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Krista Friesen
Ministry of the Environment, Conservation & Parks
Resource Recovery Policy Branch
40 St. Clair Avenue West, 8th floor
Toronto, ON
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Dear Ms. Friesen:

RE: Proposed Regulations for Recycling of Electrical and Electronic Equipment (EEE) and Batteries under the *Resource Recovery and Circular Economy Act*, 2016 – ERO 019-0048

The Association of Municipalities of Ontario (“AMO”), the City of Toronto, the Regional Public Works Commissioners of Ontario (“RPWCO”) and the Municipal Waste Association (“MWA”) collectively submit these comments on behalf of municipal governments regarding ERO Registry 019-0048 on the proposed regulations for recycling of electrical and electronic equipment (EEE) and batteries under the *Resource Recovery and Circular Economy Act*, 2016 (RRCEA). We appreciate the opportunity to provide comments on these regulations.

Summary of Recommendations:

- Continue to support transition of all Ontario’s waste diversion programs over to full producer responsibility under the RRCEA.
- Support the broad and inclusive list of designated EEE that is currently included in Schedule 1 of the draft EEE regulation and section 2(b) of the batteries regulation; however, recommend that toys be included in the program as they are in British Columbia.
- Microwaves, fans, light fixtures, and vacuums should be properly categorized under the small appliance category.
- The Province should establish collection and a recycling efficiency target for small appliances including microwaves, fans, light fixtures, and vacuums. It is understood that the government does not have data on products supplied in the market, however, this can be overcome by:
 - Establishing collection targets with the same accessibility requirements as other EEE; and,
 - Establishing a recycling efficiency target that ensures the products collected are properly managed similar to other EEE.

- Management targets in the first year should be established at levels that at least meet current performance for the first year with continued improvement sought in future years.
- Municipal collection sites with existing Ministry of Environment, Conservation and Parks (MECP) approvals should be excluded from section 10 (1) 5.
- The regulation should not stipulate the need to collect EEE categories separately.
- Promotion and education requirements should come in all media forms, including print, radio, and digital, to increase accessibility to program information.
- Additional forms of interim auditing within the first year would help to ensure the right market conditions are established at the onset of the program.
- It would also be helpful to ensure the regulation on administrative monetary penalties is enacted as soon as possible to ensure all participants understand the consequences of failing to comply.
- Commend the Province on including a provision that incents the incorporation of recycled content, and encourages repair and product longevity through product warranties.

Importance of the RRCEA:

Municipalities continue to support the Province in its efforts to move all of the current programs under the RRCEA. As mentioned in our previous submissions, the RRCEA ensures transparency, focuses on outcomes over process, places responsibility on the party most able to affect change, provides producers with flexibility in decision-making, and ensures proper oversight and enforcement. It also moves us away from a process that requires constant government intervention. Moving both EEE and batteries over to the RRCEA is an important step forward.

EEE 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 EEE, make responsible management increasingly challenging. This is of particular concern for municipalities as we are often the backstop to ensure waste is managed properly and does not cause environmental concerns.

It is also an increasing health and safety concern for municipalities and other waste management operators given the growing prominence of lithium ion batteries that can cause fires if not properly managed. A number of recent reports related to fires in transfer stations and material recovery facilities across North America, show a steadily increasing amount of these fires are caused by lithium ion batteries².

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

² January 17, 2018. Waste Dive. "At least 289 North American Facilities Suffered Fires in 2017." Available online at <https://www.wastedive.com/news/north-america-facility-fires-2017/514855/>, and SBWMA MRF Survey, EPA https://www.epa.gov/sites/production/files/2018-03/documents/timpaine_epa_li_slides312_ll_1.pdf.

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 EEE. Municipal governments support provincial policies that assign responsibility to those that can most effectively and efficiently drive change – the producer.

Shifting this responsibility to producers will create economic opportunities, incent innovation, improve our environment, and reduce the burden on Ontario's taxpayers. Globally, many corporations recognize that they are in the best position to drive change to address this issue, rather than burdening property taxpayers.

Producers are in the best position to communicate directly with consumers about whether their products and packaging can be recycled and to decide how to best collect them. They are also best informed to invest in the recycling collection and processing systems 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.

Continued Progress (Products Designated, Targets):

Ontario remains behind its target to reach 30% waste diversion by 2020.³ The Province should look at every opportunity to enhance current diversion activities. For these proposed regulations, that means the addition of new EEE and batteries categories as well as continued improvement on current diversion targets.

Municipal governments support the broad and inclusive list of designated EEE that is currently included in Schedule 1 of the draft EEE regulation and section 2(b) of the batteries regulation; however, we recommend that toys be included in the program as they are in British Columbia. Toys are being increasingly found at municipal recycling facilities, which pose issues as they often contain lithium batteries.

Currently, Ontario's EEE 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. Including all of these products makes economic and environmental sense as all of these materials pose potential environmental risks at the end-of-life. Expanding recovery of these materials also opens up investment opportunities in the resource recycling industry.

The current approach adds unnecessary administrative costs as the program needs to ensure that non-obligated materials are not included. Adding all products with a current, similar to that adopted in the 2012 EU WEEE Directive⁴ and similar to the current Schedules 1 through 7, would help reduce overall program administrative costs and consumer confusion. At the same time, it would improve economic and

³ The latest data from Statistics Canada is 26% diversion, 4% behind its 2020 target.

⁴ 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>.

environmental outcomes through improved economies of scale. The same applies to the inclusion of all batteries in this regulation.

We recognize that the government will potentially be pressured to exclude certain products as they may already have functional markets. Municipalities urge the government not to exclude categories of EEE or batteries. The pace of change-related product design especially related to EEE and batteries and the fluctuation in commodity markets necessitates proper oversight of the collection and management of these products.

Municipal governments also recommend that the Province establish collection and a recycling efficiency target for small equipment including microwaves, fans, light fixtures, and vacuums. While we understand that the government does not have data on products supplied in the market, this can be overcome by:

- Establishing a collection target with the same accessibility requirements as other EEE; and,
- Establishing a recycling efficiency target that ensures the products collected are properly managed similar to other EEE.

Once proper data is collected in the first few years, a management target can be established in the regulation. Municipalities receive a significant amount of these products already and it makes for a much simpler message to the consumer⁵. There is also ample processing capacity given the current light-weighting of information technology, telecommunication and visual equipment.

For EEE and batteries already collected in current stewardship programs, the management targets in the new regulations appear to be established at a level lower than current performance. Municipalities would urge the government to establish these targets at levels that at least meet current performance in the first year with continual improvement sought in future years.⁶

EEE Collection Sites:

The current requirements for collection sites in the draft EEE regulation requires municipal collection sites to require that if the site receives more than 15 units or 150 kilograms of EEE from a person on a single day, the operator of the site must record the person's name, contact information, any unique identifier assigned by the Registrar and the amount of EEE accepted. Municipalities understand the rationale for these requirements based on the potential for fraud; however, these requirements are impractical and unnecessary for municipal collection sites. Municipal collection sites are set up to manage a range of waste from the public and ensure that it is properly managed. These sites can be rudimentary as they are in areas without other options and can be extremely busy.

⁵ One municipality reports that ~ 13% of EEE being collected is non-program related.

⁶ High targets are necessary as accessibility targets may not be enough to drive diversion. A recent study by a rural municipality indicated that less than 1% of respondents were willing to drive more than 30 minutes to drop off their EEE materials.

The Ontario Electronic Stewardship (OES) program has had no concerns about fraudulent activities at municipal collection sites in part due to the requirements imposed on them through Environmental Compliance Approvals (e.g. limits waste to residential from the surrounding community).

The risk that municipalities will systematically collect non-eligible EEE or batteries in material quantities is extremely low as it implies a significant degree of collusion with a third party. It is highly unlikely that a third party would incur costs to transport ineligible EEE or batteries to a municipal collection site in material quantities without any financial compensation. Municipalities are simply not in the business of trafficking in EEE or batteries and paying out-of-territory haulers to falsely increase municipal collections. The regulation should exclude municipal collection sites with existing MECP approvals from section 10 (1) 5.

Further the regulation should not stipulate the need to collect EEE categories separately. This may create issues for sites with limited space available. Products like small appliances, information technology, telecommunications and audio visual equipment may already be collected together.

Promotion and Education:

Some municipal governments are concerned that promotion and education efforts done solely through electronic means on websites will limit awareness for some consumers, particularly those in rural, northern and remote communities. Many of these communities do not have access to broadband internet service providers and their ability to access data electronically is limited. Only using digital communication would also limit awareness in households without computers or internet access. Promotion and education requirements should come in all media forms, including print, radio, television and digital, to increase accessibility to program information.

Reporting, Auditing and Record-Keeping:

Municipal governments appreciate how important it will be to collect and track data to assess progress towards objectives and continuous improvement. The requirements for reporting, auditing and record-keeping appear thorough and will be supported.

We are however concerned with compliance in the first year of the regulation. It is difficult to determine if Producer Responsibility Organizations (PROs) and producers under the current Tires regulation are meeting their obligations. The concern is that if the required audit uncovers problems, those problems will not be known until over a year after the regulation came into force. By that point, the market may have been substantially disrupted and it may be difficult to rectify problems created. Additional forms of interim auditing within the first year would help to ensure the right market conditions are established at the onset of the program.

It would also be helpful to make sure the regulation on administrative monetary penalties is enacted as soon as possible to ensure all participants understand the consequences of failing to comply.

Additionally, while not specific to the draft Regulations, the Province should consider having the Resource Productivity and Recovery Authority (RPRA) perform periodic waste composition audits across the Province to assess performance of the program.

Right to Repair, Recycled Content:

Finally, municipal governments commend the Province on including a provision to incent the incorporation of recycled content, and encourage repair and product longevity through product warranties. This is an important first step to creating the right conditions as Ontario continues to embrace the move towards a circular economy.

Thank you for the opportunity to provide feedback. Please contact us if you have any additional questions.

Sincerely,



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