



Resource Recovery and Circular Economy Act, 2016

Proposed Producer Responsibility Framework for Waste Electrical and Electronic Equipment and Batteries

Ministry of the Environment, Conservation and Parks

Stakeholder Consultation Sessions

January 2019

Draft for Discussion Purposes Only

Purpose

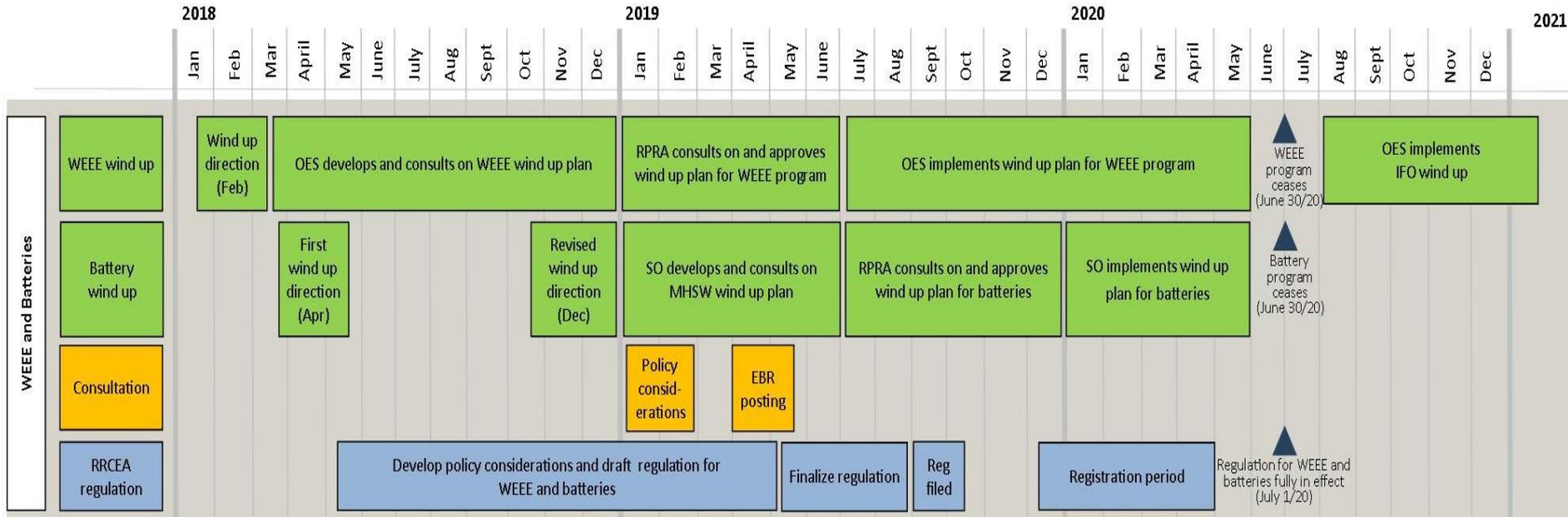
- Outline the initial policy considerations for the proposed regulation for Waste Electrical and Electronic Equipment (WEEE) and batteries under the Resource Recovery and Circular Economy Act, 2016 (RRCEA).
- Provide opportunity for stakeholders to contribute input as part of the policy development process.

Transition Process

Transition includes two concurrent steps:

1. Winding up the existing waste diversion programs and industry funding organizations (IFOs) under the Waste Diversion Transition Act, 2016 (WDTA).
2. Putting in place regulations under the RRCEA to make producers fully responsible.

The new producer responsibility regulations will be fully implemented on the day each of the existing waste diversion programs wind up.



Goals of Producer Responsibility for WEEE/Batteries

Improved Environmental Outcomes

- Ensure that waste is properly managed at end-of-life in order to increase diversion and keep toxics (e.g. heavy metals, brominated flame retardants (BFRs) in plastics, etc.) out of the environment.
- Increase waste diversion, recover resources currently being lost in landfills, reduce reliance on virgin materials and reduce greenhouse gas emissions.

Economic Growth

- Create jobs and grow Ontario's infrastructure for reuse, refurbishment and recycling industries.
- Encourage demand and sufficient supply to support the reuse and refurbishment markets.

Consistency, Ease, Cost Efficiency and Reduced Burden

- Encourage a sustainable system for industry and consumers by ensuring consistency, ease of use and low costs.
- Support the principle of reducing taxpayer burden by shifting responsibilities and costs to producers and consumers.
- Support competition, innovation and better product design.

Key Pillars of the Producer Responsibility Framework

Part IV, RRCEA – Resource Recovery and Waste Reduction Responsibilities

- **Producers are accountable** for recovering resources and reducing waste associated with their products and packaging sold or made available in Ontario, in an efficient and effective manner.
- **Government designates** the material to be collected and managed (e.g. product, product packaging or convenience and transport packaging).
- **Government defines** who the producer is for a designated product or packaging (e.g. brand holder, person with a commercial connection to the designated material).
- **Government sets** requirements that producers and others (who engage in resource recovery and waste reduction activities) must meet.
- **Producers choose** how best to meet the requirements – on their own or by joining with others to obtain services for the collection and management of the materials.
- **Producers have control** over costs by deciding how to meet requirements.
- **Authority undertakes** compliance and enforcement by using a full suite of tools to ensure obligations are met. Non-compliance may be subject to consequences.

Complementary Measures and Tools

RRCEA requirements that could support the producer responsibility framework:

- A regulation for Administrative Penalties (AP) as a compliance tool to encourage a level-playing field among the regulated companies.
- Include dispute resolution provisions in agreements between producers and others regarding services to collect and manage designated materials.
- Impose a sales ban on designated materials in extraordinary circumstances.
- Prepare a policy statement to further resource recovery or waste reduction.

EPA requirements that could support the producer responsibility framework:

- Impose disposal bans on materials designated under Part IV of the RRCEA.
- Exempt low risk activities from approvals and administrative requirements.
- Register medium risk activities on environmental activity & sector registry (EASR).
- Develop a processing/management standard for all companies that manage WEEE and batteries regardless of whether they manage material as part of a producer's network.
- Develop a labelling requirement for WEEE or batteries that contain hazardous materials (e.g. lead in batteries).

OPS Procurement Policies that could support the producer responsibility framework:

- Review OPS Procurement and IT Asset Disposal policies to measure and improve reuse and refurbishment outcomes.

Designating Materials

- Regulations can designate a class of materials that producers would be given responsibility to manage for the purpose of resource recovery and waste reduction.
 - A class of materials can be any combination of a product, primary packaging associated with a product, convenience packaging or transport packaging.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • The WEEE Program began in April 2009, and currently collects 44 types of electronics, including desktop and portable computers, printers, televisions, copiers, telephones and audio-visual equipment, such as cell phones. <ul style="list-style-type: none"> • Program includes e-waste from residential and industrial, commercial and institutional (IC&I) sources. • The WEEE Program does not include large and small appliances, power tools, electronic toys, lighting, etc. • Ontario Electronic Stewardship (OES), the industry funding organization, is responsible for managing these materials in accordance with the program plan. 	<ul style="list-style-type: none"> • The Municipal Hazardous or Special Waste Program (MHSW) began in July 2008 and currently collects nine materials, one of which is single-use batteries. <ul style="list-style-type: none"> • Program includes single-use batteries of all chemistries that are equal to or less than 5 kilograms from both residential and IC&I sources. • Rechargeable and automotive batteries are not included the program. • Stewardship Ontario (SO), the industry funding organization, is responsible for managing the MHSW materials in accordance with the program plan.

Designating Materials

Policy Objective	<ul style="list-style-type: none">• Provide a clear definition of classes of materials captured, including WEEE and batteries, from both residential and IC&I sectors.• It is anticipated that the regulation will include all WEEE materials that are currently managed, and also include both single-use and rechargeable batteries.• The Ministry is considering additional WEEE materials, such as products related to the existing list (e.g. headphones, routers), large and small appliances, power tools and lighting, to the regulation.
Key Consultation Question	<ul style="list-style-type: none">• What WEEE materials beyond the existing list of 44 materials and what types of single-use and rechargeable batteries should be designated?
Additional Questions	<ul style="list-style-type: none">• Should the regulation include embedded electronic equipment and batteries?• Should the regulation include primary packaging, convenience packaging or transport packaging associated with electrical and electronic equipment and/or batteries?

Defining Responsible Persons

- Regulations can identify the persons (i.e. producers) responsible for carrying out the requirements for a designated class of materials.
 - Could be a brand holder (known as brand owners under current programs) or person who has a commercial connection to a class of materials.
 - Commercial connection includes importing, wholesaling, leasing, retailing or distributing a product in a designated class, or other prescribed criteria.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • WEEE Program uses the following hierarchy: resident brand owners, resident importers, assembler; does not include original equipment manufacturers (OEMs) for vehicles. • Stewards pay fees and report to OES who is responsible for managing the WEEE. • No other obligations on stewards. 	<ul style="list-style-type: none"> • MHSW Program uses the following hierarchy: resident brand owners, resident importers. • Stewards pay fees and report to SO who is responsible for managing the batteries. • No other obligations on stewards.

Defining Responsible Persons

Policy Objective	<ul style="list-style-type: none">• Provide a clear hierarchy of responsible persons that facilitates compliance and enforcement.• The Ministry is considering a hierarchy of responsible persons resident in Ontario that facilitates compliance and enforcement but may limit ability to influence product design.
Key Consultation Questions	<ul style="list-style-type: none">• How should the hierarchy be defined?• Should there be different hierarchies for different classes of materials?• Should the hierarchy define responsible persons for embedded products, for both WEEE and batteries?
Additional Questions	<ul style="list-style-type: none">• Should the regulation include a de minimus for small producers?• If so, how should it be set and what requirements should be considered?

Collection

- Regulations can require producers to establish and operate a collection system for designated materials.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • Program sets collection targets in the program plan. No consequences for missed targets. • Program publishes a kg-per-capita collection metric as a measure of performance. • Program has developed two streams to collect WEEE – collection sites/event and processor incentive. • No rural or northern-focused requirements; OES reports on percentage of Ontario population within 10/25/50km of a collection site. • Collection is free of charge. 	<ul style="list-style-type: none"> • Program sets collection targets in the program plan. • Targets are weight-based. • Program uses an incentive model to encourage transporters to set up collection networks. Higher incentives are paid for rural/northern areas. • Collection is free of charge.

Collection

Policy Objective	<ul style="list-style-type: none">• Accessibility and/or collection targets can be used as drivers to require producers to establish a robust collection network.• Could require and/or define acceptable collection channels, which may include but are not limited to: curbside, depot, return-to-seller, deliver-back, or special collection events.• Northern and rural Ontario have access to collection services.• Collection must be free of charge (RRCEA legislative requirement).
Key Consultation Question	<ul style="list-style-type: none">• What accessibility requirements are needed to ensure Ontarians have convenient collection opportunities?• Should there be a collection target to drive producers to collect a certain amount of WEEE/batteries relative to what they put into the market? If so, how should it be set?
Additional Questions	<ul style="list-style-type: none">• Would some designated materials benefit from specific collection requirements (e.g. cellphones or certain types of batteries)?• Do some producers (e.g. small producers, e-tailers) need specific collection requirements?• Should new materials have collection requirements in early years?

Management

- Management can include recycling, reuse and refurbishment.
- Regulation can require producers to establish a management system for one or more designated materials.
 - Producers can choose to do this themselves or hire others to obtain services.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • Minimum recycling targets (kg/capita, tonnes, %) based on a percentage of WEEE available for collection; reused or refurbished electronics are not captured in recycling targets. <ul style="list-style-type: none"> • In 2017, the recycling efficiency rate (recycled/collected) was 84% and more than 2,600 tonnes of reuse/refurbishment activity was reported. • OES offers recyclers a processing incentive which has been successful in driving tonnage. • Reuse/refurbishment processors provided with minimal incentives (\$2/unit). • Program uses standards for recycling and reuse/refurbishment. <ul style="list-style-type: none"> • Energy from waste (EFW) is permitted in the standard for some materials but not counted as diversion in Ontario. 	<ul style="list-style-type: none"> • Battery Program includes a recycling performance target which is based on weight of batteries collected and a recycling efficiency target which is based on weight of batteries available for collection. • Program uses a standard developed by Stewardship Ontario. • End-markets that count toward diversion include land application of nutrients; EFW and slag are not counted.

Management

Policy Objective	<ul style="list-style-type: none">• Provide a clear set of expectations to maximize the recovery of resources and reduction of waste by requiring or encouraging recycling, as well as reuse and refurbishment of materials while identifying practices that do not count as diversion (e.g. disposal in landfills).• The regulation can include management standard(s) and target(s).• The management target may be achieved by including both recycling and reuse/refurbishment.
Key Consultation Question	<ul style="list-style-type: none">• How should the management target be set?
Additional Questions	<ul style="list-style-type: none">• Should there be multiple management targets phased in over time?• What type of processor standard(s) should be required in the regulation?• Should new materials have management targets in early years?

Waste Reduction

- Regulation can seek to reduce waste by affecting changes in product design, and/or addressing waste generated during production and a product’s end-of-life.
 - Waste reduction initiatives can be complementary to producer responsibility.
 - Development of some initiatives may need specific expertise and consultation.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • Minimal waste reduction and reuse measures. • Program does not affect design changes in products. 	<ul style="list-style-type: none"> • Does not include waste reduction measures. • Program does not affect design changes in products.

Policy Objective:

- Recognize reduction and reuse as higher priorities than recycling in the ‘3Rs’ hierarchy.
- Strengthen the viability and growth of the reuse/refurbishment sector.
- The regulation could include one or more waste reduction initiatives in the regulation.
 - Consider initiatives (e.g. supporting consumer repair; or greater use of recycled content) which will enable and/or encourage reuse and reduction, and could potentially save consumers money.
 - Consider incenting producers to undertake certain waste reduction initiatives (e.g. potential offsets in required collection or management targets or P&E requirements).
- Some initiatives may require regulation under the Environmental Protection Act.

Waste Reduction

Key Consultation Question	<ul style="list-style-type: none">• What waste reduction initiatives should be addressed in the proposed regulation?
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Possible waste reduction initiatives include:

- **Right to Repair:** Enable greater access to diagnostic/repair information, tools, parts, and software for consumers and repairers of electronics.
- **Expected Lifespan Labelling:** Provide information to consumers on a product's expected lifespan, including durability and reparability.
- **Minimum Warranties:** Require or recognize longer-term warranties for certain products.
- **Recycled Content:** Recognize producers who elect to use recycled content in product design.
- **Data Destruction Standards:** Recognizing that end-users' concerns over secure data destruction is a key barrier to reuse and refurbishment, require reuse/refurbishment service providers to meet certain standards; require producers to contract with service providers who meet the standards.

Promotion and Education

- Regulations can require producers to implement a promotion and education (P&E) program related to the collection and management of a designated material.
 - Others performing activities related to resource recovery and waste reduction can be required to implement a P&E program to support the collection of a designated material.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • OES undertakes voluntary educational and public awareness activities and reports on activities in their annual report. 	<ul style="list-style-type: none"> • SO undertakes voluntary educational and public awareness activities and reports on activities in their annual report.
<p>Policy Objective:</p> <ul style="list-style-type: none"> • Regulation can include promotion and education requirements for producers to provide information related to collection, reuse/refurbishment or recycling of designated materials. • Regulation can include prescribed P&E requirements related to separate visible fees being charged on designated materials. 	
<p>Key Consultation Questions:</p> <ul style="list-style-type: none"> • Should the regulation require P&E beyond collection, reuse/recycling and visible fees? • Are there options to streamline P&E for consumers? 	

Registration

- Regulations can identify who needs to register and what type of information needs to be included in the registration.
 - Registry would be used to collect data/information, help ensure transparency and facilitate compliance and enforcement activities.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • No requirements for a public registry. • The Authority runs a “Datacall” and posts OES’ annual report on website. • Approved processors required to register with Recycling Qualification Office. 	<ul style="list-style-type: none"> • No requirements for a public registry. • The Authority runs a “Datacall” that collects aggregate data for all types of MHSW materials and posts SO’s annual report on website. • Approved transporters and processors required to register with SO through the Battery Incentive Program.
<p>Policy Objective:</p> <ul style="list-style-type: none"> • Develop registration requirements that ensure transparency and facilitate compliance and enforcement activities. 	

Record Keeping, Reporting and Auditing

- Regulations can require producers and others to create, maintain and store documents and data and submit them to the Authority.
 - Audits could be required to be submitted to the Authority to verify compliance.
- Others performing resource recovery and waste reduction activities can be required to submit annual reports related to those activities.

WEEE Program under the WDTA	Battery Program under the WDTA
<ul style="list-style-type: none"> • OES is required to keep records and provide reports to the Authority. • Stewards and service providers required to keep records and provide information to OES. • Approved processors are audited by a third-party. 	<ul style="list-style-type: none"> • SO is required to keep records and provide reports to the Authority. • Stewards and service providers required to keep records and provide information to SO. • Approved processors are audited by a third-party.

Policy Objective:

- Develop record keeping, reporting and auditing requirements that ensure transparency and facilitate compliance and enforcement activities.
- The regulation can include reporting, auditing and record keeping requirements.
 - Reporting and record keeping requirements may apply to producers and persons engaged in resource recovery and waste reduction activities.
 - Audit requirements may apply to sales data, collection, management and P&E activities, and specify who is qualified to undertake audits.

Registration, Record Keeping, Reporting and Auditing

Key Consultation Questions:

- Who, beyond producers, should be subject to registration, reporting, auditing and record keeping requirements?
- What information should be required as part of registration, reporting, auditing and record keeping in order to support the Authority's compliance/enforcement activities and data clearinghouse function so that a level playing field and transparency are achieved?
- Who should be permitted as an auditor and what qualifications should they have?
- What reporting and auditing requirements should be included for producers of certain newly designated materials – sales data and management activities (i.e. amount of material being supplied into Ontario, amount of material being diverted and what end-markets used)?
- Should historical OES and SO data be used to satisfy the reporting requirements under the regulation related to sales data?

Next Steps

- Receive stakeholder feedback on initial policy considerations by **February 6, 2019**.
 - Comments can be emailed to Trevor.Craig@ontario.ca
- Finalize draft policy proposal based on feedback received.
- Develop the draft regulation under the RRCEA.
- Post the final draft regulation on the Environmental Registry in Spring 2019 for further consultation.

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- To provide feedback to the Ministry's broader Environment Plan, visit <https://ero.ontario.ca/notice/013-4208>, and submit comments by January 28, 2019.