

# Part 4: A Fresh Start for Waste Diversion in Ontario

## Abstract

Successful passage of the *Waste-Free Ontario Act, 2016* was a significant achievement.

The new *RRCEA* and its *Strategy for a Waste Free Ontario* seek to address the past challenges of waste diversion (discussed in Part 3) by:

- 1) Establishing a new, better framework for producer-funded waste diversion, and committing to supplemental measures set out in the Strategy to support increased diversion; and
- 2) Articulating a new vision of consumption as a closed loop (rather than one-way), and identifying actions to help manifest this vision.

Part 4 describes the new law and the key differences between the *WDA* and the *RRCEA*, and analyzes the key actions set out in the Act and Strategy that could support increased diversion.



A new waste law  
and strategy –  
what will they  
change?

**PART 4:  
A FRESH START FOR WASTE DIVERSION IN ONTARIO**

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## 4.0 The *Resource Recovery and Circular Economy Act, 2016*

At its most basic level, the *RRCEA* continues the *WDA* system of provincial designation of specific materials for diversion. However, it differs from the *WDA* in many significant ways. It takes a different approach to producer responsibility; it has stronger enforcement mechanisms; it enables greater provincial oversight and direction on waste diversion matters; and it replaces *WDO* with a different sort of oversight organization, called the Resource Productivity and Recovery Authority (the “Authority”), with expanded duties and powers.

The key differences between the *WDA* and the *RRCEA* are set out in Table 4.1.

**TABLE 4.1.** Comparison of Key Structural Features of the *WDA* and the *RRCEA*.

	<b><i>Waste Diversion Act, 2002</i></b>	<b><i>Resource Recovery and Circular Economy Act, 2016</i></b>
Oversight Body Composition	<i>WDO</i> was composed of board members appointed by both the Minister of the Environment and Climate Change and the <i>WDO</i> 's Board. Board appointments were initially based on stakeholder representation, but after 2012 were based on skills set out in an operating agreement between the Minister and <i>WDO</i> .	The Authority is mostly composed of elected board members, as well as some members appointed by the Minister of the Environment and Climate Change. Board appointments are based on skills prescribed in the Act and set out in an operating agreement between the Minister and the Authority.
Oversight Body Role	<i>WDO</i> : oversaw the development, implementation and operation of waste diversion program plans; approved industry stewardship plans; and reported annually to the government. It did not have the power to enforce the <i>WDA</i> , nor any powers to compel data from IFOs or stewards.	The Authority: carries out oversight, compliance and enforcement activities; collects data directly from industry; participants serves as a data clearing-house by operating the Resource Productivity and Recovery Registry; and reports annually to the government.
Diversion Program Organization	An IFO, created under the <i>WDA</i> , was responsible for collecting fees from stewards and delivering the diversion program; individual stewards had little direct involvement.	There are no mandated IFOs; instead producers are individually responsible for the collection and management of designated materials; it is up to them to decide how they fulfil these responsibilities.
Steward Responsibilities	Stewards were required to pay fees to their IFO to wholly or partly fund diversion program development and implementation. Fees were not tied to the recyclability of a given product's design (except, to some extent, Blue Box). Blue Box stewards repaid municipalities for a minority of program costs. Newspaper stewards “paid” their share through “free” advertising.	Individual producers of designated materials (including Blue Box materials) are to be financially and environmentally responsible for meeting waste reduction and resource recovery obligations to be set by the government; the scope of these obligations is not yet clear. Individual producers will also be required to meet registration, promotion and education, and reporting requirements. It is unclear what rules will apply to newspaper stewards.

	<b>Waste Diversion Act, 2002</b>	<b>Resource Recovery and Circular Economy Act, 2016</b>
Service Provider Responsibilities	Service providers (e.g., waste haulers, recyclers, etc.) had no responsibilities under the act.	Other persons (e.g., various service providers, municipalities) may be required to register with the Authority. They may also be required to meet promotion and education and reporting and record keeping requirements.
Data Collection	Stewards were required to provide data on their products to their IFO, but that information was not available to the WDO, municipalities, the public, or the MOECC.	Producers of designated materials are required to submit data/information related to their products and diversion activities directly to the Authority. Other persons (e.g. service providers, municipalities) may also be required to submit data/information related to their resource recovery and waste reduction activities directly to the Authority. The Authority will publish relevant information on its registry. The Authority also has the power to require the IFOs to submit information prior to the wind-up of existing waste programs. The MOECC also has power to require the Authority to submit information to it.
Performance Standards	Performance targets, which were set out in program plans, were unclear and largely unenforceable. Because WDO had no direct access to data about stewards and no enforcement tools, it was difficult to take informed action.	The Minister of the Environment and Climate Change has the authority, through regulations, to establish clear standards for a designated material, including targets for waste reduction and resource recovery, acceptable recycling processes customer service standards, and promotion and educational requirements.
Climate Change	The Minister of the Environment and Climate Change was responsible for prescribing materials for diversion and approving waste diversion program plans.	The MOECC: prescribes materials for diversion; sets resource recovery and waste reduction requirements for those materials; and oversees the performance of the Authority. The Minister also prepares policy statements to further the provincial interests set out in the <i>RRCEA</i> (most planning documents must then be consistent with these policy statements). The Minister is required to produce the accompanying Strategy.

Each of the changes set out above are positive steps that should help to address many of the structural deficiencies of the *WDA* set out in Part 3 of this report. It is important to note, however, that **the *RRCEA* is largely enabling legislation that leaves most details to future regulations.**



## 4.1 Transitioning from the Old to New Diversion Framework

The *Waste Free Ontario Act, 2016* also created the *Waste Diversion Transition Act, 2016* (the “Transition Act”). The Transition Act is an interim law that deals with the logistics of transitioning from the *WDA* to the *RRCEA* framework. It provides for the repeal of the *WDA*, the winding up of existing IFOs and the transition of the four existing waste diversion programs to the new producer responsibility framework set out under the *RRCEA*.

The province aims to transition the first three programs (used tires, waste electrical and electronic equipment, and municipal hazardous or special waste) by 2020.<sup>92</sup> In February 2017, the MOECC announced that the used tires program, currently run by Ontario Tire Stewardship, would be the first to transition to the new framework.

### 4.1.1 Blue Box: A Challenging Transition

Blue Box is to be transitioned to more of a producer pay system by 2023.<sup>93</sup> In the meantime, Blue Box stewards are to pay municipalities “at least” 50% of program costs, or a higher percentage determined by the Minister.

Extra time has been allocated to **transitioning the Blue Box program** because, as mentioned in Parts 2 and 3, its structure differs from the other diversion programs. With municipalities operating the program (often through contracts with collection and/or processing service providers),<sup>94</sup> and stewards later repaying a limited portion of the program costs, its transition will be especially complicated. Blue Box transition faces a wide variety of challenges:

- One group of complex issues relates to the assets and employees that the province and stewards encouraged/required municipalities to acquire to run the Blue Box program (e.g., recycling trucks, recycling facilities, etc.). Some municipalities purchased dual-side trucks, one side to pick up Blue Box materials, and the other to pick up other municipal wastes. Simply ending municipal responsibility for Blue Box

could leave municipalities with millions of dollars in stranded (undepreciated) assets,<sup>95</sup> a number of surplus employees, and relatively new equipment that can no longer be operated efficiently.

- A second group of issues relate to the relationship between municipalities and ratepayers, who generally consider the municipality responsible for anything that occurs at curbside.
- A third group of issues relate to the contracts between municipalities and recycling/garbage service providers. Some contracts are just for Blue Box materials; others include other wastes. The large number of individual multi-year contracts have differing terms and expire in different years, mostly before 2023. For example, about 13% of current municipal service contracts expire after 2023, yet the entire program is supposed to be out of municipal hands by then.<sup>96</sup> On the other hand, it is even less clear what either municipalities or service providers should do about contracts that are expiring now.
- It remains unclear what percentage of municipal costs related to Blue Box materials will actually be paid by stewards under the new system. Nothing in the current Strategy would compensate municipalities for the costs of recyclable products and packaging that are not put into the Blue Box, i.e., that go to landfill or litter. For materials that do go into a Blue Box, experience in other jurisdictions (such as British Columbia) suggests that municipalities who wish to continue to provide collection services may receive considerably less than 100% of their service costs.<sup>97</sup>
- The appropriate boundary between residential Blue Box materials and IC&I sources of the same material (which stewards have never paid for) remains unclear.
- Stewards have paid Blue Box costs two years in arrears since the *WDA* came into force. It is unclear whether, or how, the final years before transition will be addressed.
- There appears to be no stakeholder willing and able to fund recycling of newsprint, home-printed paper, and cardboard boxes from out-of-province providers.

Before Blue Box transition planning can begin in earnest, the parties (producers, municipalities and potential private service providers) must know the key elements of the new system that the province intends to require. For example:

- What will the minimum service standards be? Will all Ontarians have access to current curbside collection services at the same frequency regardless of cost, including high-density residences and northern and remote communities? If so, who will pay for collection and recycling in exceptionally high cost locations? If stewards are only required to achieve a province-wide average diversion rate, it will make financial sense for them to pay for diversion only in areas that are densely populated and inexpensive to serve.
- What materials must be collected, and will that be uniform across the province, regardless of cost?
- Will there be minimum requirements for improved environmental outcomes (e.g., through higher mandatory collection rates and/or higher requirements for reuse of the collected materials)?

Each of the **decisions about Blue Box standards** will have financial and environmental implications; they **will require difficult trade-offs** between diversion rates, program costs (for the producers), costs left to municipalities, and convenience for participants. Until these decisions are made, however, how can potential service providers, including municipalities, evaluate whether to contract with producers to provide collection or recycling services or whether to exit the market completely, and whether to repair/replace/upgrade existing assets?

On August 14, 2017, the Minister wrote to the Resource Productivity and Recovery Authority and to Stewardship Ontario instructing them to develop a proposal for amending the Blue Box Program Plan, "collaboratively with municipalities, stewards and affected stakeholders."<sup>98</sup> The proposal is to build on the accord reached by key stakeholders (the Association of Municipalities of Ontario, the City of Toronto, the Regional Public Works Commissioners of Ontario, the Ontario Municipal Waste Association and Stewardship Ontario) and as outlined in a letter sent to the Minister in July 2017.

The proposal for the new Blue Box Program Plan is to be submitted to the Minister for approval by February 15, 2018. This "first phase" of transition for the Blue Box program is to set the stage for the "second phase", i.e., when it becomes full individual producer responsibility in 2023 under the *Resource Recovery and Circular Economy Act*. During this first phase, Stewardship Ontario will continue to be the IFO for all Blue Box stewards, and will continue its monopoly on providing Blue Box programs on behalf of stewards.

The Minister's August 2017 letter contains an ambitious list of things to be accomplished in the transitional Blue Box Plan (see endnote for details),<sup>99</sup> but does not indicate how they are to be achieved. In essence, the Minister is looking to the Authority, Stewardship Ontario and municipalities to rapidly agree on solutions to a long list of complex issues that have bedeviled recycling in Ontario. It is good to see that stakeholders are working together, and that the letter directs the Authority's attention to many of the challenges identified in this report. But delegating these issues to the Authority muddies accountability again. And it is not clear how or when the public will have an opportunity to comment on the complex trade-offs to be made.

## 4.2 Supplementary Actions under the Strategy to Support Diversion

The *Strategy for a Waste Free Ontario*, which is required by the *RRCEA*, commits the province to supplementary actions to complement the new waste diversion framework and promote increased diversion. **The Strategy introduces a new target of 80% diversion by 2050, and eventually zero waste altogether** (for more about these goals, see Part 5).

The key actions identified in the Strategy relating to enhancing diversion are summarized below. These actions should go a long way to address the overarching issue raised in Part 3, that much of the waste stream was simply being ignored, as well as address some of the economic barriers to increased diversion.



The Strategy also identifies actions the provincial government intends to take to work towards its vision of a circular economy, which is discussed in Part 5.

**Designate new materials.** As noted in Part 3.1.2, the province has not introduced any new diversion programs since 2009. The Strategy includes a **commitment to designate new materials for diversion**. This is significant because, just like the *WDA*, the *RRCEA* merely creates the authority for, but does not compel, new materials to be added. The Strategy identifies small appliances, batteries, fluorescent bulbs and tubes, mattresses, carpets, furniture and bulky items, as well as clothing and textiles as among the first materials to be designated (based on past consultations).

**Implement an organics action plan.** Too much organic material (food and yard waste) is still going to landfill (see Part 3.1.3). The commitment to implement an organic waste action plan is significant because organic waste makes up nearly one-third of all waste,<sup>100</sup> it contributes to landfill leachate,<sup>101</sup> and is responsible for almost all greenhouse gas emissions

from the waste sector (see box below, *Focus on Climate: The Relationship between Organic Waste and Climate Change*). **Taking organics out of landfill could dramatically reduce both greenhouse gas emissions and the need for landfill space.**

In May 2017, the MOECC posted a discussion paper, *Addressing Food and Organic Waste in Ontario*, on the Environmental Registry for public comment.<sup>102</sup> This discussion paper solicited public input on a future “Food and Organic Waste Framework” (which would include a Food and Organic Waste Action Plan and a Food and Organic Waste Policy Statement) to guide provincial action to reduce the amount of organic waste going to landfill and create a circular economy for organic waste. The discussion paper sought input on what actions should be taken to: (1) reduce food and organic waste going to disposal, and (2) support processing capacity and stimulate end-markets for food and organic waste. Once input on the discussion paper from the public, as well as from other stakeholder consultations (including a working group) are compiled, the MOECC will produce a draft Framework for further public comment.

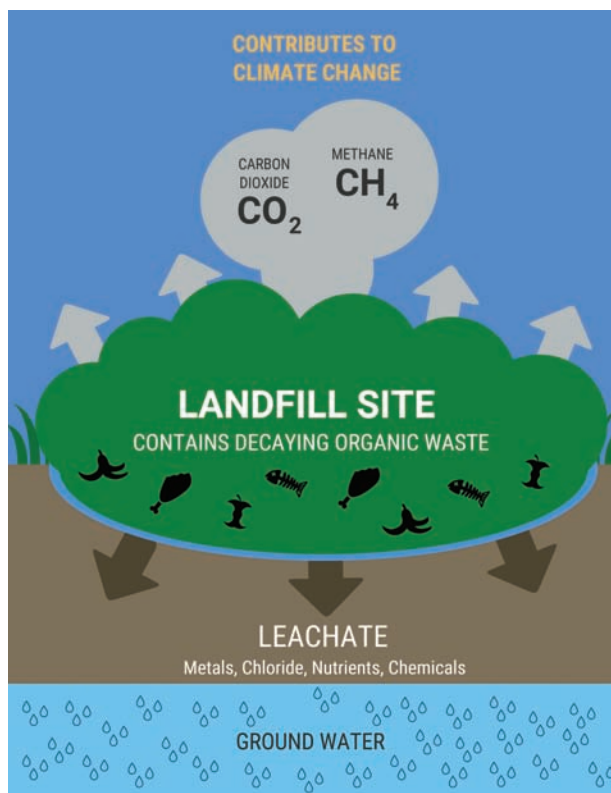


FIGURE 4.1. The environmental impacts of landfilling waste. The actions in the Strategy should help divert more waste from landfill and minimize environmental impacts. Source: Created by the ECO.



## 4.2.1 Focus on Climate: The Relationship between Organic Waste and Climate Change

Landfills produce 90% of all greenhouse gas emissions from Ontario's waste sector.<sup>103</sup> Most of this gas is produced from decomposing organic matter. Although some gas will always be created as organic matter breaks down, the decomposition conditions (e.g., the presence or absence of oxygen) make a big difference to how much and what kind of gas will be created.

When organic material decomposes in open-air conditions, such as a backyard compost pile or well-aerated facility, it produces carbon dioxide (CO<sub>2</sub>). Much of this CO<sub>2</sub> comes from and goes back to the natural carbon cycle where it is taken up by plants and then released back into the atmosphere.

When organic matter decomposes in wet, oxygen-limited conditions – such as a landfill – it produces not just CO<sub>2</sub>, but also methane and nitrous oxide, which are much more potent and harmful greenhouse gases. As a result, a given amount of organic matter in a landfill will make a much larger contribution to greenhouse gas emissions than the same amount of matter in a compost pile or well-aerated compost facility.

Another means to reduce greenhouse gas emissions from organic waste is through anaerobic digestion. Anaerobic digesters decompose organic material in the absence of oxygen, generating methane and other gases, but they can be designed to capture these gases (often referred to as “biogas” in this context). Biogas may serve as a fuel source, much like natural gas. Some landfills have similar gas-capture systems, but their use is limited and they generally have lower methane capture rates than digesters (see *Focus on Climate* box, Part 1.1.2). Although the combustion of biogas releases CO<sub>2</sub> (a greenhouse gas), CO<sub>2</sub> has a much lower global warming impact than methane. Further greenhouse gas reductions occur when biogas displaces the use of fossil fuels, like oil or gas. Biogas from organic waste can also be generated and captured at wastewater treatment facilities (for more on this see the ECO's 2016/2017 Energy Conservation Report, Volume One, *Every Drop Counts*).

**Composting or digesting organics can significantly reduce the greenhouse gas emissions from organic waste.** Given that about 4.6% of all of Ontario's officially reported greenhouse gas emissions come from the decomposition of organics in landfills (and possibly much more – see *Focus on Climate* box, Part 1.1.2),<sup>104</sup> and the possibility for biogas to displace fossil fuels, there is significant potential to make an impact on Ontario's emissions through organics diversion.

Moreover, composting organics can help Ontario fight and adapt to climate change through the important role of compost in building healthy soils. Healthy soils that have high organic content can sequester CO<sub>2</sub> in the ground. The ECO estimates that from 2 to 4.75 tonnes of CO<sub>2</sub> equivalent can be stored per hectare, per year by adopting soil health principles, including the appropriate use of compost. To learn more about soil health and the role of composting in such an approach, see the ECO's 2016 *Putting Soil Health First: A Climate-Smart Idea for Ontario*.

Finally, while organic diversion from landfills is a critical component of reducing future emissions from waste, it does not address the significant amount of gas yet to be released from organics already in landfills. The Strategy proposes to increase the amount of biogas captured from landfills, including increasing biogas captured as a result of the province's commitment to develop an offset protocol for landfill gas capture projects under the offsets component of Ontario's new cap-and-trade program.





## EBR Application for Review: 3Rs Regulations

Under the *Environmental Bill of Rights, 1993*, any two Ontarians can submit an application for review asking the government to consider changes to certain laws, regulations or policies. In 2012, the ECO received such an application asking that the MOECC review O. Reg. 103/94, one of the 3Rs regulations. The applicants argued that the regulation, which requires source-separation programs at certain IC&I facilities, was too lenient on certain businesses, reducing the amount of recycling taking place in Ontario.

In the fall of 2016, shortly before the *RRCEA* came into force, the MOECC notified the applicants that it had decided to undertake a full review of all the 3R regulations as part of its new waste Strategy. The ministry committed to undertake the review within three years of the release of the final Strategy (i.e., by February 2020).

**Focus on the IC&I sectors.** The IC&I sectors generate most of Ontario's waste (see Part 3.1.4), but are currently subject to relatively few recycling requirements. The Strategy identifies several actions to increase diversion from the IC&I sectors, including: collecting additional information about diversion in the IC&I sectors to inform decision making; a new commitment to amend the 3Rs regulations that govern diversion in the IC&I sector (see box below); and efforts to divert more paper and packaging from the IC&I sectors.

**Disposal Bans.** Disposal bans (i.e., prohibitions on sending certain materials or items to disposal) can help ensure that materials are reused and recycled to the greatest extent possible. Such bans have been successfully implemented in other provinces and countries.<sup>105</sup> A disposal ban can overcome economic barriers and correct the cost imbalance of recycling compared to disposal. The Strategy contemplates using disposal bans (which could apply at the transfer station to stop out-of-jurisdiction export of waste) for food waste and materials designated under diversion programs, as well as for fluorescent bulbs, but notes that such a decision will only be made after extensive consultation.

## What about the Fourth R, Recovery?

In recent years, many waste experts have begun adding a 4<sup>th</sup> R after reduce, reuse and recycle - recovery. This refers to energy recovery operations that burn waste materials at extremely high temperatures and use the heat, e.g., to create electricity.

Energy-from-waste has become very popular in some European countries, but is still relatively limited in Canada, with only a few facilities in Ontario operating or under development. The Strategy is consistent with the province's pre-existing policy on energy-from-waste, which treats it more as energy generation than as a waste management approach. The Strategy explicitly notes that: "Although energy from waste and alternative fuels are permitted as waste management options, these methods will not count towards diversion in Ontario."<sup>106</sup>

Most favoured option

Reduce

Reuse

Recycling

Recovery

Landfill

Least favoured option

FIGURE 4.2. The Waste Hierarchy.  
Source: Created by the ECO.

Some stakeholders have concerns about air pollution from energy-from-waste facilities,<sup>107</sup> as well as concerns that recognizing energy-from-waste as part of a broader diversion strategy may undermine efforts to properly reduce, reuse and recycle materials. If garbage has a productive use in energy generation, people and governments may be less motivated to pursue other (often more expensive) diversion programs. Another concern is that if too much energy-from-waste capacity is built, these facilities could draw materials away from recycling facilities in a need to “feed the beast.” This occurred in some European jurisdictions, like Sweden and Germany, that had to import waste from other countries to feed their energy-from-waste facilities.<sup>108</sup>

Advocates of energy-from-waste argue that these concerns can be addressed through policy that clearly prioritizes other diversion programs ahead of energy generation, and instead treat energy-

from-waste as an appropriate last resort before landfilling. They point out that the electricity produced can displace fossil fuels – thus reducing greenhouse gases – and that the process greatly reduces the volume of physical waste material, meaning it takes up less room when ultimately deposited in a landfill. There is also a legitimate question whether energy recovery might actually be a better approach than recycling for some materials (e.g., lightweight, hard-to-recycle plastics) when assessing the total lifecycle environmental impacts of a product or packaging.

Avoiding the energy-from-waste policy debate in the Strategy will not make it go away. Despite the province’s zero waste goal, some amount of residual waste will remain for decades to come, even as reduction, reuse and recycling efforts are enhanced. Energy-from-waste may well be an appropriate means, at least transitionally, of making the most of this remaining waste material.

## 4.3 How Will Ontario’s Diversion Programs Change?

Because so many of the details are left to regulation, the ECO cannot make firm predictions about what will happen under the new regime. By itself, the *RRCEA* prescribes no materials for diversion and no diversion targets that must be met. That said, the Strategy states that the province intends to take aggressive action to support the *RRCEA*.

### 4.3.1 Increased Diversion

As shown in Part 3.1.2, the *WDA* mandated diversion for only 15% of Ontario’s waste stream (see Figure 3.4). If implemented, the actions enabled by the *RRCEA* and contemplated in the Strategy – such as

designating additional materials, developing higher recycling standards (see Part 4.3.2) and stronger diversion targets, developing the organics action plan, and implementing disposal bans on certain products – should decrease the amount of Ontario waste going to landfills and incineration.

There are a number of positive benefits to reducing the amount of waste going into landfills or incinerators, as discussed in Part 1. Perhaps most significant is that increased diversion of organic materials, in particular, will reduce greenhouse gas emissions. The MOECC estimates that **increasing Ontario’s organic waste diversion rate by 10% would avoid approximately 275,000 tonnes of greenhouse gas emissions per year** – that’s equivalent to removing 64,000 cars from Ontario roads.<sup>109</sup> Also, as the Strategy notes, “improved resource recovery will reduce [other] greenhouse gas emissions.”<sup>110</sup>



Reducing waste sent for disposal should also reduce costs to Ontario municipalities, and thus taxpayers. Currently, waste disposal is largely funded by municipalities, and thus Ontario taxpayers. Expanded producer-funded waste diversion programs should reduce the amount of waste going to disposal facilities.

### 4.3.2 Robust Recycling Standards

The Strategy calls for the development of various standards, to be established in regulations, including:

- performance standards for producers (such as requirements for waste reduction, collection and diversion);
- environmental standards that govern the waste management processes;
- recycling standards that govern the recycling process;
- customer service standards that govern the services that must be provided to the public; and
- promotion and educational standards that govern public outreach initiatives.

Clear, strong standards on all these fronts are necessary to ensure effective diversion.

Recycling standards are particularly necessary. Clear and stringent recycling standards (i.e., standards that define which processes or outcomes achieve true diversion<sup>111</sup>) are necessary to ensure that activities categorized as “recycling” really achieve environmental benefits, such as creating valuable materials suitable for reuse. Currently, this is not always the case. For example, some forms of “recycling” merely crush a given material (like glass) before using it at a landfill to cover other wastes, or for other marginal uses. Stringent – and enforced – recycling standards should improve current environmental outcomes from recycling and ensure that more collected materials are in fact being recovered and reused.

**Robust recycling standards would mean better environmental outcomes and a level playing field for market participants.** When the threshold for what can be called “recycling” is low, companies that use a more expensive, but more environmentally favourable method are at a disadvantage. For example, in 2014, the MOECC contemplated expressly allowing battery-derived “smelter slag”, which was being used as aggregate, to be considered “recycling”. Existing recyclers objected, expressing concern that they would be forced out of business because they could not compete with “recyclers” who were not following as environmentally stringent a process. The province ultimately agreed and did not make the change.<sup>112</sup>

Standards must be relatively easy to enforce, meaning that they contain objective, measurable criteria. They must also actually be enforced.

### 4.3.3 Less Prescriptive Approach, Greater Flexibility for Producers

The *RRCEA* takes a more outcomes-based approach to producer responsibility (as opposed to the *WDA*'s focus on a prescriptive process). Under both the old and new framework, government has the authority to identify materials that must be diverted; however, in a major shift under the *RRCEA*, the Authority does not play a role in designing or administering waste diversion programs. This redefinition of the Authority's role should address many of the governance problems with the old WDO structure discussed in Part 3.3.

An important change is **the elimination of the IFOs, which could introduce an element of competition for producers' business.** Producers can meet their obligations individually or through other avenues (such as collectives, which may contract with competing service providers).<sup>113</sup> In Europe, such competitive systems reduced producers' costs.

Individual, rather than group, responsibility should improve environmental outcomes. Because producers under the *WDA* paid fees to IFOs based on the type of product they produced or imported, there was zero incentive to design better products (i.e., you paid the same whether you designed a very eco-friendly

television or not). But by making producers directly responsible for waste diversion activities, the *RRCEA* lays the groundwork for a system that better connects the costs and benefits of waste diversion activities for individual companies. For example, if a company produces an easily recycled television, they will reap the benefit of reducing their own recycling costs. If that happens, there should – theoretically – be more of an incentive to create efficient recycling systems and to design more environmentally friendly products at the outset.

#### 4.3.4 Revamped Oversight Mechanisms

Although the new Authority takes over some of WDO’s previous duties, its mandate, powers, and structure have all changed for the better. In terms of mandate, the Authority takes on many new duties, such as managing the Resource Productivity and Recovery Registry and providing compliance and enforcement of producer responsibilities. In terms of structure, the intent is to have a skills-based board of directors, managed by a majority of elected member-directors (versus Minister-appointed member-directors). There are no designated seats for representatives of producer organizations, the waste management industry, the public or municipalities. The Auditor General can now audit the Authority, to ensure that it uses money well.

Enforcement responsibilities shift from the MOECC to the Authority. Under the *WDA*, the ministry was often criticized for lackluster enforcement. The MOECC states that the *RRCEA* provides the Authority with the tools to ensure “a fair system that discourages non-compliance and prevents free-riders.”<sup>114</sup> **Moving enforcement to the Authority** – a body with a dedicated mandate to enforce the *RRCEA* (as opposed to environmental laws generally), and with dedicated funding for its work – could yield better results.

#### 4.3.5 Separation of Policy and Oversight

The *RRCEA* addresses the *WDA* criticism that the province was ducking responsibility for waste policy. Under the *WDA*, the WDO’s role in developing waste diversion programs with IFOs meant that it played a policy-making function to some degree; this often complicated its role as an oversight body. The *RRCEA*, however, clearly establishes the Authority as an oversight, compliance and enforcement body without policy-making functions. The *RRCEA* puts clear responsibility for waste policy back on the government. **Policy direction will be provided by the government** through policy statements and regulations, which must be developed openly, after public consultation. The Minister can now issue policy direction to the Authority, and can intervene in certain situations.<sup>115</sup>

These policy statements will be used to “help coordinate decision-making across private and public sectors, where cooperation is integral to achieving resource recovery and waste reduction outcomes,”<sup>116</sup> enabling the government to provide “overarching policy direction on the whole spectrum of resource recovery and waste reduction issues.”<sup>117</sup> While policy statements are approved by the government and issued by the Minister, the *RRCEA* requires consultation with stakeholders, including municipalities, producers, the waste diversion industry, environmental groups, and the public, before issuing a policy statement.

Although the specific applications of policy statements remain to be seen, they could be used to provide consistent direction on matters such as establishing criteria and principles to facilitate sustainable packaging, reuse and recycling methods, and implementing efficient and effective approvals processes.



### 4.3.6 Reduced Role of Municipalities in Waste Diversion

In another significant departure from historical waste management practices, **the RRCEA does not establish any explicit role for municipalities in waste diversion**, whereas they are currently heavily entrenched in the operation and funding of the Blue Box program. Municipalities are, however, contemplated as a potential (paid) service provider for waste collection and management. As described in Part 4.1.1, transitioning the Blue Box program from the WDA to the RRCEA framework will undoubtedly be challenging, but should ultimately distribute the costs of recycling more fairly and accurately.

### 4.3.7 Better Data and Performance Metrics

Good data helps drive good policy and decision making. One common critique of the WDA was that it did not provide WDO with data collection powers, which hindered its ability to direct or enforce better diversion programming.<sup>118</sup> Under the RRCEA, the province will benefit from stronger data collection requirements, to be carried out by the Authority and reported to government in an annual report. The Strategy discusses the importance of performance metrics at length.

More information, including performance information, will be particularly helpful in informing decision-making around IC&I diversion programs, as there is much debate about the best approach. The Strategy explains: “there is no one-size-fits-all model to address the reduction, reuse and recycling of waste in these sectors. The province requires better data to understand which approach works best and to make informed evidence-based decisions.” To this end, the Strategy specifically notes that the MOECC intends to “[enhance] data collection, reporting and performance measurement from generators and service providers.”<sup>119</sup>



