

**Public Works**

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February 6, 2019

**VIA EMAIL**

Trevor Craig, Policy Advisor  
Ministry of the Environment, Conservation and Parks  
[trevor.craig@ontario.ca](mailto:trevor.craig@ontario.ca)

**RE: Proposed Producer Responsibility Framework for Waste Electrical and Electronic Equipment and Batteries**

Dear Mr. Craig,

Niagara Region is submitting the comments below in response to the stakeholder consultation sessions held January 10, 2019 and January 16, 2019 on the Proposed Producer Responsibility Framework for Waste Electrical and Electronic Equipment (WEEE) and batteries. Due to the timing of the consultation period, the comments will be included in a memo to Niagara Region's Waste Management Public Works Steering Committee (WMPSC) on February 25, 2019 and will subsequently be approved by Council on March 28, 2019 and any resulting amendments, if applicable, will be forwarded to the Ministry.

We thank you for the opportunity to share our municipal perspective and look forward to working with the Province to develop a framework that ensures a smooth transition to a producer responsibility model for management of WEEE and batteries.

Regards,

A handwritten signature in black ink, appearing to read "L. Torbicki".

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Lydia Torbicki  
Acting Director, Waste Management Services

Encl.

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## **1. Designating Materials**

a. *Key Question:* What WEEE materials beyond the existing list of 44 materials and what types of single-use and rechargeable batteries should be designated?

- The list should be allowed to grow as technology advances. A mechanism for the Province to easily add materials to the program as new technologies are developed must be available. Attendees at the consultation session flagged new items such as 3D printers, in-home smart devices, carbon monoxide and smoke detectors (could also be part of MHSW), and EV batteries, but this list will change frequently with the pace of development.
- The list should include anything with a cord or batteries, to expand the scope. This would include small appliances, microwaves, exercise equipment, etc.
- Power sources for these electronics (batteries, chargers) should be managed. This would reduce confusion for residents. The material is being received now and counted as contamination, but there are precious metals that can be recovered (e.g. copper).

b. *Additional Question:* Should the regulation include embedded electronic equipment and batteries?

- Embedded electronic items are becoming more prevalent (e.g. toys, smart appliances, etc.) and should be included.
- Small items such as toys with an electronic component cannot be reasonably handled under any other programs right now and these should be included.
- Large items (e.g. fridges) will continue under white goods program but the Province may wish to look at percentage of electronic to the greater volume of the good.
- Components that are not recyclable after dismantling should remain the responsibility of the producer. The Province will need clear regulations to determine if the cost should be at the expense of the producer of the main “good” or of the “embedded electronic”.
- Municipalities must be compensated for management of materials that end up in landfill or that are illegally dumped if producers avoid responsibility due to confusion surrounding the definition of “responsible producer”.

c. *Additional Question:* Should the regulation include primary packaging, convenience packaging or transport packaging associated with electrical and electronic equipment and/or batteries?

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- Niagara Region's position when responding to other EBR postings is that producers should be responsible for all packaging (whether it is recyclable, compostable or neither) and that producers should pay for management of designated materials regardless of the stream in which they end up. Packaging is part of the product and the "experience" with the purchase of new technology (i.e. purchasing a new phone and the sleek packaging used) and as such, producers should be held responsible.
- The regulation should include the requirement to limit use of excess packaging in order to acquire product visibility in the retail sector (e.g. producers must avoid larger packaging just to get shelf space in a store).

## **2. Defining Responsible Persons**

- a. *Key Question:* How should the hierarchy be defined?
- The online retail sector is particularly challenging and must be included in the regulation. As M3RC notes in their response, with respect to online sellers, Canada and the United States are members of the Organization for Economic Cooperation and Development (OECD). Niagara Region feels that these best practices as defined by OECD would benefit Ontario consumers by: (i) a mechanism to report free-riders (sellers that do not pay their EPR fees); (ii) the development of a register of producers; and (iii) a requirement that sellers display their Producer Responsibility Organization (PRO) registration online. The Province should consider adapting and implementing these tools.
- b. *Key Question:* Should there be different hierarchies for different classes of materials?
- Niagara Region has no comment at this time.
- c. *Key Question:* Should the hierarchy define responsible persons for embedded productions, for both WEEE and batteries?
- Niagara Region has no comment at this time.
- d. *Additional Question:* Should the regulation include a de minimus for small producers?
- There should be a minimum target for small producers. The process for measuring progress must be clear and transparent to ensure compliance.

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e. *Additional Question:* If so, how should it be set and what requirements should be considered?

- Niagara Region has no comment at this time.

### **3. Collection**

a. *Key Question:* What accessibility requirements are needed to ensure Ontarians have convenient collection opportunities?

- Rural consumers must be considered and their needs accommodated. For example, the regulation could require producers to offer return shipping options. Consumers who purchase and ship items on-line should have the option to return them the same way.
- Consumer options for returning WEEE must be at least as convenient as those that are currently offered so there is no loss (or perception of loss) of service to Ontario residents.
- Niagara Region has not observed communication between producers and collection partners. Producers need to be engaged as soon as possible.
- With respect to the multi-residential sector, collection partners must be engaged.

b. *Key Question:* 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?

- Niagara Region encourages inclusion of positive incentives to go beyond minimum targets, in addition to penalties for producers not meeting targets. Targets should be re-assessed on defined schedule and progress monitored to ensure continual improvement.

c. *Additional Question:* Would some designated materials benefit from specific collection requirements (e.g. cellphones or certain types of batteries?)

- Niagara Region has no comment at this time.

d. *Additional Question:* Do some producers (e.g. small producers, e-tailers) need specific collection requirements?

- Niagara Region has no comment at this time.

e. *Additional Question:* Should new materials have collection requirements in early years?

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- New materials should be regularly assessed and included in the schedule of accepted items as noted in question 1a about designated materials.

#### **4. Management**

- a. *Key Question:* How should the management target be set?
- There should be a hierarchy with reuse and refurbishment preferred over recycling. Targets should emphasize and support this direction.
  - b. *Additional Question:* Should there be multiple management targets phased in over time?
- . Once targets are set, producers should be held to standard of continual improvement.
  - c. *Additional Question:* What type of processor standard(s) should be required in the regulation?
- Niagara Region has no comment at this time.
  - d. *Additional Question:* Should new materials have management targets in early years?
- Yes, per the response in question 1a above, a mechanism for materials to be easily added to the list with defined targets should exist. Technology advances rapidly and if producers are aware that there will be management targets, product design can reflect this from the earliest versions.

#### **5. Waste Reduction**

- a. *Key Question:* What waste reduction initiatives should be addressed in the proposed regulation? Possible waste reduction initiatives include: Right To Repair, Expected Lifespan Labelling, Minimum Warranties, Recycled Content, Data Destruction Standards (*descriptions for each available on slide and also consider others beyond this list*)
- Niagara Region supports all of the reduction initiatives mentioned, as they promote the reuse and refurbish options preferred over recycling and disposal.

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- As a municipality, we have observed that residents are concerned about privacy and it can be a barrier to recycling electronic items. Producers should be regulated to ensure that the data destruction standards are enforceable. Furthermore, the process for data destruction on products should be transparent to consumers.
- Producers should be prohibited from developing products with “Planned Obsolescence” in mind.

## **6. Promotion and Education**

- a. *Key Question:* Should the regulation require P&E beyond collection, reuse/recycling and visible fees?
- Niagara Region currently funds several P&E campaigns for collection of WEEE but would not continue when the onus is on the producers.
  - Municipalities will experience costs related to illegal dumping, landfilling materials (hidden in garbage as one example), responding to questions and calls from residents, etc. and compensation should be provided. Costs to reimburse municipalities could be minimized if producers fund the P&E appropriately to educate residents on management of designated materials.
  - P&E should emphasize the preferred options in hierarchy (reduce and refurbish over recycling).
  - P&E should include contact information for appropriate PRO (or representing organization.)
- b. *Key Question:* Are there options to streamline P&E for consumers?
- Niagara Stakeholders require further information to provide informed comment here.

## **7. Registration, Record Keeping, Reporting and Auditing**

- a. *Key Question:* Who, beyond producers, should be subject to registration, reporting, auditing and record keeping requirements?
- There should be a mechanism for municipalities to report improperly managed designated materials (i.e. material that is illegally dumped or otherwise disposed of improperly).

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- There should be a mechanism for municipalities to report the amount of time required for municipalities to manage illegally dumped materials and time spent providing support of residents for designated material (e.g. managing support phone calls about disposal). Producers must compensate municipalities for these costs.
- Currently, Niagara Region maintains internal records related to weights of material collected but is not involved in record keeping or reporting specific to Provincial diversion programs.
  - b. *Key Question:* 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?
- See note above for question 7a.
- Standard templates or reporting mechanism should be developed and standards for frequency of reporting requirement should be established for easier management and analysis of data.
  - c. *Key Question:* Who should be permitted as an auditor and what qualifications should they have?
- The regulation should specify that any auditor meets a defined minimum level of certifications. Niagara Region does not have a comment on these certifications.
  - d. *Key Question:* 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)?
- New materials should have the same requirement as previously identified materials. Clear requirements for reporting of materials originating from on-line resellers and retailers (i.e. that are not easily identified by any producer group, or brand manufacturers first importers) must be established or the amount of material being diverted cannot be properly measured.
  - e. *Key Question:* Should historical OES and SO data be used to satisfy the reporting requirement under the regulation related to sales data?
- If historical data is of benefit it should be used in addition to new data.