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SUBMITTED ONLINE TO THE ENVIRONMENTAL REGISTRY OF ONTARIO:
ero.ontario.ca/notice/019-6962

Charles O'Hara
Director
Resource Recovery Policy Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Avenue West, 8th Floor
Toronto, ON M4V 1M2

Dear Mr. O'Hara:

Re: Environmental Registry of Ontario Number 019-6962: Amendments to the blue box regulation to expand deductions for producers

The City of Toronto (the "City") is pleased to provide comments in response to the Ontario Ministry of the Environment, Conservation and Parks' (the "Ministry") proposal to amend the Blue Box Regulation (the "Regulation") made under the Resource Recovery and Circular Economy Act, 2016 (RRCEA), that was posted on May 17, 2023 to the Environmental Registry of Ontario (ERO) for comment.

The City continues to support the commitment made by the Province to increase the recovery of resources and reduce waste by holding those most responsible for the design of products and packaging accountable for management of their materials supplied into the Ontario marketplace. The City offers the following comments for consideration when finalizing the proposed amendments to the Regulation.

1. Maintaining and Enhancing Management Requirements

The City of Toronto was pleased to provide comments jointly with the Association of Municipalities of Ontario, the Municipal Waste Association, the Regional Public Works Commissioners of Ontario and the Municipal 3Rs Collaborative.

As noted in those comments, there are ongoing concerns with the management requirements in the Regulation for the 2026 to 2029 period versus the reported

Blue Box materials by producers. Regardless of whether the issue results from management requirements that are set too low, the *de minimis* requirements creating more issues than expected or producers improperly reporting, there is a need for the Ministry to take appropriate action.

If the Ministry chooses to amend the Regulation as proposed, it should also amend it to ensure greater accuracy and accountability in how these deductions are being applied, including:

- making audit requirements annual rather than every three years;
- ensuring producers report to the Resource Productivity and Recovery Authority on both the total materials supplied as well as the materials supplied minus the deductions; and
- increasing material targets to ensure continuous improvement.

2. Need for a Provincial Policy Statement to Improve Recycling in the Industrial, Commercial and Institutional (IC&I) Sector

The clarifications on deductions outlined in the summary of the proposed amendment ties directly to the issue of Blue Box materials generated in the IC&I sector. However, without a comprehensive strategy to improve recycling rates in this sector, these deducted materials are at risk of ending up in landfills.

The 2019 [Reducing Litter and Waste in Our Communities: Discussion Paper](#) noted that “the IC&I sector diverts just 17 per cent” of its waste. The Discussion Paper also noted that while there are regulations in place to “require large businesses and institutions to identify the amount and types of waste they generate, develop waste reduction work plans, separate certain wastes at source and make reasonable effort to ensure that separated wastes are sent for reuse or recycling”, these regulations “are more than 20 years old and do not adequately drive increased waste diversion”.

As part of the 2020 update on the [Made-in-Ontario Environment Plan](#), the Province committed to “consult on the Industrial, Commercial and Institutional waste reform framework to improve the current waste diversion activities within this sector”. To date no consultation has been initiated.

The City strongly encourages the Province to initiate consultations on an IC&I strategy this year and to prioritize the completion of this work. Having a strategy in place to improve the diversion rate for IC&I materials will ensure that the proposed deductions do not result in Blue Box materials going to landfill. It will also support the goal of the Province to provide a seamless Blue Box experience for the public, be they at home, in the workplace or on the go.

3. Appropriate Rules for Municipal Producers

Given the interest shown by the Ministry in providing “clarity to producers on their blue box obligations”, the City requests that the Ministry commit to undertaking consultations with the municipal sector regarding the regulatory process to manage their obligations as producers.

The City has previously raised this issue with the Ministry, as have other municipalities and the Association of Municipalities of Ontario.

The City would like to discuss how the regulation could be amended to create municipal specific obligations. As currently written, the Regulation reflects the way in which companies and retailers operate. For example, the Province's June 3, 2021 news release states that the Regulation will drive “innovation in recycling practices and technologies by rewarding producers who make their products easier to recycle and can derive more value from waste – fueling job creation and attracting investment right here in Ontario.” These are actions that do not have strong linkages to the roles and responsibilities of municipalities.

Consideration must be given to the differences in how municipalities deliver their services to residents and their need to ensure accessibility and human rights accommodations through the provision of services in multiple formats and channels, including paper, and in many different languages. Through the City's participation in discussions with other Ontario municipalities, it appears that other municipalities would also be interested in participating in consultations on this issue. The City would be willing to take a leadership role in supporting the Province in these consultations.

4. Consistent Approach to Regulatory Amendments

The City is concerned that the commitment made by the Province to increase the recovery of resources and reduce waste is at risk due to the lack of consistency shown by the Province when making amendments to the Regulation over the past two years.

Amendments should be consulted on in a fair and transparent manner in order to gather informed comments from a wide range of stakeholders. In the Fall of 2020, the draft text of the original version of Regulation was provided as part of consultations through the ERO. Since that time there have been two amendments to the Regulation, once without the benefit of an ERO comment period and both times without the draft text of the amendments.

The City supports an approach where all amendments to the Regulation are posted for review and comment. The City notes that this most recent proposed amendment was provided for comment, even though the notice indicates that the “proposed changes will not impact how the public receives blue box collection services”. This is in contrast to the approach taken in April of 2022, when an amendment was made to the Regulation without being posted on the ERO for a comment period. This amendment did impact the provision of blue box recycling services to the public as there was a provision that significantly reduced the obligation of producers to provide Blue Box collection services in public spaces.

The City appreciates the opportunity to comment and encourages the Ministry to continue to post for consultation all future amendments to all regulations under the RRCEA, as well as all regulations that relate to waste management and recycling in Ontario.

Should you have any questions regarding our submission, please contact Annette Synowiec, Director of Policy, Planning & Outreach, Solid Waste Management Services, by email at Annette.Synowiec@toronto.ca or by telephone at 416-392-9095.

Thank you for your consideration.

Yours truly,



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Copy to:

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