

Appendix 1: Assessment of how Niagara Region's comments on the draft Residential Blue Box Regulation were addressed in O.Reg. 391/21: Blue Box

The table below provides an overview of Niagara Region's previous comments on the draft Blue Box regulation and how our comments were addressed. A subset of the comments maybe addressed at a later point and/or in another policy/regulation (e.g. designating certified compostable products and packaging, collection from public facing municipal buildings, compliance and enforcement measures, etc.).

Key Sections in Regulation	Comments on Draft Regulation	Status	Final Regulation
S.19 S.28 S.29 S.30	The regulations should include a requirement for producers to provide collection from community events held in public spaces where there may be a need for receptacles or an increase in receptacles.	Not addressed	<p>Every producer responsibility organization is required to establish and operate a collection system for public spaces for which they have agreed to provide services.</p> <p>The producer is required to: provide a certain number of Blue Box receptacles in public spaces, determined by a prescribed equation; ensure receptacles are appropriate (size, durability, signage; repair or replace damaged containers; and locate receptacles at exit and entry points for parks and playgrounds. While there is a requirement that the receptacle must be collected at a frequency that would normally result in the materials being collected before the container is full, there are no other specifications about when collection should occur.</p> <p>There are no requirements for collection from community events in the regulation.</p>

Key Sections in Regulation	Comments on Draft Regulation	Status	Final Regulation
S.1 S.4 S.19 S.28 S.29 S.30	Niagara Region supports the inclusion of multi-residential properties, facilities, schools and public spaces as eligible sources; however, Niagara Region also currently provides collection to small to medium industrial and commercial buildings and at a minimum the proposed regulations should include public facing municipal buildings such as libraries, community centres etc.	Not addressed	<p>Eligible source in the final regulation means any residence or facility. Facility has been defined to include multi-residential dwellings, non-profit retirement homes, non-profit long-term care homes and public or private schools. Industrial and commercial properties and public spaces are not included as eligible sources. Public facing municipal buildings are not a source that producers are required to include in their collection systems.</p> <p>Although, public spaces are not eligible sources, they are still an obligation under the legislation. Starting January 1, 2026, producers must collect Blue Box material from public spaces in each eligible community in which an eligible source is allocated to the producer. During the transition period, the producer will provide Blue Box receptacles in the same public spaces and in the same quantity as were provided in that eligible community under the WDTA Blue Box program.</p>
S.1 S.28 S.30	The regulations should include a requirement for producers to provide twinning of recycling receptacles at existing garbage street litter receptacles outside Business Improvement Areas (ex. at bus shelters).	Partially addressed	The definition of public space has been revised in the final regulation to mean an outdoor area in a park, playground or sidewalk or a public transit station or stop. This is an expansion on the draft definition which only included Business Improvement Areas. However, the final regulation does not include the requirement that Blue Box receptacles be placed next to every receptacle for garbage at the public space, as it did in the draft regulation.

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S.1	Niagara Region supports the expanded list of designated material to include materials such as straws, cutlery, wraps, laminated packaging etc., however, is not supportive of the exclusion of soft cover and hard cover books. Soft cover books and hard cover books (with cover removed) are currently accepted in Niagara Region's Blue Box program and should continue to be diverted through re-use or recycling.	Not addressed	Soft cover and hard cover books are excluded from the list of designated material. Straws, cutlery, wraps and laminated packaging are still included in the list of designated material (i.e. Blue Box material). Packaging-like products (e.g. saran wrap) are not included in the list.
S.22(c)(i)	A product designed for the containment of waste is not included in the list of proposed designated materials and although the proposed regulations specify that producers must replace receptacles used for the storage of material at least once a year upon request, it does not include language around the responsibility of producers to collect and recycle broken and/or damaged receptacles. Niagara Region recommends that wording in the proposed regulations be added to ensure producers are responsible for the collection of any broken and/or damaged receptacles and recycling same.	Not addressed	The regulation has been revised to require producers to repair or replace any damaged Blue Box receptacle upon request of a person residing at the residence, within one week of the request. It does not specify that the producers are responsible for collecting or recycling the damaged receptacles.

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S.2 S.5 S.6	Niagara Region requests the Province designate all packaging, whether it is recycling or compostable. Producers should pay for management of designated materials regardless of the stream in which they end up.	Not addressed	Certified compostable products and packaging have been removed from the list of Blue Box material. As specified in Section 6, only Blue Box material is included a designated class of material. Further, Section 5 states that Parts III – VII of the regulation do not apply to Blue Box material in the certified compostable products and packaging material category and Blue Box material in the certified compostable products and packaging material category shall not, be included in the determination of weights made by the Authority; be used for the allocation of eligible sources to producers in an allocation table made under Part III; be registered as a material category for an alternative collection system under Part V; be used for the calculation of a management requirement under Part VI; or give rise to promotion and education obligations under Part VIII.
S.42	Similar to the diversion targets set out for other materials in the proposed regulations, targets for compostable materials should also be included.	Not addressed	Diversion targets for compostable materials were not included in the regulation

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S.2	Fibre such as paper products intended for hygienic use (paper towels) diverted as part of the organics stream or other obligated/targeted materials diverted through other systems should be an eligible program cost for which municipalities should receive payment and appropriate targets/measurements should be developed.	Not addressed	Blue Box material does not include health, hygiene or safety products that, by virtue of its anticipated use, becomes unsafe or unsanitary to recycle.
S.1	Niagara Region recommends... the definition of compostable materials is refined to ensure that materials such as fibre-based products like newspaper, drink trays and take away containers that can be recycled are excluded from the definition of compostable materials.	Addressed	The definition of certified compostable products and packaging was revised in the final regulation. The definition now states that it means material that is <u>only</u> capable of being processed by composting, anaerobic digestion or other processes that result in decomposition by bacteria or other living organisms. Based on this wording, materials that can also be recycled would be excluded from the definition of certified compostable products and packaging.

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S.22	Niagara Region supports the continuation of curbside services to those municipalities currently receiving curbside service; however, is concerned with the requirement to provide collection at a minimum of every-other-week. If a producer choses to collect recycling every-other-week after January 1 2026, it would be a reduction in service to Niagara Region residents. A reduction in service could result in designated material being placed in other waste streams collected by Niagara Region. As mentioned, producers should pay for the management of the material anywhere in the waste management system.	Not addressed	The final regulation maintained the requirement for producers to collect Blue Box material from the residence at least every other week.
S.32, S.33	Consumer convenience should be maintained or improved, and access to existing services should not be negatively impacted by any changes to Blue Box program. Niagara Region has concerns that alternatives to the common collection system may result in a decrease in convenience and or negatively impact access to services.	Not addressed	Alternative collection systems are still included as an option for producers to use for one or more material categories of Blue Box material

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S.21 S.22	After January 1, 2026, the proposed regulations removes the requirement for producers to provide depot collection in communities that provide curbside collection. Niagara Region supplements curbside collection with depots and are regularly used by residents including seasonal properties who may return to their primary residences prior to their curbside collection day. If Blue Box material is changed to every other week collection, more seasonal residents may use depots to properly dispose of designated materials.	Not addressed	Producers are not required to provide depot collection in communities that provide curbside collection. If a producer is allocated an eligible source that is a residence that does not receive curbside garbage collection, the producer may provide either depot collection or curbside collection of Blue Box material for that residence.
S.36 S.42	Niagara Region encourages inclusion of positive incentives to go beyond minimum targets in addition to penalties for producers not meeting targets. Incentives supporting the use of secondary materials over virgin material such as tax incentives or other financial benefits would support and recognize producer efforts. Targets should be re-assessed on a pre-defined schedule and progress monitored to ensure continual improvement.	Not addressed	<p>The regulation does not include incentives to go beyond minimum targets. There are no penalties, compliance or enforcement measures for not meeting targets. However, for alternative collection systems, if a producer does not meet its management obligation for that material category using only the alternative collection system twice in a three-year period, the registration for that system will be revoked.</p> <p>There is no schedule in the regulation for re-assessment of the targets.</p>

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S.42	Niagara Region's position is that individual sectors should have their own measurable targets and metrics (Low Density Residential, IC&I and Multi-Residential). To increase program effectiveness, Niagara Region supports individual recovery targets for individual materials rather than the six categories proposed in the regulations.	Not addressed	The recovery targets set out in the regulation are not sector-specific and are not broken out into individual materials, only the six material categories.
S.40	Niagara Region has concerns regarding the proposed recycled content credits and the producers' ability to reduce targets by using recycled content. The concern is some products like glass, aluminum already include recycled content and this could be incenting producers who already made this business decision and recycled content is difficult to verify.	Addressed	The formula for calculating the management requirement for a material category has been revised in the final regulation. The weight of recycled content and the redistribution factor are no longer incorporated into the equation.

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	To reduce financial impact on any municipalities who do not transfer in the early phase, payment of net verified costs (actual municipal costs) from Stewardship Ontario (SO) should be increased to 75% in year one increasing annually until transition is complete, through authority by the Minister. Niagara Region also does not support application of in-kind advertising (funding) for newspapers for either non-transitioned or transitioned municipalities.	Not addressed	Funding increases during transition are not addressed in the regulation.

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	<p>Transition plans for the Blue Box program must address municipal contracts and assets and how to avoid stranded assets. Transition to a producer responsibility regime could lead to Niagara Region's Recycling Centre becoming a stranded asset depending on the strategies put forth to achieve producer responsibility. The transition plan must clearly address provision of fair market compensation for stranded municipal assets. Provisions for maximizing use of existing infrastructure should be included. For example, the plan should clearly incentivize use of existing facilities or otherwise potentially stranded assets (i.e. equipment, rolling stock, carts and boxes) and/or any amortized capital costs that extend beyond the transition date, should be factored into considerations for municipal compensation.</p>	Not addressed	Stranded assets are not addressed in the regulation.
S.67	<p>Performance audits for producers are required every three years under the proposed regulations. Niagara Region recommends that they be annually similar to the Beer Store and LCBO.</p>	Not addressed	<p>The audit frequency has not changed in the final regulation. Producers are required to cause an audit to be undertaken every three years.</p>

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	The municipal Blue Box requirements set out in Regulation 101/94 should be removed when municipalities transition.	Addressed	Ontario Regulation 101/94: Recycling and Composting of Municipal Waste was amended to require any local municipality that operates a Blue Box program as of August 15, 2019 to continue to provide the service until the municipality's Blue Box program has transitioned to producer responsibility under this new regulation. Requirements that a local municipality operate a Blue Box program would be fully repealed by 2026.