

June 16, 2023

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

Re: ERO# 019-6962

Circular Materials is providing its written comments in response to the proposal from the Ministry of Environment, Conservation and Parks (the Ministry) on Amendments to the Blue Box Regulation to Expand Deductions for Producers.

Circular Materials is a national producer-led not-for-profit organization that supports producers in meeting their obligations under extended producer responsibility regulations across Canada. We represent the evolution from product stewardship to a more circular economy where materials are collected, recycled, and returned to producers for use as recycled content in new products and packaging. At Circular Materials, we are committed to building efficient and effective recycling systems to increase recovery rates, and ensure materials are reused again and again.

While we appreciate that the government's stated intention is to provide added clarity on blue box producers' obligations and support a smooth transition to a full producer responsibility framework, the limited detail on the scope and implementation has resulted in more questions and will create further disruption for the implementation of the Blue Box Regulation transition on July 1st.

As a producer created and governed producer responsibility organization (PRO), we are supportive of measures that would allow our members to pay their fair share of the costs for managing their materials. The challenges with the proposal is there are not enough details to assess the government's claimed benefits or the impact the deductions will have with respect to increasing the obligations for all the remaining producers that are unable to request deductions. In addition, the timing for implementation is scheduled to take place in the middle of our fee setting process.

These are two of a number of issues and challenges we have outlined within our response, which we respectfully ask be addressed to ensure that all producers can have the unnecessary cost burden reduced.

Support for Producers

We support producers who have been requesting this expansion for permitted deductions as they are challenged with significant cost increases that are a direct result of the implementation of the Ontario Blue Box Regulation. As a producer-governed PRO, we want to ensure that our members have every opportunity to substantiate that they are paying their fair share for what is actually being managed within the blue box system. At the same time, we also need to weigh the impacts on the

other producers that will not be able to claim these deductions. We have further outlined these concerns below as they will have impacts across the system, but they should not be construed as a lack of support for producers in trying to ensure that they are not paying more than required for the management of their materials.

Reduce Overall Costs Through Changes to the Regulatory Framework

The Ontario blue box program will be the most expensive program in the country beginning in 2023. The costs of the common collection system in Ontario alone will be more than 50% higher than the total program cost in other jurisdictions. When comparing total program costs, including program management and post-collection, the costs of the Ontario system will be roughly double the costs of programs in other jurisdictions.

Program Costs – National Comparison

	2021	2021	2021	2021	2023	2022
	BC	SK	MB	SO	ON	NC
Net Costs Per Tonne – Total Program	\$476	\$327	\$415	\$331	NA	\$530
CCS Costs					\$625*	

**CCS Costs only – Does not include Program Management or Post-Collection Costs.*

The Ontario model is an outlier within Canada where most jurisdictions, due to the lack of scale and opportunity to simplify administration and compliance, have opted to develop regulatory frameworks that allow producers to work through the construct of a single, not-for-profit PRO. The introduction of a multi-pro system within Ontario has had the opposite effect in creating widespread uncertainty which has led to increased costs as vendors across the blue box system have incorporated that into the pricing for their supply chain services. In addition, the ongoing costs of operating a separate common collection system solely for Ontario and the complexity of allocating and then reconciling collected tonnes within multiple PROs, provides further layers of costs that have been avoided in other jurisdictions.

Ultimately, Ontario’s current fragmented approach to regulating EPR has:

- created a barrier to leveraging the scale and administrative savings that would be achieved from implementing a national organization, as was envisioned by the founders of Circular Materials, and
- resulted in producers being burdened with the highest costs in the country for implementing full producer responsibility.

Given this, we ask that the Ministry work collaboratively with producers to implement fundamental changes to the regulation that would provide all producers with the ability to lower costs across the system. Expanding permitted deductions only shifts the obligation but real fundamental changes

would offer all producers the opportunity for a meaningful reduction in their current and future blue box fees.

Proposed Timing

The proposed timing for this change is problematic as it would interrupt the fee setting process for 2024 which starts at the beginning of July and is dependent upon the following prior activities:

- End of May: producers report their supplied tonnes to Circular Materials
- June: Circular Materials validates producer reports and finalizes the supplied tonnes that will be used to calculate fees.

Circular Materials then uses a Four-Step fee methodology, developed over a two-year consultation process with producers, to calculate fees. This fee methodology is an allocation tool used to determine each material's share of the total amount producers must pay to finance recycling programs for packaging and paper products. Each year, material fee rates (expressed in cents per kilogram) are determined by dividing the allocated dollar amount for a material by the number of supplied tonnes of that material.

This process takes up to eight weeks to arrive at a fee schedule that is made available to our producers before the end of September so that they can include the cost of their obligations within their own budget for the following year.

In addition, the proposal indicates that producers must report their deductions by July 31st but provides no details as to the process to confirm the validity of these deductions. Depending on the number of companies that submit requests for deductions, the review and validation process could stretch out for weeks and further delay the fee setting process. The process may take even longer as there is no information as to RPRO's involvement and whether each PRO will have the opportunity to align our own internal review with that of RPRO. All of this will take place in the middle of August which puts our contractual obligations to provide fees to our producers by the end of September at risk.

Impact Analysis

A robust analysis on the impact of the regulatory change needs to be conducted given the significant ever-increasing costs of the system. Our initial estimates indicate that the remaining blue box producers could see an increase of 12-13% in their 2024 fees, which will already be 250% higher already than their 2023 fees. These costs increases are not sustainable particularly, in light of the system costs for the common collection system alone expected to exceed \$600 million by 2026.

Outside of these significant costs, there are also other added costs to consider:

- public space recycling in 2026 that has an estimated capital investment of \$30 million and between \$30 - \$100 million in annual cost.

- further regulatory changes as the Ministry has indicated that they will be conducting consultations on a deposit-return system.

This would all place an ever-increasing cost burden on a smaller and smaller group of producers and result in a further 20–30% increase in fees. Producers, and ultimately consumers, cannot continue to absorb these levels of costs increases in what is already a high inflationary environment.

Support for Annual Reporting Deadlines

We support updating the reporting deadlines from April 30 to May 31 to align with the reporting deadlines in the other jurisdictions. This measure will help ease the administrative burden on Circular Materials as a national PRO as well as many of our producers who will report into these programs on a national basis.

Recommendations

In closing, we request the following recommendations to the Ministry as it reviews feedback and determines the next steps for the program:

- Conduct a more complete review of the entire regulatory framework and work with producers to determine areas for improvement that would reduce costs for all producers. The costs for the Ontario blue box system under the current regulatory framework are unsustainable and will have a long-term impact on the costs for essential, every-day products if action is not taken to address the regulatory framework that is driving these cost increases.
- Work with producers, RPRA, PROs and other stakeholders as a working group to determine a path forward with respect to expanding exemptions to ensure that producers are indeed paying only for material being managed through the blue box system or with respect to public space recycling. Review timing to ensure that changes to the proposed deductions do not impact the annual fee setting process.
- Update the annual reporting deadline to May 31 from April 30 to align with the reporting deadlines in other jurisdictions.

Thank you for your consideration and the opportunity to provide our recommendations. We would be pleased to discuss our position or recommendations further at your discretion. To schedule a meeting, please contact me at alangdon@circularmaterials.ca.

Regards,



Allen Langdon
Chief Executive Officer, Circular Materials
alangdon@circularmaterials.ca