

## City of Hamilton ERO Comments

### **Proposed Regulation and proposed regulatory amendments to Ontario Regulation 101/94 to make producers responsible for operating Ontario's Blue Box Program (ERO: 019-2579)**

As a member of the Regional Public Works Commissioners of Ontario (RPWCO), the City of Hamilton is providing comments on the proposed Regulation and proposed regulatory amendments to Ontario Regulation 101/94 to make producers responsible for operating Ontario's Blue Box Program.

The following comments represent sections of the proposed Regulation that the City of Hamilton has concerns with, would like the MECP to consider or would like additional information on:

1. Request to change scheduled transition date: The City of Hamilton requested through a Council resolution to transition the Blue Box Program on April 1, 2023; however, the transition schedule attached to the proposed Regulation identified the transition year for the City of Hamilton as 2025. Delaying transition for an additional two years creates increased financial burden to continue to support the municipal Blue Box Program until the eventual transition date. The cost estimates prepared by the City of Hamilton assume that the Resource Productivity and Recovery Authority (RPRA) continue to fund municipal recycling programs at 50% until the time of transition. To date, the MECP has not indicated if this will be the case.

It is requested that the City of Hamilton be granted its requested transition date of 2023. If this request is not accepted and the City must retain the transition year of 2025, then the City requests that the MECP provide 100% funding for the Blue Box Program from 2023 to the transition date in 2025. This can be accomplished by either taking the savings from municipalities that transition earlier and distribute it equitably across the province to municipalities with delayed transition or by Producers taking full responsibility in the form of 100% RPRA funding starting in 2023.

2. Consideration of stranded assets: Many municipalities such as the City of Hamilton have made financial investments in equipment and infrastructure designed to process recyclable material. In some instances, municipalities may never realize the return on these investments and should be compensated through the regulation for any stranded assets.
3. Consideration of stranded contracts: In addition to stranded assets, existing contracts will need to be terminated depending on the timing of the transition. Early termination clauses have been included in the contracts for the collection and processing of recyclables which lead to additional costs to the municipality;

however, a better outcome for the City of Hamilton would be for the Producers to take over the contracts until they reach the end of their contractual term i.e. Curbside Collection.

4. **Additional disposal costs:** It is a concern that municipalities may face additional disposal costs and lost landfill life if the producer responsibility system does not meet its intended waste diversion targets. The City of Hamilton recommends that the future Blue Box Program avoids any additional costs to be paid by municipalities for providing waste diversion programs or managing their waste disposal systems. Municipalities are a major stakeholder regarding waste management services in Ontario; therefore, it is important that municipalities continue to be involved with discussions, assessments, program design, implementation, and outcomes of the actions related to waste diversion and resource recovery infrastructure.
5. **Seamless transition and continuity of program:** The City of Hamilton recommends that the Service Standards identified in the proposed Regulation support ongoing and seamless access to recycling services for customers and that the service is equal to or exceeds the existing service standards. i.e. collection frequency, type of recycling receptacles used, and collection method used.

Maintaining a reasonable level of continuity with existing municipal recycling programs is strongly encouraged to avoid any negative impacts to municipal waste disposal programs. Reducing the recycling program service level will be a disincentive for many residents to participate which could lead to additional materials being sent to landfill and higher costs experienced by municipalities.

6. **Promotion and Education:** The City of Hamilton recommends that the Producers should be responsible for providing ongoing promotion and educational materials for the Blue Box Program to reinforce positive consumer behaviours required to maintain program performance beyond December 31, 2025, including information on how to prepare materials for placement in the blue box receptacle, directions for how materials should be sorted as well as how to contact the recycling collection provider with questions, service issues and complaint resolution.
7. **Enforcement for non-compliance:** The City of Hamilton recommends that additional information be included in the proposed Regulation to identify responsibilities for enforcement procedures respecting non-compliance of the material set out requirements for the Blue Box Program. In particular, municipalities should not be responsible for additional work and costs associated with enforcement activities if blue box materials are set out incorrectly by residences, facilities, or in public spaces.

8. Clarification of development charges: Further clarity should be provided in the proposed Regulation on the operational requirements and responsibilities to provide recycling collection and recycling receptacles for new developments. It is strongly recommended that the requirements in the proposed Regulation respecting the Blue Box Program for new developments established after August 15, 2019 does not conflict with the requirements outlined in the Ontario Development Charges Act, 1997, S.O. 1997, c.27. The Ontario Development Charges Act, 1997 currently allows municipalities to use development charges to help pay for waste diversion, such as recycling, yard waste and source separated organics.
9. Clarification of building classifications: Many municipalities such as the City of Hamilton provide recycling collection services for residential building classifications which currently are not identified in the list of eligible sources in the proposed Regulation. For example:
- Institutional residential properties such as group homes as defined in Clause 240(1) of the Municipal Act, 2001, which can be included as part of retirement homes and long-term care facilities;
  - Off-campus student buildings, which can be considered as part of, permanent or seasonal single and multi-family households;
  - Multi-use buildings which include a combination of small commercial units and multi-residential dwellings. For most of these buildings, the waste materials are taken to a common collection area. Further information needs to be provided on the service eligibility for these types of properties since commercial properties are not included as an eligible source in the proposed Regulation;
  - Place of worship - with a clergy residence as defined by Municipal Property Assessment Corporation, and;
  - Farm/agricultural properties with residential units.

The City of Hamilton recommends that these types of residential properties are included as part of the eligible sources.

10. Clarification of public spaces: The proposed Regulation identifies that Producers are responsible for providing recycling collection for public spaces which includes "parks, playgrounds, or any outdoor area which is owned by, or made available by, a municipality, and that is located in a business improvement area". The City of Hamilton recommends that service is also provided for recycling receptacles in public spaces, such as street side litter / recycling containers which are currently serviced by municipalities that are outside of business improvement areas.
11. Expansion to include IC&I waste: The proposed Regulation is focused on capturing materials from residential sources. It is essential that additional

policies and regulations are developed to expand waste diversion programs to all sectors including industries, commercial properties, and institutions.

12. Consideration of legislation related to banning single use plastics: The proposed Regulation identifies the inclusion of a broad range of "blue box packaging" such as disposable straws, cutlery or plates which historically have not been accepted in most municipal Blue Box programs. The Ontario Government must be consistent with legislation from the Federal government related to banning single use plastics and ensure there are sustainable end-markets for all remaining types of blue box materials identified in the proposed Regulation that can be recovered and re-integrated into the economy.
13. Clarification of types and costs of receptacles / containers: The proposed Regulation identifies the requirement for the producers to supply blue box receptacles for eligible sources, facilities, and public spaces. The City of Hamilton requires further information be provided respecting the types of containers / receptacles for all eligible sources, confirmation of who will bear the cost and how replacement receptacles will be made available.

The following comments are in support of the proposed Regulation:

1. Strategies that reduce waste which considers environmental responsibility, economic requirements and social accountability.
1. The Ontario Government's vision of a circular economy should recognize all steps to prevent and reduce waste across the supply chain and by consumers.
3. The province-wide standardization of materials eligible for the Blue Box Program is a positive change which will help encourage participation and reduce confusion in the Blue Box Program and support the draft Regulation's goal to improve waste diversion across the province.