

Chair

Terry Obal
Bureau Veritas
Laboratories

Izzie Abrams
Waste Connections

Brad Bergeron
RWDI

Harry Dahme
Gowling WLG

Michele Grenier
Ontario Water Works
Association

Sonya Gulati
KPMG

Irene Hassas
Aslan Technologies

Greg Jones
Terrapure
Environmental

Denise Lacchin
Jacobs

Brandon Moffatt
StormFisher

Tim Murphy
Walker Environmental
Group

Paul Murray
AECOM

Grant Walsom
XCG Consulting Ltd.

Derek Webb
BIOREM Technologies

Agnes Wiertzynski
Accuworx

ONEIA
192 Spadina Avenue
Suite 306
Toronto, ON M5T 2C2

Executive Director
Alex Gill

Operations Manager
Sonia Zorzos

Tel: (416) 531-7884
info@oneia.ca
www.oneia.ca

June 23, 2019

Krista Friesen
Resource Recovery Policy Branch
40 St. Clair Avenue West, 8th floor
Toronto, ON
M4V 1M2

RE: Comments by the Ontario Environment Industry Association (ONEIA) on ERO #019 – 0048: Draft Regulations for Electrical and Electronic Equipment and Batteries under the Resource Recovery and Circular Economy Act, 2016

Dear Ms. Friesen,

On behalf of Ontario's more than 3,000 environment and cleantech firms, the Ontario Environment Industry Association (ONEIA) is pleased to provide our comments on the Draft Regulations for Electrical and Electronic Equipment (EEE) and Batteries under the Resource Recovery and Circular Economy Act, 2016 (posted on the Environmental Registry of Ontario (ERO) #019-0048).

Ontario is home to Canada's largest group of environment and cleantech companies. The most recent statistics show that Ontario's environment sector employs more than 65,000 people across a range of sub-sectors. This includes firms working in such diverse areas as: water / wastewater / stormwater treatment and management; materials collection and transfer; resource recovery; organics processing; composting; recycling solutions; alternative energy systems; environmental consulting; and brownfield remediation, to name just a few. These companies contribute more than \$8-billion to the provincial economy, with approximately \$1-billion of this amount coming from export earnings.

According to the Province, Ontario citizens generate nearly a tonne of waste per person every year and our overall diversion rate has stalled below 30% over the last 15 years. We agree that Ontario needs to reduce the amount of waste that we generate and divert more waste from landfills through proven and emerging methods. We also note that the Province is a leader in North America regarding food and organic waste recovery and processing, and could serve as an example of how we can improve our overall waste diversion performance.

Members of ONEIA are committed to engaging with governments to develop policies and regulations that are consistent with our principles of sound science, sound environment and a sound economy. To that end, we convened a working group of member companies drawn from across the environment and cleantech sector to review the Draft Regulations. ONEIA asked our Resource Recovery Committee to gather member comments to assess and provide feedback on the Draft Regulations. Their feedback forms the basis of this letter and they are willing to work more closely with Ministry of Environment, Conservation and Parks (MECP) authorities on all aspects of the draft regulation. Throughout this process, as well as any consultation related to the Environment Plan, our members are ready to offer a wealth of "made-in-Ontario" expertise that can help the Province achieve its goals of economic prosperity and environmental protection for current and future generations.

CONTEXT

ONEIA agrees with the Province's overall focus on producer responsibility, as well as other existing policy measures geared toward waste reduction and diversion and believe the Province should continue to move forward with policies to drive more waste reduction and diversion efforts in the industrial, commercial and institutional (ICI) sector. Businesses require regulatory certainty, and this will be critically important in driving higher levels of waste reduction and diversion within the ICI sector.

The materials that the waste services industry collects and processes should be viewed as commodities within a competitive and circular global economy. If the private waste services industry is to serve the needs of its customers, as well as grow and thrive, it requires a regulatory framework that is consistent, effective and responsive. This will not only encourage companies to invest in new and innovative technologies and approaches but also incents those companies to develop feedstocks that lead to the creation of value-added products in the regions where the feedstocks originate, thus lowering costs for brand owners, municipalities and taxpayers.

In general terms, ONEIA recommends a joint and truly collaborative process whereby the government sets the desired policy outcomes and then engages the private waste services industry to determine the best way to achieve these policies and the outcomes.

ONEIA believes that regulations should:

- Send clear signals to the private sector;
- Not be prescriptive but outcomes-based;
- Recognize that a "one size fits all" approach is often not appropriate, given the geographic diversity of Ontario and the specific concerns of different industries;
- Provide economic incentives to incent investment;
- Encourage collaboration and interaction through open and competitive markets, and;
- Be flexible to encourage continuous improvements and innovation through the support and development of innovative technologies.

OUR OVERALL FRAMEWORK

Since our founding in 1992, we have proactively engaged with all levels of government to provide advice on pressing environmental challenges. It is clear from the consultation session brief, that MECP will set the goals, producer responsibility framework and performance measures required to decrease the amount of waste going to landfill and increase the Province's overall diversion rate of electronics, lighting equipment, large appliances, small appliances and batteries. To provide greater detail to MECP, ONEIA has broken out its response into the three key areas of feedback / action below:

1. Key Principles / Goals of Producer Responsibility for this Regulation;
2. Draft Regulation Section specific feedback (EEE & Batteries), and;
3. Material Specific feedback.

1. Key Principles / Goals of Producer Responsibility for EEE and Batteries

Better outcomes. In order to generate optimal outcomes, any system implemented to manage EEE and battery waste needs to take into consideration current technological/equipment constraints and cost recovery models, and should consider consumer return incentives (e.g. alcohol container deposit returns). Registration processes need to be independent and transparent, avoid conflicts of interest (real and perceived), and assure stakeholders of a competitive landscape that can grow and flourish.

Balancing the administrative burden. Historically, these systems tend to put in place administrative burdens that are driven by internal processes more than by the needs of the market. Any EEE and battery waste management system should set a clear desired outcome and then allow the market to respond appropriately with only the minimum necessary reporting and paperwork.

Consistency, costs and innovation. As highlighted in ONEIA’s Still Ready to Grow Report (2010), when governments attempt to stimulate new markets, they tend to support specific approaches and technologies through legislation, regulation and/or public policy. Based on past results, we feel that it is inappropriate for governments to try to predict the needs of future markets. ONEIA recommends that MECP not focus on policies and regulations that pick “winners and losers”, but instead create an environment where policies send a clear signal to a broad range of waste services companies and technology providers to adapt and deliver success. In other words, rather than adopting policies that are prescriptive and/or focus on a specific type of technology or service, we recommend that MECP adopt broader policies that set environmental outcomes that then allow the market to respond.

Draft Regulation Section Feedback – EEE & Batteries

The following table outlines section specific questions brought forward by ONEIA member companies in response to the posting:

Electrical and Electronic Equipment	
Section	Questions
Section 2 and Section 6	Does MECP intend to harmonize reporting requirements for eWaste with existing national and provincial reporting formats, e.g., IFOs EPRA, PCA and CESA (BC)?
Section 4	As written, this includes responsible persons who may not be resident in Ontario (e.g. Internet sales). What recourse will regulators have to target offshore legal entities that are providing service to Ontarians? This action would require Federal cross border jurisdiction (e.g. duties).
Section 6 and Section 7	With respect to producer thresholds, how were these categories / sizes determined? What source data or benchmarks were used?
Section 16 and 14:	With respect to the recycling efficiency rate (RER), what source data or benchmarks were used to determine this?
Section 20-23:	With respect to the registry and registration of PROs’ haulers, processors, refurbishers and collectors, Ontario will need to ensure transparent processes, address potential conflicts of interest and establish an independent oversight authority with combination of stakeholder representatives from across public and private sector.
Batteries	
Section 1	<p>Reference is made in the Regulation to a “Batteries Processing and Refurbishing Guideline”:</p> <ol style="list-style-type: none"> a. Have there been (or, will there be) consultations (<i>i.e.</i>, involving waste management organizations) to help prepare this <i>Guideline</i>? b. How can the industry provide input? c. How will the <i>Guideline</i> be structured (<i>i.e.</i>, what will it look like)? What information will be included in the <i>Guideline</i>? d. When will the <i>Guideline</i> be available for review? e. Will the <i>Guideline</i> dictate all requirements and expectations to be an approved batteries <i>Hauler</i> and <i>Processor</i> (<i>i.e.</i>, standards)? f. What are the main requirements (<i>i.e.</i>, ECAs, CVOR, regulatory, staff training, etc.) to be an approved battery <i>Hauler</i> and/or <i>Processor</i>? g. Will an audit be conducted on prospective battery <i>Transporters</i> and <i>Processors</i> (<i>i.e.</i>, how do you intend to ‘weed-out’ ineffective/unprepared organizations)?

Section 4	<p>Does the <i>Regulation</i> represent all generators of waste batteries (including, residential and IC&I), or only residents (the <i>Regulation</i> mentions “consumers”, which could be construed as residents only)?</p> <ul style="list-style-type: none"> a. Are large quantity generators (generally, over 100 kg of waste per month) included in this <i>Regulation/Program</i>? b. Are small quantity IC&I generators included in this <i>Regulation</i> and able to participate in the <i>Program</i>? c. If large quantity generators are excluded, is the expectation that battery <i>Haulers</i> and <i>Processors</i> will separately track batteries from residential (<i>i.e.</i>, <i>Program</i>) compared to other sources (<i>i.e.</i>, regular business)?
Section 14, 20, 26, & 28	<p>Is the referenced <i>Average RER</i> based on a calendar year (<i>i.e.</i>, 80% of battery waste must be recycled by December 31)?</p> <ul style="list-style-type: none"> a. How will <i>Program RERs</i> be enforced? b. Will there be clear dictated penalties for <i>Processors</i> that do not meet the <i>RERs</i>? <p>Will there be penalties enforced on <i>Haulers</i>, if so what types?</p>
Section 25, Part VI	<p>What will annual fees look like for registering as a <i>Hauler</i> and <i>Processor</i>?</p>

Material Specific Feedback: Lead-acid batteries should not be included in this regulation

We would like to emphasize that the most important and critical piece of feedback that ONEIA can provide regarding batteries relates to the Ministry’s inclusion of lead-acid (automotive & industrial) batteries (LABs) in the program. Lead-acid batteries are the most recycled consumer product in the world, at over 90% recycling, and are the prime example of the circular economy at work in a market economy. We have statistics from one of our members, Terrapure (which recycles all LABs in Ontario and is Canada’s largest recycler in this area), that show the firm already recycles between 97% and 99% of LABs in the province.

Given this extraordinarily high rate of current recycling, ONEIA would like to understand what problem inclusion of LABs in this regulation will solve?

The inclusion of LABs in the program is not only redundant, but would unnecessarily add another layer of regulation. This is in direct contrast with the Provincial Government’s stated policy of red tape reduction. Additionally, the tracking, reporting and auditing required under the proposed regulation would increase the administrative burden and cost to LAB recyclers. This added burden and cost will make an already efficient system less efficient and would see these incremental costs passed onto consumers, contradicting another key government policy commitment. We therefore respectfully ask the MECP to amend the draft legislation to exclude LABs from the new program.

ONEIA and our members are ready and willing to actively work with the Canadian, Ontario and local governments to address the “Draft Regulation for Electrical and Electronic Equipment and Batteries under the Resource Recovery and Circular Economy Act, 2016” to ensure these measures meet government policy objectives in the most effective and efficient way possible. Should you wish to discuss our feedback in detail, please do not hesitate to contact the co-chairs of ONEIA’s Resource Recovery Committee, Brandon Moffatt (VP, Stormfisher / bmoffatt@stormfisher.com) and Randy Cluff (CCI Bioenergy / randycluff@msn.com) or me at agill@oneia.ca / 416-531-7884.

Yours truly,



Alex Gill
Executive Director

cc. The Hon. Jeff Yurek, Minister of Environment, Conservation & Parks
Serge Imbrogno, Deputy Minister, Ontario Ministry of Environment, Conservation & Parks
Stephen Lucas, Deputy Minister, Environment and Climate Change Canada
Michael Goeres, Executive Director, Canadian Council of Ministers of the Environment