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

Dear Ms. Alleyne:

RE: Town of Whitby Comments - Proposed Blue Box Regulation ERO #019-2579

The Town of Whitby is a lower tier municipality located approximately 40 minutes east of Toronto. The Town of Whitby works co-operatively with the Region of Durham to provide an integrated waste management program to more than 41,000 single-family households and 4,400 multi-family units. The Town is responsible for all residential waste collection services including source separated organics, yard waste and bulky item collections. This includes waste collection service to 76 multi-residential buildings as well as waste management services for all of our public spaces and mixed residential locations in our Business Improvement Areas. Blue Box recycling in Whitby is managed by the Region of Durham.

Although the Town of Whitby is not the direct service provider for the current curbside Blue Box program, changes to the recycling programs will inevitably have direct impact on the other waste programs managed by the Town. The Town of Whitby is in support of full EPR for the Blue Box and is pleased to provide the Ministry with our comments on the proposed Blue Box regulations.

Blue Box Regulation Comments

Definitions

“eligible source” means any residence, facility, or public space;

“public space” means any land in any park, playground, or any outdoor area which is owned by, or made available by, a municipality, and that is located in a business improvement area designated under the Municipal Act, 2001 or by a by-law made under the City of Toronto Act, 2006;

Comment:

More clarity is needed for the definition of “public space”. In particular, whether or not businesses that set out blue box materials in a business improvement area (BIA) would qualify for blue box collection. It appears that BIA’s are included under the definitions section of the draft regulation however some uncertainty arises when reviewing Part IV, section 24 - Collection for public spaces. This section references supplying and collecting blue box receptacles that are located next to waste receptacles and does not mention a requirement to collect from businesses. Many businesses located in Whitby’s BIA do not have sufficient access or storage requirements to facilitate commercial waste or blue box (tote/front end) collection and rely exclusively on curbside collection. Small businesses are important to our local economy and they are key generators of blue box materials which are currently collected within the existing blue box regime. It would be counterproductive to the success of the program to exclude these locations. Businesses located in BIA’s that are receiving curbside waste and blue box collection as of the effective date, should be clearly included under the definition “public space”.

The “public space” definition should also be expanded to include indoor public spaces such as community centers, arenas, libraries and other municipal buildings.

“residence” means,

- a) a single-unit residential dwelling, including a seasonal residential dwelling, in an eligible community, or
- b) a building that contains more than one dwelling unit but receives garbage collection at the same frequency as single-unit residential dwellings in a eligible community;

“facility” means,

- a) a building that contains more than one dwelling unit but that is not a residence
- b) a long-term care home licensed under the Long-Term Care Homes Act, 2007
- c) a retirement home licensed under the Retirement Homes Act, 2010, or
- d) a public school or private school under the Education Act;

Comment:

Confusion is arising from the definitions of “residence” vs “facility” as it relates to multi-residential locations. More clarity is required to ensure a uniformed understanding of these definitions. Consider moving all multi-residential locations under the “residence” definition.

The definition of “facility” does not take into account small businesses, places of worship, community halls, etc. located within residential areas outside of BIA’s which may currently be provided with waste and blue box collection services. The definition of “facility” should be expanded to include locations which receive municipal waste and blue box collection services as of the effective date.

Obligations for curbside collection

20 (c). A Producer who provides curbside collection shall, provide blue box receptacles for the storage of blue box material until it is collected, including

- (i) Ensuring that each residence has a blue box receptacle before the day on which the producer commences collecting from that residence, and
- (ii) Providing at least one replacement blue box receptacle each year, to any residence, upon request of a person residing at the residence, provided within one week of request.

Comment:

There is no provision related to providing new blue box receptacles for new developments. This section should also ensure that the producer responsibility organization develops a recovery program for damaged blue boxes to ensure that they are captured and diverted.

Collection for Public Spaces

24. A producer shall collect blue box material from every public space that is assigned to the producer in the annual allocation table, but only where an eligible community provides garbage collection at the public space.

Comment:

Clarity is needed on how a “public space” will be assigned in the annual allocation table. Presently there is ambiguity on whether garbage cans in public spaces will be eligible for inclusion in the regulation. Whitby has a significant number of garbage cans in public spaces and as it is not clear if they are included in the allocation table through our Upper Tier government. The producer’s obligation should be to collect from “every public space” where a municipal garbage can is located, as of the effective date.

Obligations for Public Spaces

25. A producer who collects blue box material from public spaces shall

- (a) ensure that blue box receptacles for storage of blue box material are placed next to every receptacle for garbage at the public space;
- (b) provide for the collection of blue box material
- (c) provide blue box receptacles for the storage of blue box material until it is collected.

Comment:

Further to the comment related to definitions, it should be made clear that collection of blue box materials within a designated BIA captures public space containers as well as blue box materials generated from mixed-used apartment and businesses located in BIA areas. Blue box materials are currently collected from small business and corresponding apartment units located above these businesses. Excluding these locations from the regulation at this time would result in a considerable loss of clean blue box material, especially old corrugated cardboard (OCC). Excluding small business sends a poor message about the goals and intent of this regulation.

The regulation is silent on the producer's responsibility to address litter and any overflow from public space containers. The MECP's Litter Discussion Paper, released March of 2019 cited "litter" as one of the Minister's top priorities. Waste composition studies show that litter is largely comprised of post-consumer convenience packaging or eligible blue box materials. For litter to be left out of this regulation is contrary to one of the Minister's goals and should be addressed as part of the producers responsibility.

Registration, Local Municipalities, Local Service Boards

48(1). Eligible communities that are local municipalities and local service boards that are included in Blue Box Transition Schedule shall register with the Authority, through the Registry, by submitting the following information, on or before April 15, 2021 about the municipality or local service board.

64. The Authority shall provide the information in sections 48 and 49 in respect of eligible communities contained in the Transition Schedule to the persons who are required to prepare the annual allocation table no later than July 1, 2020.

Comment:

The Town of Whitby is a local municipality within the Region of Durham. The Region of Durham provides blue box collection service and the Town provides curbside waste and organics collection. Durham is listed within the Transition Schedule. Section 48 of the Regulation must clearly identify if lower tier municipalities, that are not listed in the Transition Schedule and are serviced by a Regional Upper Tier Municipality, are eligible and/or required to register with the Authority for the April 15, 2021 deadline.

Additionally, this is an important consideration when accounting for accurate input into the annual allocation table as it relates to public spaces. The Town services waste/recycling receptacles that the upper tier municipality does not under their curbside recycling program.

Promotion and Education, Producers

57.5. Contact information of the producer, or its producer responsibility organization, including a telephone number and email address, at which persons may,

- (i) receive responses to questions or issues relating to collection, and
- (ii) request additional or new blue box receptacles.

Comment:

There is no information under this draft regulation related to the enforcement of a blue box collection program and very little content related to customer service. The blue box regulation should outline minimum standards a producer responsibility organization must meet i.e.:

- Responding to collection issue and resolution timelines.
- Communicating non-compliance issues.
- Hours of operation.

Compared to the level of promotion and communications provided by municipalities presently, the P&E requirements on producers may not be adequate to obtain the

desired participation from residents. An annual minimum number of messaging campaigns should be identified in the regulation.

Both local municipalities and their regional governments have existing by-laws that outline requirements for residents as it pertains to waste, recycling, property standards etc. How will conflict disputes be handled under the new regulation?

There should be clearer identification of the roles on who is responsible for communicating service start-ups in new developments. Producers need to ensure there is co-ordination with municipalities. It is preferable that there will be language in the regulation related to the alignment of collection services, i.e. same collection day boundaries.

Service Standards

62. (1) A producer that is assigned collection responsibilities in respect of an eligible community during the transition period is required to provide service standards describe in subsection (2) that equal or exceed the service standards applicable in that community on August 15, 2019.

Comment:

A statement should be added to this section addressing public space collection and seasonal fluctuations of waste generation. For example, Producers would be required to incorporate high use frequency times for public spaces (i.e. sports tournaments and community events) to ensure collection of blue box materials in a timely manner.

While there are identified service standards during the transition period, there are no identified service standards after the transition period is over. Of particular concern is the open-endedness around frequency of service. There are several viable collection schedule models; however the most cost conscious option for the producers may not be the best model from a customer service perspective. As a result, a bi-weekly model collection strategy could be implemented resulting in the loss of the recycling stream having the highest convenience factor. Even if producers are able to achieve diversion targets with this model, it would be a step backwards for municipalities currently collecting on a weekly basis. Some high level minimum standards need to be included post transition, including the requirement for weekly collection of curbside recycling and language around minimum standards for multi-residential collection schedules as well.

Sincerely,

Suzanne Beale P.Eng.

Commissioner of Public Works

Beales@whitby.ca

cc. Jason Kittle, Director Operational Services

Paul Thistle, Manager Solid Waste Services