

Proposed Regulatory Framework for Waste Electrical and Electronic Equipment (WEEE) and Batteries under the *Resource Recovery and Circular Economy Act, 2016*

February 6, 2019

Thank you for the opportunity to provide feedback on the proposed regulatory framework for Waste Electrical and Electronic Equipment and Batteries. This submission is on behalf of Association of Municipalities of Ontario, City of Toronto, Regional Public Works Commissioners of Ontario and the Municipal Waste Association.

Background

Waste Electrical and Electronic Equipment (WEEE) is one of the most rapidly growing waste streams. In the European Union, it is expected to grow by 3-5% per year to more than 12 million tonnes by 2020.¹ The short lifespans and designed obsolescence of the original products, combined with the toxic components of Electrical and Electronic Equipment (EEE), make responsible management increasingly challenging. This is of particular concern for municipalities as we are often the backstop to ensuring waste is managed properly and does not cause environmental concerns.

Property taxpayers should not be responsible to manage and co-fund a recycling system when they have no influence over the types of materials entering the waste stream, nor do they have the means to create new end markets for recovered WEEE. Municipal governments support provincial policies that assign responsibility to those that can most effectively and efficiently drive change – the producer. As many other jurisdictions have done successfully around the world,² producers should be made fully responsible to collect and ensure their materials are properly recycled.

Shifting this responsibility to producers will create economic opportunities, incent innovation, improve our environment, and reduce the burden on Ontario's taxpayers. Producers are in the best position to communicate directly with consumers about whether their materials can be recycled and to decide how to best collect them. They are also best informed to invest in the recycling collection and processing system necessary and to create markets to support their end use. This means making producers directly responsible for ensuring accessibility for all Ontarians, continually improving both collection and recycling outcomes, allowing for competition to drive innovation both at the service provider and producer level and ensuring transparency and direct accountability.

Globally, many corporations recognize that they're in the best position to drive change to address this issue, rather than burdening property taxpayers.

Core Principles

Municipalities have applied the following core principles in developing a proposed regulatory framework under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA):

¹ European Commission. *Waste Electrical and Electronic Equipment*. Available online at http://ec.europa.eu/environment/waste/weee/index_en.htm.

² OECD, *Extended Producer Responsibility: Updated Guidance for Efficient Waste Management*, 2016. Available at <http://www.oecd.org/development/extended-producer-responsibility-9789264256385-en.htm>.

- **Producers have full financial and operational responsibility for their products and packaging at end-of-life** – Assigning these responsibilities to producers aligns with the Provincial direction of making polluters accountable and will support development of an effective and efficient system.
- **Producer delivered efficient and effective services that meet consumer needs.** Programs need to be balanced and deliver cost effective programs that meet high recycling targets.
- **Continual improvement related to economic and environmental outcomes and program accessibility.** The regulation should seek to improve both environmental outcomes by minimizing waste generation and protecting the natural environment, and also economic outcomes by encouraging open competition, market stability, and enhancing the economic value of recovered materials. Programs should be accessible across the Province including rural, northern and remote communities.
- **Greater accountability & transparency.** The Provincial government should establish the outcomes, ensure clear definitions of obligated products and ensure proper oversight through the Resource Productivity and Recovery Authority. While it is important for all stakeholders to provide input on the regulation, the Province should be the final arbitrator by setting the outcomes clearly in the regulation. Accurate, transparent and independently verified reporting is necessary from service providers, producers, and producer responsibility organizations to ensure materials are being properly collected, processed and reutilized.

Key Elements of WEEE Regulation

This proposal for a regulatory framework for WEEE under the RRCEA has been prepared as a discussion document and outlines the key considerations municipal governments believe are important in developing a regulation. It is not legal advice.

The framework, which sets out the core elements of a regulation, is based on a review of the other RRCEA producer responsibility regulations in Ontario, and other jurisdictions and key documents related to the current the WEEE program.

There are eight core elements that should be addressed in a WEEE regulation including:

1. Designating material
2. Defining Responsible Persons
3. Defining registration requirements
4. Defining collection responsibilities
5. Defining management responsibilities
6. Reporting, auditing and record keeping requirements
7. Defining promotion and education responsibilities
8. Defining waste reduction and product design responsibilities

1. Designating Materials

Municipal governments are supportive of a broad and inclusive list of designated WEEE as is currently included in Schedules 1 through 7 of [Regulation 389/16 under the Waste Diversion Transition Act, 2016](#) (see Appendix A). However, Ontario's current WEEE program is only collecting a subset of these items and the list's complexity makes it difficult for consumers to understand what is acceptable for recycling

in the program. Including all of these products makes sense from an economic and environmental perspective as all of these materials pose potential environmental risks at the end-of-life and expanding recovery of these materials opens up investment opportunities in the resource recycling industry.

The current approach adds unnecessary administrative costs as the program needs to ensure non-obligated materials are not included. By adding all products with a current similar to that adopted in the 2012 EU WEEE Directive³ and similar to the current Schedules 1 through 7, the government can help reduce overall program administrative costs and consumer confusion, while at the same time improving economic and environmental outcomes through improved economies of scale.

Municipal governments support the inclusion of single use and rechargeable batteries in this Regulation. Similar to our comments above, we would encourage the government to include a broad and inclusive list of single use and rechargeable batteries to avoid confusion for consumers and to ensure as high a percentage as possible of these materials do not end up in disposal systems.

2. Defining Responsible Persons

The new WEEE regulation should focus responsibility on those that can most effectively and efficiently drive change. Municipal governments recommend a similar approach to that used to define responsible persons in the [Used Tires Regulation \(O.Reg. 225/18\)](#) be taken by incorporating a cascading approach to identify the responsible person(s).

We recognize the challenge of identifying Responsible Persons who retail products without a legal residence or physical presence in Ontario. The Used Tire Regulation provides a starting point to address this important issue. It is a global issue and as such the Ministry could also look to incorporate the best practices identified in the OECD's latest report entitled 'Extended Producer Responsibility (EPR) and the Impact of Online Sales.'⁴

3. Defining Registration Requirements

Registration with the Resource Productivity and Recovery Authority (RPRA) is a critical element of the regulation, as it allows the RPRA to properly oversee the management of these materials based on the outcomes established. Each of the participants (e.g. producers, producer responsibility organizations, and both private and public collectors, haulers and processors) are part of a chain that produces, collects, sorts, processes and recycles recovered WEEE. Therefore, all designated producers, producer responsibility organizations and both private and public service providers (collectors, haulers and processors) should be required to register.

Producers should be required to register well in advance of the collection and management requirements coming into force and submit information, at a minimum in the following areas: general contact information, designated products supplied into Ontario, description of how collection, management and other responsibilities will be fulfilled, and information on whether the organization is working with a producer responsibility organization (PRO).

PROs should also be required to register with RPRA after being retained by a producer and submit information, at a minimum in the following areas: general contact information, designated materials being managed, description on how collection, management and other responsibilities will be fulfilled

³ European Commission. *Waste Electrical and Electronic Equipment* (4 July 2012). Available online at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0019>.

⁴ Available at [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC/WPRPW\(2017\)2/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC/WPRPW(2017)2/FINAL&docLanguage=En).

and how materials will be allocated among members, data on the designated products supplied into the market, and a description of how they will engage the market in a manner that is consistent with the OECD Competition Checklist.⁵

All WEEE collectors (with the exception of a municipality or the Crown in right of Ontario) and every WEEE processor should also register with the RPRA through the Registry and submit information, at a minimum in the following areas: general contact information, designated materials being managed, description of other WEEE service providers that the entity is working with including location data, and information on capabilities.

4. Defining Collection Responsibilities

It is essential to ensure consumer accessibility to WEEE collection sites across the Province. We recognize this is one of the key challenges under the RRCEA as the responsibility for collection lies with individual producers and/or their representative PROs. The regulation must also ensure that consumer accessibility is provided in smaller rural, northern and remote communities.

A similar approach to the accessibility requirements in the Used Tires Regulation should be considered. By ensuring collection sites are included in all municipalities and by taking into consideration population density factors.

The regulation should not require municipalities to collect WEEE, but they should retain the right to collect if they wish to be a service provider for the collection of WEEE materials.

Accessibility targets should also be accompanied by high weight-based collection targets. While there is certainly some debate about the ever-evolving weight of these products as they get increasingly smaller and more lightweight, we do not foresee a replacement metric other than weight that could practically be used in the near term. For products already included in the current program, weight-based targets should be established in a similar manner to tires based on a rolling average, potentially with a light-weighting factor and continual improvement based on current performance. For products that would be newly added and for which the government does not have current data it would make sense to utilize per capita targets based on information from similar jurisdictions that include those materials. Once adequate data for these products is captured the targets should be moved to weight-based targets based on a rolling average, a light-weighting factor, if necessary, and the need for continual improvement.

Given the toxic components associated with WEEE and the environmental risk posed if it is improperly disposed of, there should be consideration of a backstop collection provision within the regulation for existing municipal collection sites, especially given the current volumes that flow through municipal sites. The Province provided a similar provision in the Used Tire Regulation for sites owned by the Crown. If a municipality refuses to accept designated WEEE there is a risk that it will end up being improperly disposed and posing environmental risk.

5. Defining Management Responsibilities

Management requirements established in the regulation should ensure that all the materials collected through the collection system are properly managed. This is extremely important given the concerns about the management of WEEE including a recently released report by Basel Action Network on the 'Export of e-Waste from Canada: A Story as Told by GPS trackers.'⁶ Municipalities are not experts on

⁵ Available at <http://www.oecd.org/competition/assessment-toolkit.htm>.

⁶ Available at http://wiki.ban.org/images/8/8b/Export_of_e-Waste_from_Canada_-_A_Story_as_Told_by_GPS_Trackers.pdf.

the various WEEE management certification systems but would encourage the government to establish or utilize an existing rigorous standard that ensures materials are managed in an environmentally sound manner and that materials are re-utilized to their highest use to maximize economic outcomes.

A minimum recycling target should be set for each product type and calculated through a transparent methodology. The targets should act as a minimum requirement rather than a ceiling and progressively increase over time. This is in addition to the collection target as it measures the percentage of materials collected that are actually reutilized.

The regulation should also ensure that reuse is promoted while taking into consideration any issues related to the potential for improved energy efficiency in newer technologies and products.

6. Reporting, Auditing and Record Keeping Requirements

Municipal governments appreciate how important it will be to collect and track data to measure progress towards objectives and to promote continuous improvement. Similar to the Used Tires Regulation, the government should consider exempting municipalities from registering as collection sites. Otherwise, other key participants should be required to register and supply data specified in the WEEE Regulation including brand holders (defined as “a person who owns or licenses a brand or who has rights to market a product under the brand”), service providers including collectors, haulers, and processors do the same, in order to provide additional oversight and compliance to recycling standards.

The regulation should, at a minimum, require all producers and PROs to provide an annual mass balance report and record keep on:

- The total quantities (units and weights) of WEEE supplied into the market by product type;
- The number and calculated weight of WEEE, for each WEEE type (including components), that were reused;
- The weight of processed materials, by product type, that resulted from the processing of WEEE;
- The number and calculated weight of WEEE and the weight of processed materials that were land disposed, incinerated, used as a fuel or a fuel supplement, or stored, stockpiled, or otherwise deposited on land;
- Information on all collection sites, haulers and processors utilized;
- Promotion and education efforts made; and
- Other information required by the RPRA.

All registered service providers should be required to report and record keep on:

- A description of WEEE that they are managing;
- Details on the management of inbound and outbound units and weights of WEEE, for each WEEE type, and how it was managed from WEEE sourced in Ontario and outside of Ontario;
- Information on all collection sites, haulers used;
- Information on how the person/entity is fulfilling or plans to fulfil its responsibilities;
- Promotion and education efforts made; and
- Other information required by the RPRA.

7. Defining Promotion and Education (P&E) Responsibilities

Promotion and education requirements should be established in the regulation both for private and public service providers, producers and producer responsibility organizations.

All producers or PROs should be required to implement a promotion and education program which, at a minimum, includes publishing and clearly displaying the following information on their website and distributing in print or other media that is widely accessible to consumers (i.e. radio, television, social media campaigns, etc.):

- Details on what types of WEEE can be recycled and what cannot; where it is collected in Ontario; and
- Annual information on consumer awareness of what WEEE is reusable and recyclable and the opportunities associated with reusing and recycling it.

All WEEE service providers (collectors, haulers and processors) should be required to implement a promotion and education program by, at a minimum, publishing and clearly displaying operational information on proper handling, on the types of WEEE that can and cannot be reused and recycled and where WEEE is collected. The information should be on their website and distributed in print or other media in an accessible format.

Municipalities are supportive of the approach taken on visible fees within the Used Tire Regulation which allows for consumer transparency and flexibility for the producer.

8. Defining waste reduction and product design responsibilities

Consider a requirement or incentive for reduction or reuse initiatives (i.e. supporting consumer repair), that producers can use to contribute toward their targets. Municipal governments are supportive of the general themes and direction of waste reduction and product design initiatives the Ministry included in their consultation document. Additionally, we should be encouraging use of less toxic materials as well as less rare earth components. Recovery targets for mined materials in very scarce and finite supplies should be considered as well as design for re-manufacturing and disassembly.

Appendix A:

Regulation 389/16 under the *Waste Diversion Transition Act, 2016*

| Schedule | Materials Captured |
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| Schedule 1: Household appliances | Air purifier, Air conditioner, Answering machine, Barbeque starter, Blender, Bottle or can dispenser, Can opener, Carpet sweeper, Clock, Clothes dryer, Clothes washer, Coffee grinder, Coffeemaker, Curling Iron, Dehumidifier, Dishwashing machine, Electric hot plate, Fan, Food processor, Freezer, Fryer, Glue gun, Hair dryer, Heat gun, Heater, Hot drink dispenser, Humidifier, Iron, Kettle, Knitting machine, Microwave oven, Mixer, Radiator, Razor, Refrigerator, Scissors, Sewing machine, Slicing machine, Solid product dispenser, Stove, Toaster, Toaster oven, Toothbrush, Vacuum cleaner, Vacuum sealer, Watch, Water purifier, Weaving machine, Weigh scale |
| Schedule 2: Information technology equipment | Analog computer, ATM, Bar code scanner, Calculator, CD-ROM drive, Computer disk drive, Computer keyboard, Computer mouse, Computer terminal, Copier, Joystick, Mainframe computer, Microcomputer, Minicomputer, Monitor (CRT/LCD/Plasma), Personal computer (Desktop/Handheld/Laptop/Notebook/Notepad), Personal digital assistant, Point of sale terminal, Printer, Computer Router, Computer flatbed scanner, Typewriter |
| Schedule 3: Telecommunic ations equipment | Antenna (transmitting or receiving), Broadcast equipment (including studio) for radio or television, Cable television transmitting or receiving equipment, Citizens' band radio, Closed circuit television equipment, Fax machine, Global positioning system, Infrared wireless device, Intercom system, Local area network communication equipment, Modem, Pager, PBX (private branch exchange), Satellite television transmitting or receiving equipment Switching equipment, Telephone (cellular/cordless/wire line), Telephone answering machine, Telephone carrier line equipment, Telephone carrier switching equipment, Telex machine, Traffic signal, Wide area network communications equipment |
| Schedule 4: Audio-visual equipment | Amplifier, Audio player (tape, disk, digital), Audio recorder (tape, disk, digital), Camera (film, tape, disk, digital), Equalizer, Headphone, Microphone, Mixing board, Musical instrument, Preamplifier, Public address system, Radio, Receiver, Speaker Television (CRT/LCD/Plasma/Rear projection), Tuner, Turntable, Video player or projector (tape, disk, digital), Video recorder (tape, disk, digital) |
| Schedule 5: Toys, leisure equipment and sports equipment | Action figures and accessories, Arts, crafts, or hobby device, Building set, Doll, Game or puzzle, Infant or preschool toy, Learning or exploration toy, Outdoor or sports toy, Plush toy, Vehicle, Video game and accessories |
| Schedule 6: Electrical and electronic tools | Blender, Blower, Cutter, Dispenser, Drill, Fastener, Folder, Grinder, Hammer, Joiner, Lathe, Lawn mower, Mill, Nail gun, Nibbler, Planer, Polisher, Punch, Riveter, Router, Sander, Saw, Screwdriver, Shear, Soldering gun, Sprayer, Spreader, Staple gun, Trimmer, Vacuum, Welder, Wrench |
| Schedule 7: Navigational, measuring, | Alarm system, Analyzer, Automatic environmental controller or regulator, Cardiology equipment, Dialysis equipment, Drafting instrument, Fertilization tester, Fire detection and alarm system, Freezer, Hearing aid, |

| Schedule | Materials Captured |
|--|---|
| monitoring, medical, or control instruments | Heating regulator, Humidistat, Instrument for industrial process control, Irradiation equipment, Laboratory analytical instrument, Laboratory equipment for in-vitro diagnosis, Medical equipment, ultrasonic, Medical radiation therapy equipment, Meteorological instrument, Meter, Nuclear medicine equipment, Oscilloscope, Process controller, Pulmonary ventilator, Radiation detection or monitoring instrument, Radiotherapy equipment, Refractometer, Scanner (CT/CAT, MRI, PET), Smoke detector, Soil testing or analysis instrument, Surgical support system, Surveying instrument, Temperature instrument, Thermostat |