

Thursday, December 3, 2020

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

Dear Jamelia,

RE: A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Blue Box programs ERO #019-2579

The City of Guelph (the City) appreciates the opportunity to provide comments regarding the Province's draft Blue Box regulation to the Ministry of Environment, Conservation, and Parks (MECP).

The proposed Blue Box regulation is generally in keeping with what municipalities have been advocating; it seeks to make producers fully responsible for the management of their materials at the materials' end-of-life (i.e., collection and recycling) while providing producers with the ability to find efficiencies for doing so (e.g., standardizing collection and processing, investing in new collection and processing infrastructure to address the changing packaging stream, better supporting end markets, adapting packaging design).

Guelph supports the regulation's intent to result in:

- More materials collected: an expanded and standardized list of Blue Box materials collected and managed across the Province through one common collection system with curbside and depots;
- Province-wide eligible sources: expanded Blue Box services to a comprehensive list of sources, such as multi-unit residential buildings, schools, retirement homes, long-term care facilities and some municipal public spaces (e.g., parks, playgrounds, outdoor areas, and streetscapes in Business Improvement Areas), by 2026, if they are not already serviced;
- Target Requirements for producers: enforceable targets which producers must meet for a number of material categories; and
- Certainty: a three-year schedule between 2023 and 2025 to transition all current municipal Blue Box programs to full producer responsibility.

Areas of Concern in the draft regulation

Designated Materials

The City strongly supports the broad list of designated materials and encourages the Ministry of Environment, Conservation and Parks (MECP) to maintain this list in

the approved regulation. As seen in the Electrical and Electronic Equipment (EEE) regulation, there was a substantial reduction in designated materials from the draft regulation to the approved regulation. A reduction in designated materials in the approved Blue Box regulation would have negative impacts on the environment, on residents through consumer confusion and a reduction in service, and on municipalities through increased costs for collection and processing of these materials in other waste streams.

Single Use Items

One key concern with the MECP's list of designated materials is the inclusion of single-use items (e.g., straws, cutlery, stir sticks). The federal government recently released a discussion paper proposing a ban on single-use items (i.e. the same single-use items designated by the MECP). It is recommended that the Province and the Federal government align their approaches with respect to single-use items in order to develop effective policy by consideration of bans first followed by mandates for reduction and recycling.

Compostable Products

The City encourages the MECP to designate compostable products in the regulation to ensure producers are responsible for their management. If compostable products are exempt from collection and management targets, this will likely encourage producers to alter their products into compostable materials. This would result in an increase in compostable products entering the City's organic waste stream and processing facility, which is unable to handle these products and will be screened out as residue. This is a costly approach that still results in these materials being shipped to landfill as residue. The screening process is required to maintain high quality standards in order to not only ensure that the compost is marketable, but that SSO compost is a trusted source of soil amendment and nutrients to the agricultural community. Concerns include adding packaging to the food system, confusion with respect to compostable materials, biodegradable plastics and plastics in general and contamination and potential compost quality impacts.. Costs for modifications to the processing facility to effectively process compostable products should be paid for by producers. Additionally, if these products are not compostable in municipal facilities, then producers should pay for the costs of landfill disposal.

The City encourages the definition of compostable materials to be more clearly defined in the regulation to exclude fibre-based products and packaging that can and should be recycled (e.g., coffee cups, pizza boxes, drink trays, and take away containers).

Service Requirements

The City strongly encourages the MECP to maintain the current service levels during transition and post transition. The City provides a bi-weekly blue cart collection program, as well the City's public drop-off for recyclables; both collection methods

are well utilized by residents. If producers are not required to provide depot/drop-off collections, this would be considered a reduction in service to all of our residents and remove an important part of our current collection infrastructure.

The City strongly encourages the MECP to maintain the designated eligible sources including multi-residential, schools, long-term care facilities and public spaces (parks and BIA streetscapes) in the approved regulation. The City understands there may be disagreement among producers due to additional costs. However, not including these eligible sources in the approved regulation would have significant negative impacts on a large portion of the provinces' population and would be considered a reduction in service and access in many municipalities.

Targets

The City strongly believes that the use of recycled content in products should not reduce a producer's management targets. Many products already contain recycled content and this would not incentivize these producers to design more environmentally friendly and recoverable products. It is also very difficult to audit and verify a producer's recycled content claim.

Designated materials need stringent targets and strong enforcement through audits and an Administrative Monetary Penalties regulation. The City strongly believes that producers should be required to perform annual performance audits, as opposed to the proposed three year audits, as there is little accountability and the potential for significant impacts during those three years. A producer's inability to meet its targets should result in penalties and the City encourages the MECP to develop and implement the Administrative Monetary Penalties regulation in a timely manner. The monetary penalties must exceed the cost to manage materials at the end of life.

The City encourages further delineation of target categories to include specific material types (e.g., polyethylene terephthalate (PET), polystyrene, coffee cups, etc.). This will allow for a better understanding of which materials are performing well and which do not in order to address these under-performers.

Producers whose annual revenue from products is less than \$2 million are exempt from collection and management targets. This will result in municipalities bearing the cost of handling and disposing of these recyclable products once again. The City encourages the MECP to designate that all producers be financially responsible for the disposal costs of their products.

Promotion & Education

The City strongly believes that the current promotion and education requirements consisting of a website and one piece of material delivered to each source annually is insufficient. Municipalities have extensive experience educating their residents and they currently receive significantly more and diverse promotion and education material, tactics and campaigns while diversion rates remain stagnant.

This will be a province-wide program and designated materials will apply to all Ontario residents by 2026. Thus, producers will have the capacity to utilize all forms of media including popular television and radio stations, social media, billboards, etc. to educate residents. If the program is not well understood, convenient and accessible, the designated materials will end up in other waste streams for which municipalities remain financially responsible.

Customer Service

There is currently no customer service standard defined in the draft regulation. Customer service is important in situations where a resident's waste has not been picked up, the collection from an entire street has been missed, a bin has been damaged or stolen, etc. From a risk management perspective, and to protect existing satisfactory customer service levels, an adequate standard must be defined.

Municipal Growth

The draft regulation states that any new communities would receive the same service level as garbage collection. The draft regulation does not state how producers and service providers will be informed of newly built homes and new developments. The City encourages the MECP to include requirements for how producers and service providers will provide timely collection services and education to these newly built homes and developments. It is also unclear how the Development Charges Act and its recent inclusion of diversion related costs and the role of municipalities in administering development charges will be reflected.

Visible Fees

If producers choose to levy a resource recovery fee on their products in order to pass on the costs of the program, producers should be required to report on the fees collected, provide consumers with fee information and perform audits. These requirements already exist for Ontario's Used Tire Regulation and Ontario's Deposit Return Systems; therefore, it's already proven that this is a feasible requirement that ensures consumer transparency, while providing flexibility to producers.

Transition Timeline and Funding

Throughout the Ministry's consultation process, the City has advocated for financial parity for all municipalities. The current Blue Box program is cost shared 50/50 between municipalities and producers of Blue Box materials. Under the proposed Stewardship Ontario wind up plan and draft Blue Box regulation, only transitioned municipalities would be eligible for full producer funding. The remaining municipalities would remain under the 50/50 cost sharing model.

On May 25, 2020, Council resolved that the City of Guelph state that the preferred transition date to the MECP for Guelph's Blue Box program as required under the

Waste Free Ontario Act is January 1, 2023. Financial impact was the primary reason for requesting the earliest possible transition date to the Ministry.

Based on the draft regulation's Transition Schedule, the City's program will transition to producer responsibility sometime in 2025. As a result, and based on steward reimbursements received in 2020 under the 50/50 cost sharing model for managing the Blue Box program, taxpayers of Guelph are burdened with an additional \$1.76 million each year the transition is delayed. From the perspective of the Guelph taxpayer, this means that they will continue to cover a portion of the Blue Box program through taxation.

The draft transition schedule that was provided by the Association of Municipalities of Ontario (AMO) based on resolutions approved by municipal councils, including Guelph, met the requirements set out by the Province (i.e., a measured transition over a three-year period). Guelph, continues to recommend that municipal self-determinacy be the driving criteria used to establish the transition schedule because we are best versed on our own situation (e.g. encumbrances for Blue Box such as stranded assets, including a Materials Recovery Facility, automated collection trucks which are owned and operated by the City and the consideration of human resources and labour contracts).

The City requests to transition its Blue Box program to full producer responsibility at the earliest transition date, January 1, 2023. In the event that this is not possible, the City requests that it receive full funding for the operation of the City's Blue Box program based on 100 percent of reported costs until such time as the program is transitioned to producer responsibility.

Closing

The City asks that these comments and recommendations be taken into consideration as the Blue Box Regulation is finalized. The City thanks the Ministry of Environment, Conservation, and Parks for engaging municipalities on this important Regulation.

Sincerely,

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