

November 27th, 2019

Jamie Haldenby
Program Management Branch - Program Oversight
Ministry of the Environment, Conservation and Parks
40 St Clair Avenue West - 4th Floor
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Attn: Jamie Haldenby

RE: ERO Number 019-0671 - Changing the Mandate of the Resource Productivity and Recovery Authority

The Ontario Waste Management Association (OWMA) is the largest waste management association in Canada and represents more than 250 members within Ontario's private and municipal sectors. OWMA members manage 85% of Ontario's waste and have diverse interests and capital investments in areas, such as waste and recycling collection, material recycling and resource recovery, organics processing and composting, hazardous waste recycling and safe disposal, landfills and transfer stations. OWMA members are major investors in Ontario's circular economy, create jobs and protect the environment for future generations.

The OWMA strongly supports the proposal to change the Resource Productivity and Recovery Authority's mandate to include digital reporting services through its registry for a wider range of waste and resource recovery programs. We believe that changing the mandate of the Resource Productivity and Recovery Authority (RPRA) will benefit the regulated community and create a more efficient and effective framework for data collection, digital reporting, fee setting and cost recovery across the broad range of waste management and resource recovery activities. Leveraging the expertise, knowledge and existing assets of the Authority makes good business sense. OWMA also supports this proposal as a pre-cursor to moving forward under RPRA with essential and critical service improvements to the Hazardous Waste Information Network (HWIN).

Maintaining and expanding the role of RPRA in administering extended producer responsibility (EPR) through resource recovery and waste reduction programs is fundamental to supporting its oversight, compliance and enforcement functions provided to it under the Resource Recovery and Circular Economy Act (RRCEA) and Waste Diversion Transition Act (WDTA). This role for RPRA was established to address a major need to ensure a competitive marketplace and level playing field, as identified by all stakeholders in the previous waste diversion framework.

The OWMA supports the expansion of RPRA's functionality to include digital reporting services, fee setting, and cost recovery for other programs beyond producer responsibility. There is a need for centralized data collection across the waste & recycling sector to better inform future government and stakeholder decisions and RPRA is best positioned to perform this function. We concur that business will benefit from the sharing of the costs for RPRA services across a broader range of stakeholders.



The OWMA is supportive of proposed changes to allow RPRA to set and collect fees for digital reporting services they would be providing for any new programs they take on, with the caveat that the setting of any fees must be based on a strict 'cost-recovery' basis directly related to the service provided. If RPRA is given the authority to set and collect fees that include costs incurred by the Ministry of Environment, Conservation and Parks ('the Ministry') for program oversight, compliance and enforcement, these fees must also be strictly based on 'cost recovery' for services provided. The Ministry must be held to account in a transparent manner, for all service costs that would be levied through RPRA fees.

An example of current difficulties in ministry fee setting and the lack of transparency can be found in the HWIN system. Under the claim that costs for the system were increasing, the Ministry of the Environment and Climate Change (MOECC), from 2015 to 2017, tripled the hazardous waste tonnage fees (from \$10/tonne to \$30/tonne) for businesses generating hazardous waste, but without any transparent justification or service improvements. These significant fee increases were implemented without adequate cost-based analysis or justification for how fees would be used to recover actual costs of enforcement or other services delivered through the Ministry's Hazardous Waste Program.

It is generally accepted that cost-based user fees and cost-based regulatory charges for Ministry programs serve to recover an amount only up to the full cost of the associated activity from users or direct-benefit recipients. Otherwise, these fee amounts simply represent a tax increase. OWMA recommends that the proposed legislative changes include strict provisions and sections in the Act that limit hazardous waste program fees to cost-recovery, with full public transparency and accountability on how the fee revenue is spent.

We support the proposal that compliance and enforcement for future programs taken on by RPRA remain the responsibility of the ministry. It is critical however, to ensure that the ministry has the capacity, capabilities and resources to effectively enforce. There are many examples where the lack of ministry enforcement on regulated parties has resulted in the loss of investments and inequities in the marketplace whereby those that chose not to comply are not caught and operate in the marketplace with an advantage over compliant competitors. The best example is the ineffectiveness and difficulties associated with Ontario Regulations 102/94 & 103/94 ("3Rs regulations") under the Environmental Protection Act (EPA). We support strong, sustained enforcement – it is critical to business success. We recommend that the Ministry consider maximizing the enforcement and compliance functions of RPRA in areas of reporting, registering, fee collection and manifesting.

The OWMA does not support the proposal that the Ministry recover its program costs through a Minister's Order as opposed to an Order in Council. Being able to pass on Ministry costs to the regulated community must be constrained by the highest level possible of justification, accountability and transparency. While it may be more efficient to the Ministry to collect costs through a Minister's Order, it lowers the scrutiny and process that protects business from potential fees designed to increase revenue as opposed to recovering service costs. The additional process associated with an Order in Council is a small price to pay to ensure business and the regulated community are better protected from unwarranted and unsubstantiated fees.



The OWMA supports the proposal to amend the WDTA to allow the transfer of residual surplus funds left at the end of transition, from an IFO to RPRA. We recognize that this is the preferred destination for IFO funds that may remain at the end of the transition. We are extremely concerned that those residual funds that would go to RPRA would be used to reduce fees and financially benefit the regulated community related to the program being transitioned. The residual funds from an IFO are not 'owned' by producers or the regulated community. In all cases these funds have been accrued from consumers through the passage of EPR costs through the cost of products. These funds therefore should not be used to the benefit of the regulated community but rather to the benefit of consumers. How consumers should benefit from the funds can be determined through outreach and consultation on a program by program basis.

OWMA strongly supports the proposal that the first digital reporting service being proposed to transition to RPRA is for the Hazardous Waste (HWIN) program, however clarity is needed as to the extent that RPRA will be empowered to undertake changes to the current HWIN framework, fees and manifest system.

Over the years, the HWIN system has experienced systemic problems, which have been well documented in reports by the Auditor General of Ontario in 2007 and 2009. As a result of the failure of the HWIN electronic manifesting system, less than 1% of manifests are currently completed electronically, leaving businesses and government to manually process more than 240,000 paper-based manifests annually. These inefficiencies have increased regulatory costs and weakened the government's ability to effectively oversee the hazardous waste management system and enforce compliance. We are very concerned that system inefficiencies and excessive fee burden on the generators of hazardous waste are encouraging inappropriate disposal activities with minimal corresponding enforcement activity from the ministry.

We strongly believe that in transitioning HWIN to RPRA, that the Ministry conduct extensive public consultations on specific regulatory changes related to the Hazardous Waste Program, in conjunction ensuring the Ministry has the ability to set fees (including Ministry fees) based on transparent cost recovery. OWMA has been consistent over many years in identifying the failings of the HWIN system and identifying what features the system needs to create efficiency and system cost savings for businesses.

While we look forward to a detailed consultation on the potential redesign and improvements to HWIN under RPRA, the following are key issues and needed service improvements:

- Ability to interface with mobile technology;
- Ability to transfer electronic data in batch format at regular intervals, compatibility with existing business systems must be ensured;
- Flexibility in order to better manage one-time registrations or small projects;
- Ability to better track waste in a manner that allows for materials sent to recycling facilities to be exempt from tonnage fees;
- Ability to manage multiple sites through a central account;
- Streamline paper manifest system (for whenever it might be needed); and
- Harmonization with other requirements like registration of a facility, short-term storage notification, Environmental Compliance Approval (ECA) reporting requirements and non-ECA on-waste management notifications.



These basic improvements would help to reduce the cost for businesses using the HWIN system and the costs for government, which is burdened by an almost entirely paper-based system. It would also help to improve the government's oversight and transparency by providing real-time data. It is important to emphasize that there are many technologies currently in use that would allow these improvements to be put in place. Many jurisdictions have these systems in place and as do most logistics companies.

We would strongly urge the government to move forward with transitioning hazardous waste reporting to RPRA, improving the functionality of the system to alleviate the administrative burden on both businesses and government.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Mike Chopowick
Director, Policy & Communications

cc. Steven Carrasco, Director of Program Management