

29 March 2021

Krista Friesen  
Resource Recovery Policy Branch  
40 St. Clair Avenue West  
8<sup>th</sup> Floor  
Toronto, Ontario  
M4V 1M2

**Re: ERO 019-2886: Amendments to the Transition Operating Agreement between the Minister of Environment, Conservation and Parks and Resource Productivity and Recovery Authority**

---

We are pleased to provide comment on proposed amendments to the operating agreement between the Minister of Environment, Conservation, and Parks and Resource Productivity and Recovery Authority (RPRA).

The *Waste-Free Ontario Act* (WFOA) established RPRA and focused its mandate on two key functions: establishing and managing a data registry; and oversight and enforcement of the requirements of the WFOA and the regulations developed under it. The WFOA also gives the Minister the ability to assign RPRA responsibilities under the WFOA or any other act.

We have concern that the proposed amendments will not enhance RPRA, but rather prevent it from carrying out its core functions, which will result in lower environmental outcomes and lack of public confidence in the regulations.

Central to effective extended producer responsibility (EPR) is strong oversight and enforcement. Many Canadian jurisdictions are recognizing the value of establishing an independent body, outside of government, focused on compliance, and are reviewing and designing their respective legislations to include such a body. Compliance is important to ensure environmental objectives are met. Transparency and fairness for all obligated parties, particularly producers, are also key. To enable it to carry out this critical mandate, RPRA must have sufficient and dedicated resources and independence.

The governance model of RPRA has been carefully structured in the WFOA to minimize conflicts and be skills-based. Independence must extend to all facets of the organization, especially related to planning, financing, and operations.

The proposed regulation seeks to change the operating agreement between the MOECP and RPRA to achieve two objectives:

- 1) Ensure a transparent and effective oversight regime for producer responsibility in Ontario
- 2) Address necessary administrative changes

### **Ensure Oversight**

Under these objectives government proposes three specific changes: increase ministerial oversight; improve financial transparency; and increase industry input.

Strong communications between the Ministry and RPRA is vital to ensure correct interpretation and application of regulations under the WFOA, as well as future policy making of government. However, the proposed changes intended to enhance transparency of financial information, and more frequent and formal reporting between the two organizations, will have little or no effect on enhancing EPR in Ontario.

In fact, it will add reporting and administrative burdens that will distract RPRA from its central task of monitoring compliance.

The proposed amendment to increase industry input by establishing an external advisory committee will also risk the organization's independence and possibly even credibility. It will also redirect essential resources away from its role of monitoring compliance in order to provide administrative supports to this new committee. Neither industry nor any other sector or stakeholder group should have any influence into operational or financial matters of RPRA.

### Address Administrative Changes

The regulation also proposes to remove the requirement that RPRA publicly post all compliance and enforcement policies and guidelines that could reveal internal processes and strategies. This change could impede effective compliance and oversight and even appears to run contrary to the intent of establishing an external advisory committee to oversee RPRA.

Transparency of compliance requirements and enforcement guidelines provides clarity for obligated parties; and provides stakeholders with critical information that RPRA is responsibly and comprehensively carrying out its function in all aspects of its mandate. For example, information regarding inspection, audit, and enforcement activities undertaken by RPRA provides critical information that it is functioning as intended. We do not foresee nor understand any situation where making public enforcement and compliance policies and guidelines could impede oversight activities of RPRA. Conversely, requiring as much transparency of its functions and activities only benefits obligated parties, government, and the public. We fundamentally oppose any amendment that reduces public transparency of RPRA activities.

With increased enforcement efforts and reporting, RPRA would be in a better position to demonstrate where more work may be needed to shape and improve the administration of the programs under the *Resource Recovery and Circular Economy Act* on designated materials.

The role of RPRA is crucial and its mandate should be restricted to functions related to EPR oversight, leaving the overall responsibility to further waste reduction policy development with government. RPRA must not become involved in policy development nor stakeholder consultations to avoid any conflicts of interests and to ensure resources are focused on the two objectives stated.

Thank you for the opportunity to comment on this regulation and we look forward to your response.

Yours Sincerely,



Fe de Leon  
Researcher & Paralegal  
Canadian Environmental Law Association  
416.960.2284,7223  
deleonf@cela.ca



Karen Wirsig  
Plastics Program Manager  
Environmental Defence  
416.323.9521  
kwirsig@environmentaldefence.ca



Olga Speranskaya  
Co-Director  
HEJ Support International  
613.252.9839  
olga.speranskaya@hej-support.org



Jo-Anne St. Godard  
Executive Director  
Recycling Council of Ontario  
416.657.2797,3  
joanne@rco.on.ca



Emily Alfred  
Waste Campaigner  
Toronto Environmental Alliance  
416.596.0660  
emily@torontoenvironment.org