

Ministry of the Environment  
and Climate Change

Ministère de l'Environnement  
et de l'Action en matière de  
changement climatique



Office of the Minister

Bureau du ministre

77 Wellesley Street West  
11th Floor, Ferguson Block  
Toronto ON M7A 2T5  
Tel.: 416-314-6790  
Fax: 416-314-6748

77, rue Wellesley Ouest  
11<sup>e</sup> étage, édifice Ferguson  
Toronto ON M7A 2T5  
Tél. : 416-314-6790  
Télec. : 416-314-6748

ENV1283MC-2018-228

February 8, 2018

Mr. Jeff Van Damme  
Chair  
Ontario Electronic Stewardship  
5750 Explorer Drive, Suite 301  
Mississauga ON L4W 0A9

**Re: Direction to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship (OES)**

---

Dear Mr. Van Damme:

Pursuant to Section 14 of the *Waste Diversion Transition Act, 2016* (WDTA), I am directing Ontario Electronic Stewardship (OES) to wind up the waste diversion program for waste electrical and electronic equipment (WEEE) in full. OES must develop a plan to wind up the waste diversion program for WEEE and submit it to the Resource Productivity and Recovery Authority (the Authority) for approval no later than December 31, 2018. The waste diversion program for WEEE will cease operation on June 30, 2020.

As part of the plan, I am also directing OES to wind up its own operations once the waste diversion program for WEEE has ceased operation.

The development of the plan for winding up the waste diversion program for WEEE and OES must be conducted in accordance with this direction as well as the provisions of the WDTA and its regulations, including O. Reg. 357/17 (Industry Funding Organizations – Rules that Apply on Winding Up).

It is in the public interest that the plan is consistent with the following principles:

Demonstrate Transparent Communications and Meaningful Consultation

- The public, the Authority and affected stakeholders, including stewards, municipalities and service providers (e.g. collectors, haulers and processors), receive transparent and clear communications from OES on a regular basis during development and implementation of the wind-up plan.
- Affected stakeholders should be consulted and have opportunities for meaningful engagement during the development and implementation of the wind-up plan.

### Support Competition and Prevent Conflict of Interest

- The plan shall support competition in, and not adversely affect, Ontario's current and future marketplace for the collection and recovery of WEEE. The plan shall not provide for unfair or preferential treatment of the public or any affected stakeholders, or barriers to competition during or following the windup of the program.
- OES shall take all necessary steps to ensure there is no real, potential or apparent conflict of interest when developing and implementing the plan.
- OES' sharing of data and information to parties other than the Authority must be done through a fair, open and transparent process that does not result in preferential treatment of one person or group over another or release of any confidential information.

### Demonstrate Fairness to Stewards and Protect Consumers

- The assets, liabilities, rights and obligations of OES must be dealt with in a fair, open and transparent process in accordance with applicable law. Assets (other than OES data and information) must be disposed of for fair market value.
- OES shall ensure that any fees paid by stewards fairly reflect the proportion of the costs referred to in Section 33 of the WDTA that are attributable to them and that there is no cost cross-subsidization among stewards for electrical and electronic equipment (EEE) categories.
- All monies held in trust by OES shall be treated appropriately in accordance with the WDTA and its regulations.
- The interests of current and future consumers should be considered when developing options to deal with program surpluses and/or deficits in the wind-up plan.
- OES' spending should be limited to program expenditures necessary to maintain or exceed current program performance for both collection and processing until the WEEE program ceases operation.

### Maintain and Improve Program Performance

- There shall be no disruption in the operation of the waste diversion program for WEEE, including collection, transportation and processing of WEEE, while the program is operating.
- Ontarians' access to and experience with the waste diversion program for WEEE shall not be negatively impacted during windup.
- Current program performance for both collection and processing must be maintained or exceeded until the WEEE program ceases operation.

Mr. Jeff Van Damme  
Page 3.

An addendum to this letter provides specific direction related to the details that OES must include in its wind-up plan for the waste diversion program for WEEE and for OES.

The implementation of the wind-up plan shall begin on the date on which the Authority approves the wind-up plan, which I anticipate will be no later than June 30, 2019.

It is expected that OES will engage with the Authority, and consult with representatives of municipalities, stewards and other affected stakeholders, when developing its wind-up plan in accordance with my direction, the enclosed addendum, the WDTA and its regulations.

It is also expected that OES will engage with and work cooperatively with the Authority in implementing any policy direction issued to the Authority pursuant to Section 29 of the *Resource Recovery and Circular Economy Act, 2016* (RRCEA). In particular, OES will cooperate fully with the Authority on the activities set out in my policy direction to the Authority dated February 5, 2018, including providing the Authority with quarterly reports within four weeks of the end of each remaining quarter in 2018-2020 regarding OES' revenues and expenditures.

If it is in the public interest to do so, I will provide further direction at a later date related to the matters set out in this direction, or to provide clarification related to the windup of the waste diversion program for WEEE or OES.

Lastly, OES shall make publicly available on OES' website this wind-up direction letter, as well as the complementary policy direction letter issued to the Authority.

Sincerely,

A handwritten signature in black ink that reads "Chris Ballard". The signature is written in a cursive style with a large, looping initial "C".

Chris Ballard  
Minister

Attachment: Addendum

c: Mr. Paul Evans, Deputy Minister  
Ministry of the Environment and Climate Change

Ms. Glenda Gies, Chair  
Resource Productivity and Recovery Authority

## ADDENDUM

### **Addendum to the Minister's Direction Letter to Wind Up the Waste Diversion Program for Waste Electrical and Electronic Equipment (WEEE) and Ontario Electronic Stewardship (OES)**

OES is directed to develop a plan to wind up the waste diversion program for WEEE and for winding itself up that includes the following:

- A description of the designated wastes that are covered by the WEEE program.
- A description of how the program will be operated while the plan is being implemented and until the program has ceased operation.
- A proposed timeline according to which key aspects of the plan will be implemented.
- A description of and a proposal for dealing with the assets, liabilities, rights and obligations of OES in relation to the waste diversion program for WEEE, including:
  - All monies held in trust by OES pursuant to Section 35 of the WDTA.
  - Any other assets of OES, including, and without limitation, any intellectual property, physical assets, or real property.
  - Any liabilities incurred by OES during the development and implementation of the waste diversion program for WEEE and anticipated to be incurred during the development and implementation of the wind-up plan.
  - A detailed account of anticipated costs to operate and wind up both the waste diversion program for WEEE and OES during the development and implementation of the wind-up plan, and a detailed account of how OES will finance these costs.
  - A detailed account of how OES proposes to equitably apportion its assets, liabilities, rights and obligations among stewards of electrical and electronic equipment (EEE) categories.
- A description of and a proposal for dealing with any program surpluses or deficits associated with any of the EEE categories, including:
  - An approach to limit program expenditures necessary to maintain or exceed current program performance for both collection and processing until the program ceases operation.
  - Proposed rules governing steward fees that are in accordance with the principles set out in Section 33 of the WDTA.
  - Where possible, the rules would eliminate fees for EEE categories in order to minimize any remaining surplus funds, including any reserves, when the program ceases operations on June 30, 2020. If there is a fee elimination proposed, the fee will be eliminated as soon as it is feasible subject to the approval of the Authority, and the fee elimination will be in effect until the waste diversion program for WEEE ceases operation.

## ADDENDUM

Page 2.

- Any fee elimination will be determined in a manner that would provide for sufficient funds to cover the costs set out in subsection 33 (5) of the WDTA, including costs of operating the program, costs incurred to wind up the waste diversion program for WEEE and OES, as well as costs incurred by the Authority under clauses 33 (5) (iv), (v) and (vi).
- A description of all data and information that is within OES' custody or control and that relates to the operation of the waste diversion program for WEEE since the Minister's program request letter (June 11, 2007), and a proposal for transferring all data and information to the Authority including:
  - The process for transferring all data and information to the Authority within any timeframes specified by the Authority.
  - The data and information that is to be transferred to the Authority, including, but not limited to:
    - A list of all registered stewards, including their business addresses and contact information, the nature of each steward's designation under the WDTA (e.g., whether designated because the steward is a brand holder, a first importer, or other person with a commercial connection to EEE); the classes of WEEE for which the steward is designated; the number of classes of WEEE for which the steward is designated; the number of materials in each class supplied by the steward into the Ontario marketplace;
    - Data and information relating to the collection and management of WEEE, including a list of collectors, haulers, processors and recycled product manufacturers, their business address, business contact information and past program performance data and information; and
    - Other additional data and information requested by the Authority.
  - Data and information related to the WEEE program that is in OES' custody or control shall not be for sale.
- A proposal for identifying confidential or personal data and information related to the waste diversion program for WEEE and indicating how such data and information will be supplied in confidence when transferring it to the Authority, which will assist the Authority in determining its treatment of such data and information based on applicable law and policies.
- The procedures that OES is putting in place to ensure there is no real, potential or apparent conflict of interest in respect of the plan's development, contents or implementation. Without limiting the scope of these procedures, the plan should address:
  - Any real, potential or apparent conflict of interest in respect of OES' relationship with the Electronic Products Recycling Association (EPRA).
  - Any necessary steps to ensure that EPRA does not receive preferential treatment as a result of its role in providing services to OES over other potential market participants in respect of WEEE resource recovery markets that may be created under the *Resource Recovery and Circular Economy Act, 2016*.

## ADDENDUM

Page 3.

- An approach that outlines how OES will deal with any information technology systems related to the waste diversion program for WEEE to ensure fair and equitable access to all users, as an alternative to disposing of these assets for fair market value.
- A description of changes to the program that are anticipated to be necessary to implement the wind-up plan.

I am further directing that the plan to wind up the waste diversion program for WEEE and OES include the following:

- A detailed report of OES' communications with affected stakeholders and the public during the development of the wind-up plan.
- A detailed proposal for a communications plan for affected stakeholders and the public during the implementation of the wind-up plan, if approved. The proposed communications plan must set out the process by which OES will provide information to affected stakeholders and the public on a regular basis. The communications plan must include a description of the key steps that will be taken by OES to wind up the waste diversion program for WEEE and OES, and show how affected stakeholders and the public will be affected by the windup.
- A detailed report of how OES has met the consultation requirements of subsection 14 (13) of the WDTA during the development of the wind-up plan including:
  - A list of the stewards, municipalities, service providers and other affected stakeholders that were consulted during the development of the plan.
  - A summary of the communications directed by OES through its outreach channels and analytics on responses.
  - A summary of the comments received by OES from affected stakeholders. A report of how the comments from affected stakeholders were considered by OES in the development of the wind-up plan.