Full producer responsibility: Ontario releases final Blue Box regulation

June 11, 2021

On June 3, 2021, Ontario's Ministry of the Environment, Conservation and Parks released the finalized Blue Box regulation under the *Resource Recovery and Circular Economy Act, 2016* (the RRCEA). The regulation will transition Ontario's blue box recycling program, covering paper products and packaging (PPP) for largely personal, family or household uses to full extended producer responsibility (EPR) starting in 2023.

The final Blue Box regulation follows the consultation process around the draft Blue Box regulation issued in 2020 and confirms the province's commitment to adopting a full EPR model for all of its major waste-diversion programs – the Blue Box being the most challenging among them.

This final regulation shifts to producers the entire financial and operational responsibility for end-of-life PPP, while granting producers greater control over how they collect and manage materials to achieve regulated targets. As full EPR for PPP is novel in North America, with British Columbia launching the first system in 2014, parts of the final regulation were still being considered by the province right up until its issuance.

What's new in the final regulation

Recycled content target reductions omitted

The much-maligned plan to allow individual producers to reduce their management obligations through the use of recycled content in new products or packaging has been omitted in the final regulation. This move does not reject the utility of including recycled content in products and packaging but rather seeks to ensure that such requirements are eventually harmonized with planned federal recycled content standards.

Emphasis on PRO rulemaking

The final regulation overtly favours large producer responsibility organizations (PROs) who enter into agreements to represent individual producers in:

- granting powers to PROs, and not individual producers, to jointly create the initial collection and allocation rules to govern the mandated allocation table;
- limiting access to rule creation to only PROs with at least 10 per cent of the provincial PPP obligation; and
- requiring that rules must be agreed upon by PROs with at least 66 per cent of the combined PPP obligation.

This will create consolidations within the nascent blue box PRO market, which would have otherwise included numerous PROs of varying sizes and industry-orientations.

Reduced Targets

Some of the material management requirements were reduced slightly under the final regulation for one or both of the 2026 and 2030 target dates for paper, rigid plastic and flexible plastic. These targets were revised to reflect “operational realities of collection and management” of PPP in the province. The broader concern was to ensure that the targets could be meaningfully achieved given current waste management capabilities.

What’s unchanged

Uniform provincial blue box standards

To date, each Ontario municipality has had flexibility in the design of waste management programs resulting in a patchwork of different blue box systems across the province. This has caused confusion among users of Ontario’s blue boxes that move between cities for work or leisure. The final regulation will bring clarity by establishing a province-wide common collection system, enhancing and standardizing the list of materials that will end up in Ontario’s blue boxes.

Producer rule-making powers

The final regulation maintains the use of an innovative “allocation table,” to be drafted using the guidelines set by the regulation. The table will determine which producers will be responsible for collecting from which sources, with specific residences, facilities or public spaces allocated to them. Once in force, the allocation tables would have regulatory effect over all producers and PROs in the common collection system who will have to collect from allocated sources.

Inclusion of packaging-like and single-use materials

With a few minor final changes, the final regulation will still address problematic materials such as packaging-like items, including foils, wraps, trays, boxes (but not cling wrap, sandwich or freezer bags) and single-use items such as straws, cutlery, and plates. Packaging-like products, specifically, are very similar to PPP already accepted in the blue box program. However, these items have so far been free riders in Ontario’s blue boxes. Producers will now be obligated to contribute to the cost of managing these materials.

Compostable materials

The final regulation exempts certified compostable materials from collection**,** management and promotion and education requirements. However, producers of these materials will still have to register and report on them. Although the government has expressed an intention to eventually hold producers responsible for compostable materials, the limited measures introduced aim to help it asses how compostable materials can be best managed and diverted from landfill.

Expanding sources of collection

The final regulation will proceed with the planned expansion of blue box services to additional sources such as multi-unit residential buildings, schools, some public spaces, retirement homes and communities outside the far north. The regulation will not, however, require producers to collect materials from the industrial, commercial and institutional sectors, such as retailers, restaurants, and other businesses, with the exception of beverage containers.

Transitional provisions

Finally, Ontario has also amended O. Reg. 101/94 under the *Environmental Protection Act,* as planned, to require any municipality that operates a blue box system to continue providing their services until they transition to full producer responsibility. In October 2020, the province also announced an intention to implement an administrative monetary penalties regulation under the RRCEA to provide an additional compliance tool but a draft regulation has yet to be introduced.

Key takeaways

Since 2002, Ontario has operated a shared responsibility framework for EPR for residential PPP, with municipalities and producers each bearing half the net cost of municipal blue box programs as well as the program deliverables. This makes full EPR a challenging exercise in decoupling this long-standing joint initiative. The final regulation, however, confirms Ontario's bold commitment to adopting full EPR for all of its waste-diverted materials, with transitions starting in 2023. It is hoped, by industry and municipalities alike, that the new system will cure many of the headaches of the previous one.

Given the unresolved issue of plastic pollution, Ontario's stagnating recycling rates and the ongoing public engagement around single-use plastics, the final Blue Box regulation provides an important update to a system ready for a change. The new EPR system will be a leader of its kind in North America and, in the coming years, is likely to deliver many insights regarding the effectiveness of the policy sought to be implemented.

BLG's Jonathan Cocker co-wrote this article with Denisa Mertiri, principal at Green Earth Strategy.

By

Jonathan Cocker, Denisa Mertiri

Expertise

Environmental

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.