



December 3, 2020

Jamelia Alleyne
Resource Recovery Policy Branch
Ministry of Environment, Conservation and Parks
40 St. Clair Avenue West
Toronto, ON M4V 1M2
Sent via email: RRPB.Mail@ontario.ca

Re: ERO 019-2579 - Proposed regulation, and proposed regulatory amendments, to make producers responsible for operating blue box programs

Dear Ms. Alleyne,

Thank you for the opportunity to comment on the proposed approach to transition the blue box program to producer responsibility. As the voice for Ontario's 3,500 fruit and vegetable farmers on issues affecting the horticulture sector, the Ontario Fruit and Vegetable Growers' Association (OFVGA) is pleased to provide comments on the proposal.

The OFVGA applauds the efforts of government aimed at reducing waste and increasing the effectiveness of recycling programs and recognizes that not all packaging is an absolute necessity. However, the value chain has evolved its use of packaging for many Ontario grown fruits and vegetables for several reasons:

1. To increase food safety, by protecting food from spoiling, introduction of germs, and preventing tampering in the retail environment.
2. To meet food safety regulatory requirements, including those required by the *Safe Foods for Canadians Act*, which can include labelling, lot codes, etc., which also enable food recalls when necessary.
3. To increase produce quality and freshness, thereby reducing food waste along the value chain.
4. To prevent pilfering of produce from retail displays.

With its use of packaging, the sector can reduce food waste and maintain food safety, which supports other Ontario government priorities. The fruit and vegetable sector has been undertaking work to identify alternate materials that meet food safety, sustainability, end-use, and economic viability criteria and meet the needs of producers, marketers, and consumers. However, as a sector that is responsible for getting safe and fresh fruits and vegetables to consumers, it is important to ensure that policy changes consider the following to limit undue impact on the sector.



Alignment of Standards

To increase the chances of success for this shift to producer responsibility, there is need for greater alignment of standards for materials, not only within Ontario, which is one of the stated goals, but also across Canada. This standardization would better reflect the nature of supply chains that generally expand well beyond Ontario's borders.

Definition of Producer

It is our understanding that producer is defined differently based on where the product originated, where the brand holder is located, and who added the packaging to the product. This approach leaves two significant considerations without clear responsibility – who required whether packaging was necessary, and the type of packaging used.

As a result of this gap, the current application of producer definition creates scenarios where the regulation will impose additional costs on a grower or produce packer who will have no choice because the packaging they must use is being dictated by the buyer or customer, such as a grocery retailer.

For example, a grocery chain may request an Ontario vegetable grower and packing company to provide packs of vegetables in bags, with specific requirements about the type of packaging and labelling. The grower packs the vegetables in the requested packaging and provides them to the retailer. The brand on the package belongs to the grower but the packaging decision is determined by the retailer.

It is also important to note that in addition to dictating packaging requirements, grocery retailers also unilaterally impose other fees, and often the end price, that is paid to the grower or packing company. The outcome is that the regulatory burden and additional costs resulting from the regulation will be felt by growers, but they will not be able to recover these new costs through the marketplace or have the ability to transition to other forms of packaging. As a result, we are concerned about the economic impact of this proposal on fruit and vegetable growers in Ontario.

Finally, being just one of several links in the overall packaging value chain, the type of packaging used by the food industry is also heavily influenced by packaging manufacturers (resin suppliers and material converters) – many of who do not operate in Canada or are bound by Canadian regulations. These same organizations directly impact the economic viability of the material recycling sector.

Based on the control buyers such as grocery retailers can have on product packaging, and how the regulation is currently written, it is not clear who is responsible as the producer. According to subsection 1, the grower / packer is responsible as the brand holder. However, the decision on the packaging to be used belongs to the grocery chain, so they would be responsible according to subsection 2.3 (A person adds blue box packaging to a product if the person causes another person to add the blue box packaging to a product).

As the regulation is finalized, it will be important to ensure clarity and protect brand owners that are not in control of the packaging used are not unfairly burdened by this change in responsibility.



Exemptions for Small Producers

While we agree and support that exempting smaller producers will reduce burden for those businesses, there is concern that providing exception for producers with annual revenue of less than \$2 million introduces the potential for misuse of the regulation. Large packaging companies that source from several smaller producers could avoid responsibility by passing it to the small producers who are exempt. This would lead to large amounts of packaging not entering the system.

There is also concern that packaging sold by exempt producers no longer has a proper disposal stream. As with the current system, consumers are likely to place exempt items in the common collection system. If this packaging is exempt, many tonnes of packaging that could be recycled will be left unprocessed. If this packaging does get collected (if mixed with non-exempt materials), who pays for the cost of this collection? Who will be responsible for processing or otherwise disposing of packaging that was the responsibility of an exempt producer? Consumers will not be able to inherently identify packaging that is to be recycled and others that are exempt. These points should also be considered with respect to the proposed alternative collection system option.

It is understandable that very small brand holders do not have the capacity to take part in the program. However, if the government is exempting these brand holders, there should be a clear path for these materials to ensure responsible recycling and disposal of all packaging, and clear responsibility for processing costs.

Products Exported from Ontario

An Ontario-based producer may sell a product to a grocery chain, which then takes ownership of the product. The distribution from the grocery chain distribution centre to stores is at the discretion of the grocery chain. The grocery chain may decide to export the product to another province. The producer will not be aware of the amount exported in any given period and as a result may overestimate and overpay for product not sold in Ontario. The final regulations need to be clear for how this scenario will be addressed, thereby protecting growers from unnecessary costs and regulatory burden.

The example above also gives rise for the need to have consistent approaches to recycling programs and allowable materials across Canada, not just within Ontario. This is necessary for not only plastics and other traditionally recycled materials such as paper or plastics, but also compostable materials. As many products are sold across Canada, there is a need for a nationally recognized and harmonized approach to maximize the value of recycling programs, while minimizing the amount of regulatory burden to businesses.

Promotion and Education

The OFVGA agrees that promotion and education of recycling programs will be crucial to ensuring that consumers do their part to support these overall efforts. In addition to the producer responsibility to fund promotion and education, the Ontario government should also play a strong role in promoting good consumer responsibility to support producers meeting overall recycling targets, and ensure a consistent and coordinated message is conveyed.



The move to producer responsibility will not address the biggest hurdle to recycling currently: consumer apathy. While producers will be able to support efforts to address this hurdle, support from the government to encourage consumers to do the right thing will be needed as well. This can be done through government and industry partnerships to rebuild consumer trust in the recycling system through education and encouraging consumers to be part of the solution for waste reduction initiatives.

Implementation Timing

The posting states that businesses could be required to begin registering by April 1, 2021. Given the extent of clarity still required in this proposed framework, it is requested that any steps toward implementation be delayed until further information is available to affected stakeholders.

Thank you for the opportunity to comment on the government's proposed regulatory framework to modernize recycling in Ontario. The OFVGA applauds the province for taking on this important work and we are committed to working with government to ensure a smooth transition.

Please feel free to contact the OFVGA should you wish to discuss our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan VanderHout".

Jan VanderHout
Chair, OFVGA Environment and Conservation Section

cc: Hon. Jeff Yurek, Minister of Environment, Conservation and Parks
Hon. Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs

About the OFVGA:

The OFVGA is the leading voice for Ontario's fruit and vegetable farmers. Our sector includes more than 3,500 family run farms that employ over 30,000 people directly on-farm. For every on-farm job, it is estimated there are 2.2 jobs created downstream, or approximately 96,000 jobs combined. Fruit and vegetable production drives Ontario's rural and urban economies by generating more than \$4.2 billion in economic activity annually, along with \$600 million in combined tax revenues for all levels of government. Ontario fruit and vegetable farmers compete with global producers for domestic and export markets that demand low cost quality produce. Fruit and vegetable exports from Ontario total over \$1.6 billion, almost half of which originates from the greenhouse vegetable sector.