



November 16, 2020

Hon. Jeff Yurek, Minister  
Ministry of Environment, Conservation and Parks  
Minister's Office  
College Park, 777 Bay Street, 5th Floor  
Toronto, Ontario M7A 2J3

Dear Minister Yurek:

**RE: City of Markham Comments – ERO (Environmental Registry Ontario)  
Number 019-2579**

**A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Ontario's Blue Box programs**

The City of Markham would like to thank the Ministry of the Environment, Conservation and Parks (the MECP) for the opportunity to comment on the Draft Blue Box Regulation to make Producers responsible for operating Ontario's Blue Box program and shift the financial and operational responsibilities from municipalities to Producers.

On November 24<sup>th</sup>, City of Markham Council passed a resolution on the Draft Blue Box Regulation (attached as Schedule A) containing the following key request:

- **THAT the City of Markham requests that the Minister of the Environment, Conservation and Parks include Markham as an Eligible Community on the final Transition Schedule and be assigned the transition date of January 1st, 2023, or as early as possible, prior to 2025**

Markham is one of the most culturally diverse and fastest growing municipalities in the Greater Toronto Area with a population of over a 350,000 residents. The City is currently responsible for providing Blue Box collection services to approximately 90,000 curbside households and over 130 multi-residential buildings (approximately 18,000 units).

Markham supports making product Producers responsible for the costs and operational aspects associated with the recycling of their products. This will provide an incentive to improve product design, invest in local infrastructure, and create new employment opportunities. Markham, as a waste diversion leader, believes that the Draft Blue Box Regulation will have a positive impact on waste diversion in Ontario.

Markham wants to ensure that the transition of its Blue Box Recycling Program is seamless for its residents; that service levels are maintained, that costs of the program are shifted to Producers and offers the following comments on the Draft Blue Box Regulation.

In addition to the Council resolution, recommended changes are indicated below and proposed changes to the Draft Blue Box Regulation are detailed in Table A (Page 7).

## **1. Markham requests to be added as an Eligible Community on the final Blue Box Transition Schedule**

The Blue Box Transition Schedule (attached to the Draft Blue Box Regulation) identifies York Region, not the City of Markham, as an Eligible Community to transition Blue Box collection services to Producer responsibility.

York Region operates as a two-tier municipal waste management system. As set out in the *Municipal Act, 2001*, York Region has exclusive jurisdictional responsibility for waste management (excluding waste collection), and Markham has exclusive jurisdictional responsibility for waste collection.

Regarding Blue Box collection, the nine lower-tier municipalities are responsible for the collection of Blue Box materials as well as collection-specific promotion and education. The upper-tier (York Region) is responsible for the processing and marketing of Blue Box materials.

As the City of Markham has exclusive jurisdiction over the collection of Blue Box materials, the City is formally requesting to be identified as an Eligible Community on the final Blue Box Transition Schedule, as the future transition arrangements for Markham's Blue Box collection services would be between the City and the Producers.

## **2. Markham requests to be assigned the transition date of January 1<sup>st</sup>, 2023, or as early as possible, prior to 2025**

In assigning Eligible Communities and their Transition Year, the Ministry considered municipal preferences for the date of transition as per the canvassing performed by the Association of Municipalities of Ontario. Although municipalities expressed interest in transitioning in a certain year, ultimately the Province will determine the final transition schedule.

While York Region previously indicated a preferred Transition Year of 2025, Markham Council passed a resolution reserving the option to amend Markham's Transition Date and collection service preference at any time if it is determined to be financially and operationally beneficial to the City. Transitioning earlier, on January 1<sup>st</sup>, 2023, has significant benefits for both Markham and ultimately the Producers as outlined below:

- In assigning communities their Transition Year, the Ministry considered expiry dates for service contracts to minimize financial penalties. The City's new collection contract, procured in 2020 and outsourced to a private contractor, is easily severable and allows for transitioning Blue Box collection services in 2023, and can be easily transferred to Producers;
- Markham's new collection contract provides for the separate collection of Blue Box recyclables and the co-collection of waste and green bin materials;
- Markham's collection contract includes the eligible sources as defined by the Draft Blue Box Regulation (permanent dwellings, multi-unit residential buildings, schools) and does not have a "separate" contract for different eligible sources;
- Markham is located in the same geographic catchment as the City of Toronto (sharing a northern border along Steeles Avenue), which is scheduled to transition in 2023;
- Markham has the financial resources and transition expertise (experienced staff, legal resources) to ensure a seamless, successful transition.

As indicated, Markham supports transitioning on January 1<sup>st</sup>, 2023 and Markham is well positioned to meet this Transition Date. If Markham's Blue Box Recycling Program transitions in 2023, Producers will gain three years of first-hand experience with arguably the most comprehensive municipal collection system in the Province.

**3. Markham requests that the eligible sources, as indicated by the Draft Blue Box Regulation, be expanded to include depots in communities with curbside Blue Box collection, municipal facilities, public-facing facilities, all public spaces, Blue Boxes located at Canada Post super mailboxes, and small retail businesses within Business Improvement Areas**

Markham supports the eligible sources indicated by the Draft Blue Box Regulation, which includes permanent/seasonal dwellings, multi-residential buildings, public and private schools, long-term care homes and retirement homes, and specific public spaces.

Markham requests that the Ministry expand the list of eligible sources to include: depots in communities with curbside Blue Box collection, municipal facilities such as city halls and offices, public-facing facilities such as libraries, community centres and arenas, all public spaces including all parks/playgrounds and Blue Boxes located at Canada Post super mailboxes, as well as small retail businesses within BIAs.

Markham believes that the final regulation should include these additional eligible sources as it is important that recycling opportunities are in place wherever residents live, learn, work and play.

**4. Markham requests that the obligations for collection after the transition period (2026+) be equal to or exceed the service standards applicable in transitioning**

**communities on August 15, 2019, specifically, increase Blue Box collection from every other week to weekly collection**

Markham has been a diversion leader in Ontario for many years. In 2019, York Region reported that Markham achieved a net diversion rate of 72% (and a municipal curbside diversion rate of 81%) as a part of the Region's annual WDO submission. The City's high diversion rate is supported by recycling service levels that collect Blue Boxes weekly while garbage is collected bi-weekly in clear bags. The City's four recycling depots also significantly contribute to the City's high diversion performance, as they are easily accessible for residents, well attended, and provide a clean, marketable stream of Blue Box materials.

Markham maintains the position that strong Blue Box Program participation and diversion requires a convenient collection system, which collects recycling more frequently than garbage. In urban/suburban communities like Markham, where density is increasing and the average home size is decreasing, the useable space to store Blue Box materials is becoming more limited. Obligating the Producers to collect recycling every other week after transition would inconvenience residents and may negatively affect the Producers diversion efforts. Also, to avoid confusion for residents, Blue Box collection days should align with green bin and garbage collection days and should be provided on the same weekly schedule as the other collection services provided by a municipality.

After transition, Producers should service recycling depots that collect Blue Box materials in conjunction with curbside collection. Depots are an excellent source for clean, marketable materials and allow for cost-effective bulk collection.

Markham requests that the obligations for collection after the transition period (2026+) equal or exceed the service standards applicable in transitioning communities on August 15, 2019 including:

- Blue Box collection service frequency should be weekly;
- Blue Box collection days should align green bin and garbage collection days and be collected on the same schedule as other collection services; and
- obligations for depot collection after transition should continue to match the service levels required during transition (i.e. Depot collection is to be included as an eligible source in municipalities that provides curbside collection).

**5. Markham requests a competitive environment for collection service providers**

As outlined in the Draft Blue Box Regulation, Producers can organize and manage the Blue Box material recovery system comprised of collection and processing, or contract with a Producer Responsibility Organizations (or "PRO"s) to do so on their behalf.

Markham requests the Minister of the Environment, Conservation and Parks require a system of multiple service providers to ensure a competitive environment for collection service delivery.

Markham believes a competitive environment for service providers is integral to ensure the successful transition of Blue Box Program responsibility to the Producers while maintaining the strong service levels currently being provided by municipalities.

**6. Markham requests that the Producers be required to provide annual diversion data to municipalities**

Markham contends that successful waste diversion is the result of an engaged community. Municipalities support retaining the ability to accurately measure waste diversion performance and to communicate with their residents on the success of their diversion efforts.

**7. Markham supports the accepted Blue Box materials as defined by the Draft Blue Box Regulation**

Markham strongly supports the Province's move to include an expanded list of products and packaging as designated materials under the Draft Blue Box Regulation. The transitioned Blue Box will include a number of items that many municipal programs do not currently collect, such as rigid and flexible plastic packaging products and certain single use items. These new material categories will expand the range of products that Markham residents can recycle and increase diversion from landfill.

**8. Markham supports the standardization of the Blue Box Program**

Markham has seen increasing consumer confusion concerning Blue Box recycling. Variation in the types of materials accepted in Blue Box Programs across Ontario has fueled this confusion for decades. Markham applauds the standardization of the Blue Box Program as indicated in the Draft Blue Box Regulation, as this should significantly improve our residents' understanding of what can be recycled.

Please refer to Table A, Proposed Amendments for ERO (Environmental Registry Ontario) Number 019-2579 – A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Ontario's Blue Box programs (see Page 7).

The City of Markham would like to thank the Ministry for considering these comments. If you have any questions or would like to discuss further, please contact Phoebe Fu, Director of Environmental Services at [pfu@markham.ca](mailto:pfu@markham.ca)

Sincerely,

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Kimberley Kitteringham  
Director, Legislative Services & Communications  
The City of Markham

Copy to:

Issac Apter, Director of Policy  
Ministry of Environment, Conservation and Parks  
Resource Recovery Policy Branch  
40 St. Clair Avenue West, 8th Floor  
Toronto, Ontario M4V 1M2

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

John Armiento, Manager, Waste Diversion  
Ministry of Environment, Conservation and Parks  
Resource Recovery Policy Branch  
40 St. Clair Avenue West, 8th Floor  
Toronto, Ontario M4V 1M2

Marc Peverini, Senior Policy Analyst  
Ministry of Environment, Conservation and Parks  
Resource Recovery Policy Branch  
40 St. Clair Avenue West, 8th Floor  
Toronto, Ontario M4V 1M2

Table A

**Proposed Amendments for ERO (Environmental Registry Ontario) Number 019-2579**

A proposed regulation, and proposed regulatory amendments, to make producers responsible for operating Ontario's Blue Box programs

Reference (Part #, Section #)	Draft Blue Box Regulation	Recommended Amendments
Part 1, Section 1	<p>“facility” means,</p> <p>(a) a building that contains more than one dwelling unit but that is not a residence,</p> <p>(b) a long-term care home licensed under the Long-Term Care Homes Act, 2007,</p> <p>(c) a retirement home licensed under the Retirement Homes Act, 2010, or</p> <p>(d) a public school or private school under the Education Act;</p>	<p>Add:</p> <p>(e) municipal facilities such as city halls and offices</p> <p>(f) public-facing facilities such as libraries, community centres and arenas</p> <p>(g) recycling depots</p>
Part 1, Section 1	<p>“public space” means any land in any park, playground, or any outdoor area which is owned by, or made available by, a municipality, and that is located in a business improvement area designated under the Municipal Act, 2001 or by a by-law made under the City of Toronto Act, 2006</p>	<p>Change:</p> <p>“public space” means any land in any park, playground, or any outdoor area which is owned by, or made available by, a municipality</p>
Part 1, Section 1	<p>“residence” means,</p> <p>(a) a single-unit residential dwelling, including a seasonal residential dwelling, in an eligible community, or</p> <p>(b) a building that contains more than one dwelling unit but receives garbage collection at the same frequency as single-unit residential dwellings in an eligible community;</p>	<p>Add:</p> <p>(c) small retail businesses located in a business improvement area</p> <p>(d) outdoor area adjacent to a Canada Post super mailbox</p>
Part 4, Section 19	<p>A producer may provide either depot or curbside collection of Blue Box material to residences assigned to the producer under</p>	<p>Delete section.</p>

Reference (Part #, Section #)	Draft Blue Box Regulation	Recommended Amendments
	the annual allocation table that are not required to be provided curbside collection under section 18.	Depot collection is to be included as an eligible source in municipalities that provides curbside collection
Part 4, Section 20	A producer who provides curbside collection shall, (a) collect Blue Box material at least every other week; (b) collect in a single day all Blue Box material set out for curbside collection at an eligible source; and (c) provide Blue Box receptacles for the storage of Blue Box material until it is collected, including, (i) ensuring that each residence has a Blue Box receptacle before the day on which the producer commences collecting from that residence, and (ii) providing at least one replacement Blue Box receptacle each year, to any residence, upon request of a person residing at the residence, provided within one week of the request.	Change: (a) collect Blue Box materials at the frequency they were collected under the eligible community's Blue Box system; Add: (d) collect Blue Box materials on same collection days as green bin and garbage collection days (e) collect Blue Box materials on the same weekly schedule as other collection services provided by the municipality
Part 4, Section 21	A producer who provides depot collection in a municipality, local services board or reserve shall, (a) provide at least as many depots for the collection of Blue Box material as there are depots for household garbage in that municipality, local services board or reserve; (b) ensure the depots for the collection of Blue Box material have operating hours that are at least as accessible as the hours for depots for household garbage in that municipality, local services board or reserve; (c) collect the Blue Box material from the depot before the Blue Box receptacles at the depot are full; and (d) provide Blue Box receptacles for the storage of Blue Box material until it is collected, including,	Change: (a) provide collection for all depots accepting Blue Box materials in that municipality, local services board or reserve where curbside collection is provided; Add: (e) subsidize depot administration and staffing costs at a level that meets or exceeds the current funding levels provided under the <i>Waste Diversion Act</i> (Data Call)

Reference (Part #, Section #)	Draft Blue Box Regulation	Recommended Amendments
	<p>(i) ensuring that each depot has a Blue Box receptacle before the day on which the producer commences operating the depot, and</p> <p>(ii) providing at least one replacement Blue Box receptacle each year, upon request by an operator of a depot, within one week of the request.</p>	
Part 7, Section 48	<p>(1) Eligible communities that are local municipalities and local service boards that are included in the Blue Box Transition Schedule shall register with the Authority, through the Registry, by submitting the following information, on or before April 15, 2021 about the municipality or local services board:</p> <ol style="list-style-type: none"> <li>1. Number of residents.</li> <li>2. A list of residences, including the number and location of each residence, that, <ol style="list-style-type: none"> <li>i. receive curbside garbage collection, or</li> <li>ii. are serviced by depot garbage collection.</li> </ol> </li> <li>3. A list of depots at which garbage is currently collected, including location.</li> </ol> <p>(cont...)</p>	<p>Change:</p> <ol style="list-style-type: none"> <li>3. A list of depots at which <u>blue box materials</u> or garbage is currently collected, including location.</li> </ol>
Blue Box Transition Schedule		<p>Add:</p> <p>Under “Eligible Community” – Markham, City of</p> <p>Under “Transition Year” – 2023</p>