Ontario Takes a New Approach: Accountability for a Circular Economy

Recycling Council of Alberta

October 12, 2017

RPRA
Resource Productivity & Recovery Authority

Overview

- Background
- New 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 the new framework
  - Minister's role
  - Authority's mandate and key activities
  - Transition underway
  - Next steps

Background – Current Diversion Programs

- Industry funding organizations
  - Stewardship Ontario for
    - Blue Box Program (printed paper and packaging)
    - Municipal Hazardous or Special Waste Program
  - Ontario Tire Stewardship for Used Tires
  - Ontario Electronic Stewardship for Waste Electronic and Electrical Equipment
- Industry stewardship organizations
  - Product Care Association for paints and coatings, solvents, fertilizers and pesticides
  - Automotive Materials Stewardship for oil filters, oil containers and antifreeze
  - SodaStream for their proprietary pressurized carbon dioxide containers

Background – Form of Programs

- Industry funding organizations (IFOs)
  - Blue Box Program
    - Services delivered by municipalities as required by O.Regulation 101/94
    - Producers pay 50% of the costs incurred by municipalities under the Program
    - For printed paper and packaging from households
  - MHSW, WEEE, Used Tires Programs are full producer responsibility
    - MHSW for materials from households and, depending on the material, small quantity or all industrial, commercial, institutional (ICI) generators
    - WEEE and Used Tires from households and industrial, commercial, institutional sectors
  - Setting of steward fees is regulated with oversight by the Authority
- Industry stewardship organizations (ISOs)
  - Full producer responsibility
  - Recovery of costs by ISOs from stewards is not regulated

Background – Program Performance

Source:

Report by Environmental Commissioner of Ontario

October 2017

Hazardous
20,000 tonnes collected

Used Tires
128,000 tonnes diverted

Electronics
68,000 tonnes collected

Blue Box
852,000 tonnes diverted (residential only)

Some Definitions….

- **Extended producer responsibility**: policy approach under which producers are given significant responsibility – financial and/or physical – for treatment or disposal of post-consumer products (OECD)
- **Full producer responsibility**: producers have financial and physical responsibility for end-of-life management
- **Individual producer responsibility**: each producer is individually responsible including for its own performance against objectives
- **Circular economy**: an economy in which participants strive to:
  - minimize the use of raw materials
  - maximize the useful life of materials and other resources through resource recovery
  - minimize waste generated at the end-of-life of products and packaging

Policy Framework

- Provincial government's *Strategy for a Waste-Free Ontario – Building the Circular Economy* sets out
  - 4 objectives including 15 actions
    1. Enhance provincial direction and oversight
       - Establish the Authority
       - Issue policy statements
       - Establish a registry
    2. Enable efficient and effective recovery systems
       - Transition existing waste diversion programs
       - Amend 3Rs regulations to increase resource recovery across all sectors
       - Establish service provider requirements
       - Establish P&E requirements

Policy Framework

- *Strategy for a Waste-Free Ontario – Building the Circular Economy*
    3. Increase waste reduction and improve resource productivity
        - Designate new materials
        - Develop organic waste action plan
    4. Create conditions for sustainable end-markets
        - Improve and establish environmental standards
        - Use green procurement practices
        - Implement disposal bans

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
  - Sets out provisions for winding up the existing programs and IFOs

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
    - Parties obligated under the Act when performing their duties
    - Persons exercising power/performing duties under specific Acts
      - Including Municipal Act, Planning Act, Condominium Act
      - With the effect that official plans and zoning by-laws must be aligned with policy statements

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
  - P&E, collection and management responsibilities
    - Management is defined as reuse, use in making new products or packaging, use as a nutrient for improving the quality of soil, agriculture or landscaping
    - Management by prohibited methods does 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 at end of 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 as directed by the Minister then; oversee implementation of approved plan
  - Appoint an individual as an administrator of an IFO under specific circumstances
- Under the RRCEA
  - Conduct compliance and enforcement of resource recovery and waste reduction requirements set out in regulations

Compliance and Enforcement

Tools Available to Authority and Government

- 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
  - Amount of APs set in regulation
- Compliance orders and APs can be appealed to the Environmental Review Tribunal
- Breaches of specified provisions in the RRCEA and WDTA by regulated persons could result in prosecutorial action
- Government may impose a ban on the sale of a product or packaging in extraordinary circumstances of non-compliance

Transitioning to New Framework

Winding Up Used Tires Program and Ontario Tire Stewardship

- 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
  - Used Tires program will cease operations on December 31, 2018
  - Letter sent to OTS on June 30th, 2017 to deal with PLT surplus and OTR deficit
- Minister also issued policy direction to Authority re oversight of surplus and deficit

Transitioning 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 and detailed direction with which the amended plan must be consistent
    - Developed in accordance with Minister's direction, WDTA, regulations
    - Developed through consultation with stewards, municipalities and other affected stakeholders
    - Submitted to the Authority for approval, then to the Minister by February 15, 2018
- Authority and Stewardship Ontario developed Stakeholder and Indigenous Peoples 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

Transitioning to New Framework

Key Elements of Minister's Direction to Amend BBPP

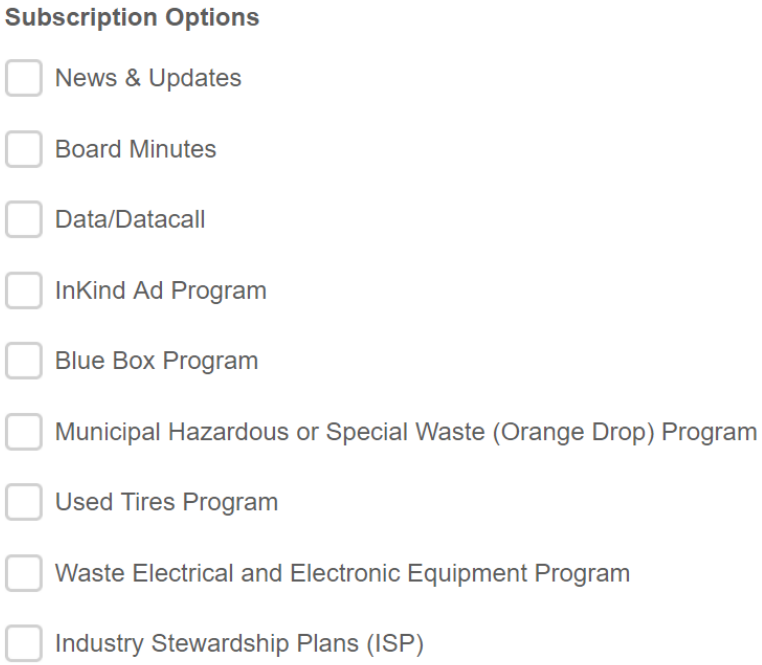
- 1st phase of transition under WDTA; followed by 2nd phase under RRCEA
  - Establish methods to facilitate reduction of waste generated and discourage use of materials that are difficult to recycle and have low recovery rates
  - Incorporate clear rules to support participation, standardized materials and services
  - Expand definition of paper products and packaging (PPP)
  - 75% target diversion target; requirement to establish material specific targets
  - Promote competition under WDTA and not create barriers to competition in 2nd phase
- Non-transitioned municipalities and First Nations communities
  - Amended Plan to define eligible costs on which payments will be based
- Transitioned municipalities and First Nations communities
  - Can decide whether they wish to act on behalf of Stewardship Ontario for the procurement and contract oversight of PPP collection services

Next Steps

- From the Ministry of the Environment and Climate Change
  - RRCEA regulation for Used Tires
  - Food and Organic Waste Framework
  - Possible amendments to 3Rs Regulations
    - O.Regulation 101/94 to accommodate amended Blue Box Program
    - O.Regulation 102/94, 103/94, 104/94 to increase diversion from ICI
- From the Authority
  - Establishing General Fee Setting Policy; setting registration fees
  - Consultation on Used Tires wind up plan

To Stay Updated on Authority Initiatives

- Sign up to receive e-blasts at http://rpra.us6.list-manage.com/subscribe



To Stay Updated on Authority Initiatives

- Check our website: www.rpra.ca
  - Website is currently being refreshed
  - 2018 Business Plan describes 2018 to 2020 activities; includes 2018 budget and 2019-2020 financial forecast
- Contact Authority staff
  - For Blue Box and MHSW
    - Mary Cummins: mcummins@rpra.ca or 416 640 6961
  - For Used Tires and WEEE
    - Carmelina Macario: cmacario@rpra.ca or 416 640 6120