

December 3, 2020

Jamelia Alleyne  
Resource Recovery Policy Branch  
40 St. Clair Avenue West  
8th floor  
Toronto, ON  
M4V 1M2  
Canada

Dear Ms. Alleyne,

**RE: A proposed regulation and proposed regulatory amendments to make producers responsible for operating blue box programs**

Pollution Probe is pleased to present the following submission for consideration by the Ontario Ministry of the Environment, Conservation and Parks regarding the proposed regulation under the *Resource Recovery and Circular Economy Act, 2016* to make producers responsible for blue box programs, and amendments to *Regulation 101/94: Recycling and Composting of Municipal Waste* to sunset municipal obligations to run blue box systems after transition to full producer responsibility. Our organization has been active in working towards a more circular economy and is a strong advocate for systems that prioritize the elimination of waste.

Numerous jurisdictions have demonstrated that extended producer responsibility (EPR) can be an effective tool for waste reduction. However, significant efforts will be required on the part of a wide range of stakeholders to ensure its effectiveness both in the short- and long-term. Where properly developed and implemented, a regulation such as that proposed, has the potential to contribute to significant benefits for Ontario.

Given the significant challenges and opportunities associated with transitioning to a model where producers are fully responsible for blue box programs, considerable learning will take place and as a result, the waste management landscape is likely to shift considerably in the coming years. A focus on continuous improvement and revisiting elements of the regulation would go a long way towards ensuring it continues to meet its intended objectives and can adapt to new information and innovation in the changing waste management landscape.

We offer the following for consideration in support of the proposed regulation and proposed regulatory amendments to make producers responsible for operating blue box programs.

## **1. Need for Increased Transparency and Accountability**

Promoting transparency on targets, actions and progress should be a key objective for blue box programs in order to ensure their effectiveness. There has been increasing attention on the effectiveness of recycling programs and poor diversion rates both nationally and provincially, and a disconnect between the public's expected outcomes from their recycling efforts and the actual outcomes that they have been learning around recently. This has contributed to a feeling of mistrust and frustration among consumers who take the time to recycle. There is a need to gather comprehensive and essential data, and wherever possible, make public reporting on how targets are being met, along with any associated environmental and economic impacts. Public engagement and participation in blue box programs is highly dependent on a clear understanding of efforts being made to ensure that what ends up in their bin is in fact, being diverted from landfill.

The proposed regulation notes that under a producer responsibility framework for recycling, costs are shifted from municipalities and taxpayers to producers that are better able to control costs through influence over:

- the types of products and packaging put into the marketplace
- the materials used to make products and packaging
- how the products and packaging are managed at end-of-life

This model encourages producers to find new and innovative ways to reduce costs and improve the environmental management of recyclable materials. However, there is currently limited publicly-available data or messaging around the potential economic impacts of full EPR and concerns related to the extent to which the cost to operate the blue box program will be passed on or borne by consumers. Greater transparency around the true impacts of the proposed regulation and a transition to full EPR for all Ontarians will contribute to greater understanding and support for blue box programs.

In addition, the proposed regulation for blue box programs provides an important opportunity to help fill critical data gaps related to recovery and diversion for the industrial, commercial and institutional (IC&I) sectors being considered for inclusion (i.e., multi-unit residential buildings, schools, retirement homes, long-term care homes and some public spaces). While it is recognized that producers will have proprietary information that should remain confidential, the sector is responsible for a majority of waste generated in the province. Effectively addressing this challenge is imperative and can only be accomplished based on real data. Efforts should be made to find ways to communicate this information wherever possible to improve transparency.

## **2. Diversion Targets and a Need for Continuous Improvement**

The amount of plastic found in the market is anticipated to increase substantially over the coming years. Ambitious diversion targets can play a role in encouraging innovation and opportunities to reduce those materials that are not easily recycled or that are without strong end markets. While the recovery targets outlined in the proposed regulation are in line with those currently found in other jurisdictions (e.g., British Columbia, Europe and Canada's target to recycle and reuse at least 55% plastic by 2030 under the Ocean Plastics Charter), there is a need to prioritize continuous improvement over time.

While a transitional period is necessary to establish blue box programs under full EPR, it is anticipated that advances in technology will increase opportunities to divert a greater percentage of difficult to recycle materials in the future. Diversion targets should be re-evaluated and adjusted more frequently with an eye to continuing to incentivize innovation over time based on current circumstances. In other words, diversion targets should continue to exceed current performance and increase over time to facilitate continuous improvement of the program and any associated environmental and economic benefits.

In addition, the proposed regulation does not require that different sub-categories of materials within broader material groups (e.g., rigid plastic or flexible plastic) are accounted for in reporting. Instead, producers will have the flexibility to choose which collected materials to divert within a given category to meet their management requirement. Limiting reporting and targets to broad material categories reduces the visibility of poor performing materials and can lead to a situation where materials that are easier to recycle or which are more valuable make up the bulk of contributions, in effect subsidizing those of lesser value and reducing the incentive to improve the end-of-life options for these materials. Efforts should be made to ensure that problematic materials are not overlooked in efforts to improve diversion rates and that each sub-category can stand on its own merit.

We are encouraged by the Government of Ontario's intention of making producers of compostable materials also responsible for designated products as part of blue box programs in future. Applying a similar full producer responsibility approach will be important to ensuring that organics programs do not become overwhelmed or significantly degraded by compostable products. Furthermore, the obligation for producers of compostable materials to register and report under the current proposed regulation is critical to filling previously mentioned data gaps and making informed decisions about how best to address this material group.

### **3. Ensuring a Holistic Approach to Waste Management**

Ontario's blue box diversion rates have remained fairly consistent for more than a decade and the list of what is collected has not changed in many years, despite the fact that the types of materials being used has evolved significantly. The proposed regulation for blue box program outlines a broadening of scope with the introduction of new materials and sectors. While growth of the program is encouraging, it will be important to ensure that it is done from the perspective of recycling as one element of a more holistic approach to waste management that also includes support for solutions that prioritize reduction and reuse.

There are a number of challenges faced by the current Blue Box Program that will not easily be addressed by transitioning responsibility to producers in the short-term. Opportunity costs should be carefully considered, in an effort to ensure important solutions capable of complementing the program are not overlooked. It is noted that through the Made-in-Ontario Plan, the province will investigate opportunities to recover resources from waste, as well as reduction, reuse and recycling in an effort to ensure that valuable resources do not end up in landfills. This broader approach will be critical to ensuring the transition to a more circular economy and the effectiveness of blue box programs as a key element.

In addition, the proposed regulation includes a broader range of materials to be accepted by blue bin programs, including single-use items such as paper and plastic cups, wraps, foils, trays, bags, stir sticks,

straws, cutlery and plates. A number of these items have recently been outlined as those included under the federal government's ban on single use plastics, pointing to the potential for conflicting messaging and confusion among the general public, and a need to ensure alignment across jurisdictions. Opportunities for harmonization can also help cut down on potential opportunities for "freeriders".

Pollution Probe commends the Government of Ontario for continuing to take steps to improve circularity in the province and we very much appreciate the opportunity to provide input as part of the review process for the proposed regulation and regulatory amendments to make producers responsible for blue box programs. For further discussion or clarification of any of the comments in this submission, please do not hesitate to contact us.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Hilken", written in a cursive style.

Christopher Hilken  
Chief Executive Officer  
Pollution Probe

#### **About Pollution Probe**

Pollution Probe is a national, not-for-profit, charitable organization that works to improve the health and well-being of Canadians by advancing policy and delivering programs that achieve positive, tangible environmental change. Pollution Probe has a proven track record of working in successful partnership with industry and government to develop practical solutions for shared environmental challenges.