

SUBMISSION

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CFIB's Response to Proposed Regulation for Recycling of Electrical and Electronic Equipment (EEE)

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On behalf of our 42,000 small- and medium-sized business members in Ontario, we welcome the opportunity to comment on the EEE regulation proposed by the Ministry of the Environment, Conservation and Parks.

Ontario's small- and medium-sized businesses are a key contributor to the strength and success of the provincial economy, employing 88.3 per cent of Ontarians in the private sector.

Small businesses are concerned about the environment. In a 2015 survey, 68 per cent of small businesses in Ontario said that personal views are their main motivation for making environmentally-friendly changes in their workplace. Ranking highest on the actions taken at their businesses is the introduction/expansion of recycling (71 per cent).

The proposed EEE regulations have the potential to impact a significant number of our members for several reasons. While they support efforts to improve recycling, the right measures must be implemented and widely communicated within the right framework and right timeframes.

The dramatically expanded list of EEE materials proposed in Schedule 1 will increase the level of change/change management required for both small businesses and their customers to transition to the individual producer responsibility model for EEE. Adding a lengthy list of commonly-purchased items – from light bulbs to toasters to tools – means that small businesses and their customers will have to be adequately educated beforehand.

Mix in the potential issues for small businesses with section 19 (resource recovery charges) and you have the recipe for a repeat of the eco fees disaster of July 1, 2010. That's when numerous additional everyday items (e.g. aerosol containers and household cleaners) became a part of the Municipal Hazardous or Special Waste Program on the same day the HST took effect. Customers were upset because they were not aware of the changes, and businesses that decided to pass on the recycling costs to consumers (i.e. visible eco fees/separate eco fee lines on receipts) were vilified.

Based on section 19 as written, it appears that all businesses selling any product on the new, expanded EEE list that choose to pass on recycling costs to consumers will be penalized with red tape requirements. Even more red tape could result for businesses through the proposed reporting, auditing and record-keeping rules.

Producers under the EEE regulation will be required to register with the Resource Productivity and Recovery Authority (RPRA) as early as January. Uncertainties exist around which small businesses will be required to register with RPRA. It is also unclear for which responsibilities they will need to register (e.g. registering only, promotion and education, and/or reporting/auditing/record keeping?), and how much red tape the registration process will create.

The definition of 'producer' seems to have been widened to 'obligated party', as evidenced by the first program (used tires) that transitioned to the new model. We are concerned that businesses with no significant or relevant connection to EEE could be classified as an 'obligated party' and forced to register with RPRA and pay a fee.

Under the RPRA administrative model, small businesses involved in current and future recycling programs could end up paying twice and more than their fair share. Depending on their 'obligated party' status, they could be forced to pay "fees, costs and other charges" to RPRA, while also paying fees to a Producer Responsibility Organization to responsibly manage their waste.

RPRA is basically its predecessor Waste Diversion Ontario (WDO), but with expanded responsibilities, including operating and managing a registry, and carrying out compliance and enforcement activities. Like WDO, RPRA is self-funded (i.e. no government funding), so it has to cover all of its costs through the fees collected from the "obligated parties" that must register with it.

That's why CFIB has continued to ask government to review the framework introduced in Bill 151 (*Waste-Free Ontario Act, 2016*) to ensure an affordable, fair and accountable system.

Based on business feedback from our labour enforcement roundtable with MPP Jane McKenna, we predict problems with RPRA's new enforcement role. Even though only one program has transitioned to the new model, RPRA is already advertising on its website that it "can conduct inspections, issue compliance orders and, if necessary, prosecute businesses that don't follow the law."

The last thing a business needs is yet another layer of enforcement when we already see a disturbing pattern of behaviour by inspectors from other agencies and government ministries. Too many business owners are being taken away from creating jobs while inspectors seek out reasons to lay fines.

No matter what recycling regulation is passed, it will be administered by RPRA under the Bill 151 framework. A new, more accountable and transparent recycling framework must be in place first before the Ontario government can improve its stalled recycling rates.