Act, 2016* must be included in the Blue Box regulation.

Maintain current service levels including weekly collection and supplementary depot collection where it already exists

- The draft regulation removes supplementary depot collection and could reduce collection frequency to every other week in the Region post transition.
- This contradicts the Province's messaging that there must be no negative impact to Ontario residents and their experience with the Blue Box Program.

- If producers can reduce weekly collection to every two weeks and discontinue depot service after transition, this would be a reduction in service and remove an important part of the current collection infrastructure.
- Depots could provide needed capacity post transition particularly in communities where collection frequency goes to bi-weekly from weekly.
- Communities with large seasonal populations use depots as they leave their properties to return to their primary residences. They cannot participate in curbside programs that operate through the week when they are not at their seasonal property.
- Convenience promotes diversion. If the intent of the Regulation is to increase diversion, convenient recycling options must be provided to residents.

Recommendation:

7. It is recommended that the Regulation require producers to provide the same service levels during and after transition that the municipality currently provides.

York Regional Council comments will be submitted following its January meeting

Due to the timing of the consultation period, engagement with York Regional Council was not possible prior to submission. This response will be considered by Council in January and any additional comments made will be communicated to the Ministry in early February.

Staff thank the Ministry for considering these comments and for continuing to engage municipalities as development of the Blue Box regulation moves forward. We are pleased to see the Province will be moving forward with focus on improving Industrial, Commercial and Institutional diversion which is critical to the preservation of landfill space in the Province.

If you or your staff have any questions or would like to discuss this matter further, please contact Laura McDowell, Director of Environmental Promotion and Protection, at Laura.McDowell@york.ca

Sincerely,



Erin Mahoney, M. Eng.
Commissioner of Environmental Services
The Regional Municipality of York

cc:
#11844130