

# ACCOUNTABILITY FOR A CIRCULAR ECONOMY

ZERO WASTE CONFERENCE

Presented by: Glenda Gies, RPRC Board Chair

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# OVERVIEW

- Legislative context
- Roles of the Minister and the Resource Productivity and Recovery Authority (RPRA or 'the Authority') under
  - *Resource Recovery and Circular Economy Act, 2016 (RRCEA)*
  - *Waste Diversion Transition Act, 2016 (WDTA)*
- Accountability for What by Whom
  - Under RRCEA and WDTA
- Compliance and Enforcement Tools
- Moving from Old to New Framework

# LEGISLATIVE CONTEXT

- *Waste-Free Ontario Act, 2016*
  - Schedule 1: *Resource Recovery and Circular Economy Act*
  - Schedule 2: *Waste Diversion Transition Act*
- Established Resource Productivity and Recovery Authority
  - Overhauled Waste Diversion Ontario (WDO) upon proclamation
  - Non-Crown body with new objects, powers, compliance and enforcement tools, enhanced oversight and accountability
- Establishes new regime where producers are
  - Responsible for their products and packaging
  - Accountable for recovering resources and reducing waste per regulations
- Sets out provisions to continue existing diversion programs
  - With wind-up directed by Minister
  - With these producers then obligated under RRCEA

# UNDER RRCEA

## MINISTER

- Develops the Strategy for a Waste-Free Ontario: Building the Circular Economy
- Develops resource recovery/waste reduction policy statements
- Sets resource recovery and waste reduction requirements in regulations; may include performance outcomes, operating standards
- Appoints 5 members to form the Initial Board
- Oversees the Authority
- May issue policy directions to the Authority
- May require the Authority to
  - Conduct consultations
  - Advise or report to the Minister on any matter related to resource recovery, waste reduction, circular economy or Authority's objects
  - Establish advisory councils

# UNDER RRCEA

## AUTHORITY

- Operates a registry to receive and store information related to resource recovery and waste reduction activities
- Manages the information in the registry according to an Access and Privacy Code
- Provides information to the Minister upon request
- Conducts compliance and enforcement activities related to the resource recovery and waste reduction requirements
  - To ensure obligated parties comply with the regulations, performance outcomes and operating standards
  - Using graduated compliance tools including inspections, compliance orders, administrative penalties, offence provisions

# UNDER RRCEA

## ACCOUNTABILITY FOR WHAT BY WHOM

- For designated products and/or primary, convenience, transport packaging
- By
  - Brand holder - person who owns or licences a brand or who otherwise has rights to market a product under the brand; and/or
  - Person who has a commercial connection to a product (imports, wholesales, leases or retails the product, or is otherwise involved in the product's distribution)
- To
  - Register, report, audit, keep records
  - Reduce, collect and manage designated products and/or packaging
  - Educate the public

# UNDER RRCEA

## ACCOUNTABILITY FOR WHAT BY WHOM

- As well, persons who perform an activity that relates to resource recovery or waste reduction may be required to
  - Register, report, audit, keep records
  - Educate the public
- Could include
  - Those who provide services to brand holders/importers
    - Collectors, transporters, processors, end-markets
    - Producer responsibility organizations (PROs) acting as collectives to provide compliance services
  - Generators e.g. industrial, commercial, institutional (ICI) sector
  - Those who manage specific types of wastes e.g. food waste



# UNDER WDTA

## MINISTER

- Directs wind up of programs and industry funding organizations (IFOs) continued under WDTA
- May direct changes to a wind-up plan approved by the Authority
- May change the Blue Box program to determine the total amount to be paid to municipalities
- May require the Authority and IFO to develop a proposal for a change to a program; may approve the proposed change or make changes to the program
- Approves material changes to IFO programs



# UNDER WDTA

## AUTHORITY

- Oversees the operation of programs until they are wound up
- Conducts compliance and enforcement activities related to the requirements for the operation of existing waste diversion programs
- Approves wind-up plans developed by IFOs and oversees implementation of the approved wind-up plans
- May appoint an individual as an administrator of an IFO
  - If necessary to facilitate winding up the program or the IFO
  - If there are insufficient IFO board members to form quorum
  - If the IFO has dealt with money or another asset other than in a way that is consistent with performing the duties of an IFO under the Act
- Operates registry for information related to programs; manages the information according to an Access and Privacy Code; provides information to the Minister upon request

# UNDER WDTA

## ACCOUNTABILITY FOR WHAT BY WHOM

- The Authority is responsible for continuing oversight of
  - Blue Box, MHSW, WEEE and Used Tires programs
  - ISPs: paints and coatings; pesticides, solvents and fertilizers; automotive materials; Soda Stream pressurized containers
- Compliance by IFOs continued under WDTA
  - Stewardship Ontario
  - Ontario Electronic Stewardship
  - Ontario Tire Stewardship
- Compliance by companies obligated under designating regulations, approved program plans and IFO rules for stewards
- Wind up of programs and IFOs as directed by Minister

# COMPLIANCE AND ENFORCEMENT TOOLS

- Inspections, compliance orders, administrative penalties, offences
- 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 the 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 TOOLS

- 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
- Cabinet 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

# TO ENSURE ACCOUNTABILITY

- Authority executed an MOU with MOECC IEB to clarify roles of the parties in compliance and enforcement matters
  - To ensure enforcement of WDTA prior to appointment of Registrar
- MOECC has posted draft Administrative Penalties Regulation for WDTA on Environmental Registry for consultation
- Authority is in the process of appointing a Registrar who
  - May appoint one or more Deputy Registrars
  - Will develop code of conduct, policies, training materials for the Authority's inspectors, investigators, compliance and enforcement personnel
  - Will establish compliance capacity including compliance support services staff and compliance officers
  - Once capacity is established, MOU with MOECC IEB will no longer be required

# MOVING FROM OLD TO NEW FRAMEWORK

- Authority's compliance and enforcement role under the RRCEA and WDTA is substantially different from WDO's oversight role under the *Waste Diversion Act, 2002*
- WDO was in a quasi-partnership with IFOs; did not have inspection, compliance and enforcement powers
- Authority is an enforcement agency responsible for
  - Oversight of WDTA programs
    - With inspection, compliance and enforcement powers to ensure that IFOs and stewards meet their obligations
  - Registration of parties obligated under RRCEA Part IV
    - With inspection, compliance and enforcement powers to ensure that the parties meet the resource recovery and waste reduction requirements set out in the Minister's regulations

# WIND UP OF USED TIRES PROGRAM AND OTS

- Minister issued notice of wind-up of the Used Tires program and Ontario Tire Stewardship (OTS)
  - By letter sent to OTS on February 17, 2017 that sets out principles with which the plan must be consistent and required content
  - Wind-up plan must be
    - Developed in accordance with Minister's direction, WDTA, regulations
    - Submitted to the Authority by October 31, 2017
  - Consultation with stewards, municipalities and other affected stakeholders required during development of wind-up plan
  - Implementation of wind-up plan to begin on date the Authority approves the plan; anticipated to be by March 31, 2018
  - Used Tires program will cease operations on December 31, 2018



# IN CLOSING

- Authority's first six months have been very busy
- In addition to ongoing oversight of WDTA programs and IFOs, Authority Board and staff are working to establish
  - Inspection, investigation, compliance and enforcement capacity
  - Capability to register parties obligated under RRCEA
  - Related guidelines, policies, procedures, protocols
- In order to
  - Ensure compliance by IFOs and stewards
  - Administer wind up of WDTA programs and IFOs as directed by Minister
  - Register parties obligated under RRCEA as directed by Minister
  - Ensure compliance by parties obligated under RRCEA

# CONTACTING THE AUTHORITY



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# Thank you

Glenda Gies, Chair

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