



environmental  
defence

June 16, 2023

*Submitted electronically to the ERO*

**Re: Amendments to the blue box regulations to expand deductions for producers (ERO-019-6962)**

Thank you for the opportunity to comment on the proposed regulatory changes that would release producers from responsibility from a greater portion of their packaging waste.

This is a move in the wrong direction. The Blue Box regulation is designed to make producers responsible for the packaging waste – including 758,000 tonnes of plastic<sup>1</sup> – that their products generate in Ontario. One weakness in the current regulation is that it does not address the majority of Ontario's waste – 60 per cent – generated in the industrial, commercial and institutional (ICI) sector. The changes proposed to the regulation will further let producers off the hook for consumer waste.

**Lack of regulations for ICI is overloading Ontario's landfills**

Ontario's Auditor General pointed out in 2021 that existing waste regulations for the ICI sector, dating back to 1994, cover only 2 per cent of businesses in Ontario. The rest are not regulated. The sector diverts only 15 per cent of waste from landfill, including packaging. This compares with a 50 per cent diversion rate for the residential sector.<sup>2</sup>

The last thirty years have taught us that companies and institutions will not move to reduce waste without strong government regulation, including the requirement to provide reliable data. The Blue Box regulations are a step in the right direction by

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<sup>1</sup> Statistics Canada, *Pilot Physical Flow Account for Plastic Material, 2023*: available at <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3810015001&pickMembers%5B0%5D=1.7&pickMembers%5B1%5D=2.5&cubeTimeFrame.startYear=2012&cubeTimeFrame.endYear=2019&referencePeriods=20120101%2C20190101>

<sup>2</sup> Office of the Auditor General of Ontario, *Value for money audit: non-hazardous waste reduction and diversion in the Industrial, Commercial and Institutional (IC&I) sector, 2021*: available at [https://www.auditor.on.ca/en/content/annualreports/arreports/en21/ENV\\_ICI\\_en21.pdf](https://www.auditor.on.ca/en/content/annualreports/arreports/en21/ENV_ICI_en21.pdf)

setting hard targets for recovery of materials, excluding waste-to-energy and waste-to-fuel from those targets, and requiring audited reports to the provincial Resource Productivity and Recovery Authority.

### **Weaknesses in existing blue box regulation would be intensified with proposed changes**

However, a 2022 report card on provincial waste regulations in Canada, assessing their efficacy in eliminating plastic packaging waste, gave Ontario a failing grade in large part for two reasons that are relevant to the Blue Box regulation: the lack of regulation over the ICI sector and of effective collection of beverage containers.<sup>3</sup>

The study examined extended producer responsibility (EPR) schemes for packaging across the country and found that Quebec will regulate the ICI sector by 2030 and British Columbia is also planning to expand EPR coverage to this sector in that timeframe.

Instead, by amending the Blue Box regulations as proposed, Ontario would let producers, including grocery stores and quick service restaurants, further off the hook. Packaging waste that should be collected for recycling or refill is much more likely to go to landfills or incinerators if it is not counted under the regulation. This makes no sense.

### **Lack of data will undermine recovery targets in Blue Box regulations**

It is impossible to know where a packaged product bought, for example, at a grocery store or quick service restaurant will be consumed. Some of the packaging bought by consumers will certainly be discarded in office buildings, hospitals or arenas, but it will be impossible to get an accurate weight given the absence of oversight of that sector. As the Auditor General suggested in her Value for Money audit of the ICI waste sector in 2021, the government lacks data on waste discarded at unregulated ICI establishments.<sup>4</sup>

As a result, producers covered by the Blue Box regulation will be allowed to deduct even more from the weight of packaging material they supply into the market (the denominator for the recovery target calculation) – for the amount they suggest is being collected in the ICI sector. But because of a lack of data on the ICI sector,

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<sup>3</sup> JTL Squared Consulting and Environmental Defence, *Canada's Zero Plastics Packaging Waste Report Card*, September 9, 2022: available at [https://environmentaldefence.ca/wp-content/uploads/2022/10/Environmental-Defence-Zero-Plastics-Waste-Report-Card\\_September-9-2022-October-7-2022.pdf](https://environmentaldefence.ca/wp-content/uploads/2022/10/Environmental-Defence-Zero-Plastics-Waste-Report-Card_September-9-2022-October-7-2022.pdf)

<sup>4</sup> Auditor General of Ontario, page 6.

there is no way of verifying whether those deductions are accurate or reasonable. This opens the door wide for producers – and particularly those whose products may be consumed away from home – to reduce their management obligations: minimizing the weight in the denominator will allow for a lower numerator, reducing the amount of material recovered.

### **The issue of beverage containers**

We are relieved to note that the proposed amendments would not provide similar exemptions for beverage containers. However, we estimate that continuing to rely on the blue box and public space recycling bins to collect beverage containers will contribute 1.7 billion plastic bottles more to landfills, incinerators and the natural environment every year than if Ontario adopted a deposit-return system for non-alcoholic beverage containers.<sup>5</sup>

Recycling bins lead to more contamination and are more expensive to manage for effective recovery than a deposit-return system (DRS), which provides well-sorted and less contaminated material.<sup>6</sup> DRS also allows for accounting by container, rather than by weight, which ensures more accurate reporting on system performance and would be seamless between at-home and away-from-home consumption if return points are widely available and the deposit amount is meaningful.

There is no evidence that producers will be able to reach their targets for beverage containers under the Blue Box regulation without implementing a deposit return system. Given that the first target of 75 per cent recovery will come into effect in 2026, the industry must move swiftly to a DRS.

### **Recommendations:**

1. Withdraw the proposed amendments that allow producers to deduct amounts of packaging that might be discarded within the ICI sector (including arenas, office buildings and hospitals) and – following Quebec and British Columbia – update the regulation to include obligations for waste generated in the ICI sector.
2. Require the implementation of a deposit-return system for non-alcoholic beverage containers to ensure that producers reach the target of at least 75

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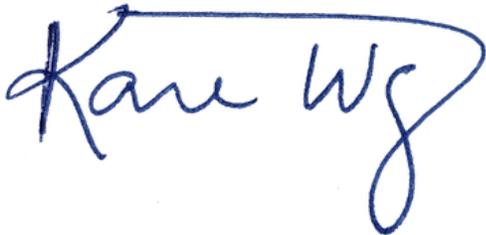
<sup>5</sup> This calculation is based on the number of plastic bottles collected in Alberta's DRS, adjusted for population size.

<sup>6</sup> Eunomia and Reloop, *Better Together: how a deposit return system will complement Ontario's Blue Box and enhance the circular economy*, June 2019.

per cent recovery by 2026 and 80 per cent by 2030 as per the current regulation. Strike an industry working group as soon as possible to begin the transition.

Thank you again for the opportunity to comment on the proposed amendments.

Sincerely,

A handwritten signature in blue ink that reads "Karen Wirsig". The signature is fluid and cursive, with a large loop at the end of the last name.

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