A new Waste-Free Ontario Act proposed by MOECC (Bill 151)

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On November 26, 2015, Ontario's Honourable Glen Murray, Ministry of the Environment and Climate Change ("MOECC") introduced Bill 151, an omnibus bill entitled the *Waste-Free Ontario Act*. This Act proposes to build a circular economy that increases resource recovery and facilitates waste reduction. The proposed regime has many legal implications, such as holding individual producers legally responsible for meeting the requirements for resource recovery and waste reduction.

If passed by the Ontario Legislature, Bill 151 would replace the existing waste diversion programs operated under the *Waste Diversion Act (2002)*, and enact the following proposed Acts:

- *Resource Recovery and Circular Economy Act*, which would set the overarching provincial direction and establish a full producer responsibility regime for products and packaging.
- *Waste Diversion Transition Act,* which would replace the *Waste Diversion Act (2002)* in order to help ensure a smooth transition of existing programs to the new full producer responsibility regime.

Important features of the new regime include the following:

- Producer Responsibility Regime: The Act gives producers full responsibility for the end of life management of designated products and packaging.
- Municipalities as Service Providers: In order to help producers meet their obligations, municipalities are considered a potential service provider to producers. However, there is no proposed legislated role for municipalities in the new regime.
- Contractual Arrangements Between Producers and Municipalities: Producers are likely to approach municipalities to discuss contractual arrangements for service provision to collect and/or process designated materials under the new legislation. However, the details for diversion programs under the new legislative framework are yet to be finalized.
- Blue Box Programs: The new Waste Diversion Transition Act has provisions for municipalities to be paid 50% of their costs to operate blue box systems.

Resource Recovery and Circular Economy Act

According to the EBR website, a proposed new *Resource Recovery and Circular Economy Act* would:

1. Establish the provincial interest in resource recovery and waste reduction and enable the government to issue policy statements to provide further direction on the provincial interest.
2. Establish a new outcomes-based producer responsibility regime that holds responsible persons accountable for recovering resources and reducing waste associated with their products and packaging. Responsible persons are brand holders, or others with commercial connections to products such as first importers and e-tailers.
3. Overhaul Waste Diversion Ontario, the existing oversight body under the *Waste Diversion Act*, 2002, as the Resource Productivity and Recovery Authority with responsibility to oversee the new producer responsibility regime and existing waste diversion programs and their transition.
4. Establish the Strategy for a Waste-Free Ontario: Building the Circular Economy.

The proposed *Resource Recovery and Circular Economy Act* would provide the government various regulation making powers to:

- Prescribe materials that could be designated for collection and management under the new framework;
- Identify persons responsible for meeting obligations with respect to products and packaging sold to consumers in Ontario;
- Require responsible persons to meet clear outcomes and be accountable for recovering resources and reducing waste associated with the designated materials; and
- Set obligations such as registration, promotion and education, reporting and record-keeping for others performing activities that relate to resource recovery and waste reduction.

Waste Diversion Transition Act

According to the EBR website, a proposed new *Waste Diversion Transition Act* would:

1. Replace the *Waste Diversion Act (2002)* to enable the smooth transition of existing programs to the new producer responsibility regime.
2. Allow for the wind-up of the existing waste diversion programs and the Industry Funding Organizations (IFO) that operate these programs, after which the Act would be repealed.

Current waste diversion programs such as the blue box program will continue until they are transitioned to the new individual responsibility framework.

Draft Strategy for a Waste Free Ontario: Building the Circular Economy

The draft Strategy for a Waste Free Ontario: Building the Circular Economy is intended to support the provincial interests regarding resource recovery and waste reduction.

According to the EBR website, the draft Strategy outlines a resource recovery and waste reduction road map for Ontario which would: set goals; articulate key government actions that would support the implementation of the vision and goals; and identify performance measures to measure progress towards achieving the vision and goals.

Three objectives will need to be met in order to achieve these goals:

1. Increase Resource Productivity and Reduce Waste
2. Enable an Efficient and Effective Recycling System
3. Create Conditions to Support Sustainable End-Markets

The draft Strategy includes actions that would:

- Establish provincial direction by providing clear direction to reach desired outcomes.
- Expand producer responsibility in Ontario by placing full responsibility on those who produce waste; empowering the Resource Productivity and Recovery Authority; and ensuring a smooth transition of provincial diversion programs to full producer responsibility system.
- Divert more waste from disposal.
- Helping people reduce, reuse and recycle by increasing awareness of and participation in diversion activities through education and promotion.
- Stimulating markets for recovered materials by implementing modern environmental standards; and demonstrating provincial leadership through green procurement.

Timelines

MOECC had established a 90-day comment period that ended on February 24, 2016, for both the new *Waste-Free Ontario Act* as well as the draft Strategy for a Waste-Free Ontario: Building the Circular Economy, during which time stakeholders and members of the public could submit feedback. Currently, Bill 151 is at second reading, and is likely to be passed later in spring. If the legislation is approved, the transition of programs from the current *Waste Diversion Act (2002)* to the new framework is expected to take 2 to 5 years. Once the draft legislation is passed, more details on how the new system will work will be forthcoming.

By

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