

Oversight of Stewardship Programs

2017 Conference on Canadian Stewardship

September 28, 2017



Overview

- Policy framework and legislative context
 - Strategy for a Waste-Free Ontario – Building the Circular Economy
 - *Resource Recovery and Circular Economy Act, 2016 (RRCEA)*
 - *Waste Diversion Transition Act, 2016 (WDTA)*
- Moving to new framework
 - Minister's role
 - Authority's mandate and key activities
 - Registry
 - Compliance and enforcement
 - Winding Up Used Tires Program and Ontario Tire Stewardship (OTS)
 - Amending Blue Box Program Plan

Policy Framework

- Provincial government's *Strategy for a Waste-Free Ontario – Building the Circular Economy* sets out
 - Objectives
 - Enhance provincial direction and oversight
 - Enable efficient and effective recovery systems
 - Increase waste reduction, improve resource productivity
 - Create conditions for sustainable end-markets
 - Targets
 - 30% diversion by 2020
 - 50% diversion by 2030
 - 80% diversion by 2050



Legislative Context

- *Resource Recovery and Circular Economy Act, 2016*
 - Resource Productivity and Recovery Authority came into effect
 - Non-Crown body with new objects, powers, compliance and enforcement tools, enhanced oversight and accountability
 - New regime where producers are accountable for their products and packaging, recovering resources and reducing waste as set out in regulations
- *Waste Diversion Transition Act, 2016*
 - Sets out provisions to continue existing diversion programs until wind-up as directed by the Minister
 - Upon wind-up, stewards will be obligated under the RRCEA

Moving to a Circular Economy

Under the RRCEA, the Minister may

- Issue resource recovery/waste reduction policy statements
 - Various parties must act consistently with policy statements e.g.
 - Authority when performing its duties and exercising its powers
 - Obligated parties when performing their duties
 - Persons exercising power or performing duties under various Acts e.g.
 - Municipal Act, City of Toronto Act, Planning Act
 - » Including official plans and zoning by-laws
 - Condominium Act
 - Environmental Protection Act
 - Environmental Assessment Act

Moving to a Circular Economy

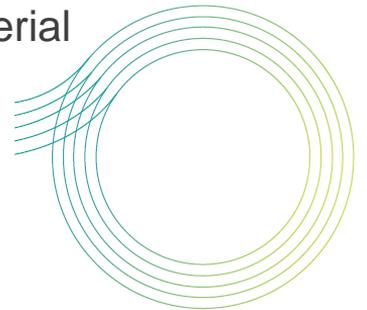
Under the RRCEA, the government may

- Set resource recovery requirements in regulations
 - Scope of designated products and/or packaging
 - Obligated parties: brand holders; persons with commercial connection, others performing resource recovery/waste reduction activities
 - Collection and management responsibilities including performance objectives
 - Management through reuse, use in making new products/packaging, use as a nutrient for improving the quality of soil, agriculture or landscaping
 - Not by prohibited methods of handling, reusing, recycling, recovering or disposing
 - Management by prohibited methods would not count towards performance objectives

Moving to a Circular Economy

Under the RRCEA, the government may

- Set waste reduction requirements in regulations
 - Increase the material's reusability and recyclability
 - Reduce or eliminate any impact the material may have on the recyclability of other materials in the class
 - Reduce the amount of waste generated at the end of the product's or packaging's life
 - Reduce or eliminate the use of any substance in the material
 - Increase the use of recovered resources in the making of the material



Moving to a Circular Economy

Authority's Mandate

- Operate a registry to
 - Register parties obligated by regulations
 - Receive information from obligated parties as set out in regulation
 - Use the information to
 - Support compliance and enforcement activities
 - Report on progress toward a circular economy
 - Support government to develop evidenced-based policies
- Manage the information according to an Access and Privacy Code
 - Access: in the spirit of government's 'open data' approach to facilitate innovation and more agile adaptation to a circular economy
 - Privacy: protect private and commercially sensitive information

Compliance and Enforcement

Authority's Mandate

- Appoint a Registrar (who can then appoint Deputy Registrars)
- Under the WDTA
 - Oversee operation of programs until wind up
 - Conduct compliance and enforcement of IFO and steward obligations
 - Approve wind-up plans developed by IFOs; oversee implementation of approved plan
 - Appoint an individual as an administrator of an IFO under specific circumstances
 - To facilitate wind up of the program and/or IFO
 - If the IFO Board does not have quorum
 - If the IFO has dealt with money or another asset other than in accordance with an IFO's duties
- Under the RRCEA
 - Conduct compliance and enforcement of resource recovery and waste reduction requirements set out in regulations

Compliance and Enforcement

Authority's Tools – Compliance Orders, Administrative Penalties

- Compliance orders can be issued under the RRCEA
- Administrative penalties (APs) can be issued under RRCEA and WDTA
 - Issued for non-compliance of specific provisions in the Acts and regulations
 - Only Registrar and Deputy Registrar issue APs
 - Amount of APs set in regulation
 - Examples of non-compliance for which APs can be levied
 - Under WDTA: failure of a steward to comply with the IFO's rules for stewards or pay fees to the IFO; failure of the IFO to submit an annual report by April 1; failure of an IFO to provide information requested by the Authority
 - Under RRCEA: failure to register with the Authority; failure to pay registration fee; failure to keep required records; failure to report required information
- Compliance orders and APs can be appealed to the Environmental Review Tribunal

Compliance and Enforcement

Authority's Tool – Prosecutions; Government's Tool - Ban on Sale

- Breaches of specified provisions in the RRCEA and WDTA by regulated persons could result in prosecutorial action
 - Examples under WDTA: IFO uses its money or assets inconsistent with the purposes of the Act; IFO engages in commercial activity through an individual, corporation or other entity that is related to the organization, to a member of its board of directors or to an officer of the organization
 - Examples under RRCEA: brand holder does not comply with a compliance order; brand holder does not comply with prescribed resource recovery and waste reduction requirements
- Government may impose a ban on the sale of a product or packaging in extraordinary circumstances of non-compliance
 - Examples under RRCEA: failure to establish a collection system for a material; habitual failure to meet prescribed resource recovery and waste reduction requirements

Moving to New Framework

Winding Up Used Tires Program and OTS

- Minister issued direction to wind-up the Used Tires program and OTS
 - Letter sent to OTS on February 17, 2017 sets out direction with which the plan must be consistent and required content
 - Developed in accordance with Minister's direction, WDTA, regulations
 - Developed through consultation with stewards, municipalities and other affected stakeholders
 - Submitted to the Authority by October 31, 2017
 - Letter sent to OTS on June 30th, 2017 to deal with PLT surplus and OTR deficit
 - Used Tires program will cease operations on December 31, 2018
- Minister also issued policy direction to Authority re oversight of surplus and deficit
- Consultation with municipalities, stewards and affected stakeholders
 - By OTS during development of the wind-up plan
 - By the Authority during assessment of the OTS wind-up plan

Moving to New Framework

Amending Blue Box Program Plan

- Minister issued a requirement letter to amend Blue Box Program Plan (BBPP)
 - Sent jointly to the Authority and Stewardship Ontario on August 14, 2017 setting out principles with which the amended plan must be consistent and required content
 - Developed in accordance with Minister's direction, WDTA, regulations
 - Developed through consultation with stewards, municipalities and other affected stakeholders
 - Submitted to the Minister by February 15, 2018
- Authority and Stewardship Ontario developed Stakeholder Engagement and Communications Plan
 - Consultation in October to consider components of amended plan
 - Stakeholder input on components considered when drafting amended Plan
 - Consultation in December to review draft amended Blue Box Program Plan

Moving to New Framework

Key Elements of Minister's Direction to Amend BBPP

- 1st phase of transition under WDTA; followed by 2nd phase under RRCEA
 - Minister's direction aligns with future conditions to set stage for transition to RRCEA
 - Plan must not create barriers to competition in the 2nd phase of transition
 - Plan must describe how contracts held by Stewardship Ontario will be managed upon wind up of the BBP to enable competition when under the RRCEA
 - Expand definition of paper products and packaging (PPP)
 - Establish methods to facilitate reduction of waste generated and discourage use of materials that are difficult to recycle and have low recovery rates
- Non-transitioned municipalities
 - Amended Plan to define eligible costs on which payments will be based
- Transitioned municipalities
 - Can decide whether they wish to act on behalf of Stewardship Ontario for the procurement and contract oversight of PPP collection services

Moving to New Framework

Under Development

- From the Ministry of the Environment and Climate Change
 - RRCEA regulation for Used Tires
 - Food and Organic Waste Framework
- From the Authority
 - 2018 - 2020 Business Plan
 - Consultation on a General Fee Setting Policy
 - Followed by consultation on registration fees for those obligated under RRCEA regulation for Used Tires

Members of our Team in Attendance



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