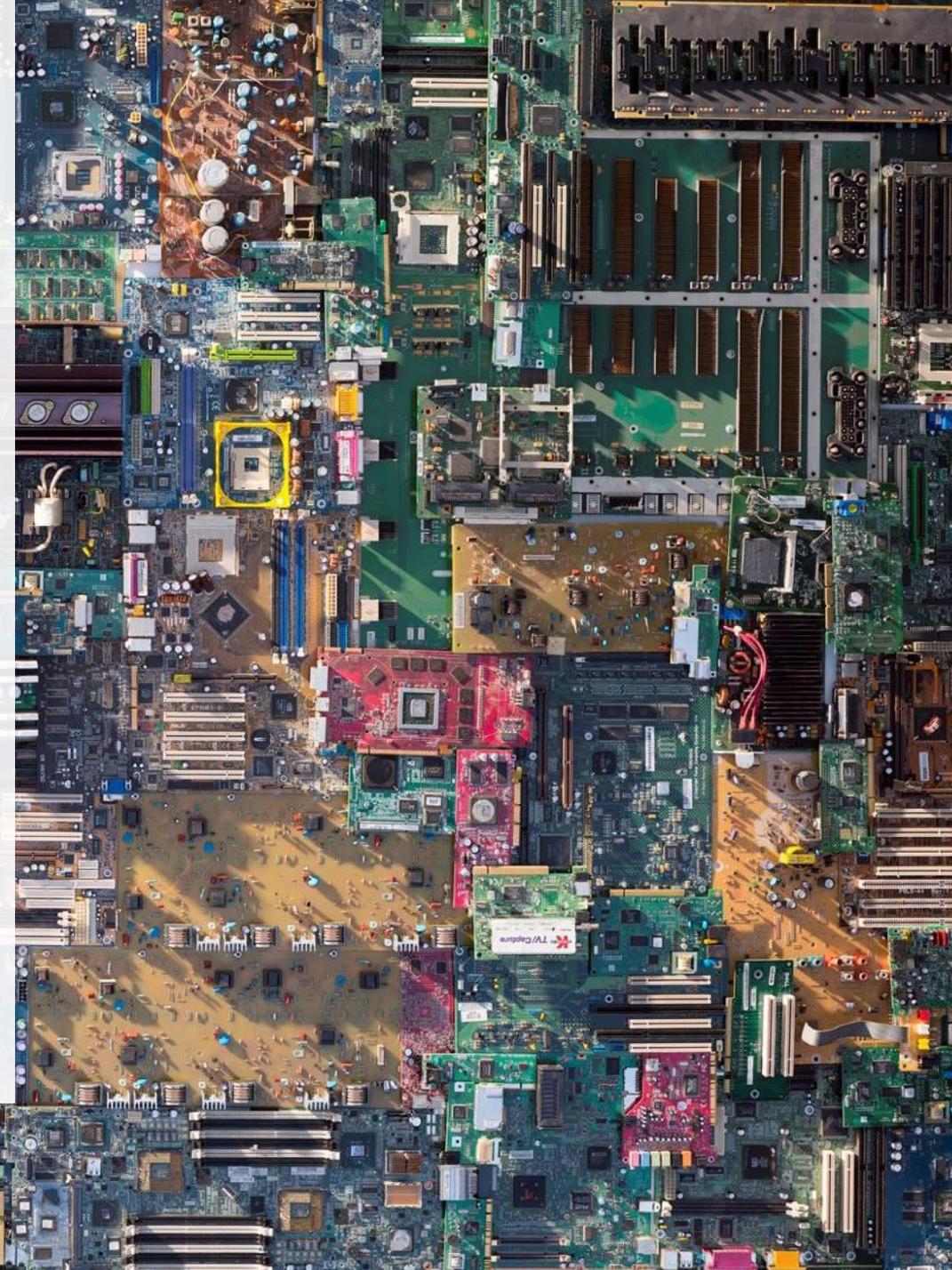


# Waste Electrical and Electronic Equipment (WEEE) Program Wind Up

RPRA Consultations  
Toronto Plenary Session

Spring 2019



# Agenda

1. Purpose of the Consultation
2. Background
3. About RPRA
4. OES's Wind-Up Plan
5. Breakouts
  1. Stewards and Remitters
  2. Processors
  3. Collectors, generators and municipalities

# Purpose of the consultation

- Provide an overview of OES's Wind-Up Plan for the WEEE Program
- Answer questions you may have on the wind up and provide clarity
  - If there are questions we cannot answer, we will follow up in a written Q&A
- Outline key questions we are seeking feedback on during the consultation
  - You can provide your feedback until **Thursday, April 25**
  - At the end of the presentation we will recap how you can provide feedback
- Out of scope of this consultation:
  - New WEEE regulations
  - Other waste management programs (tires, hazardous household waste, Blue Box)



**Background**

# Current WEEE Program

- Ontario Electronic Stewardship (OES) operates the WEEE Program on behalf of the electronics industry
  - Program ensures end-of-life electronics are handled in a safe, secure and environmentally sound manner
  - Funded by an environmental handling fee (EHF) for electronics
- In February 2018, the Minister of the Environment directed the wind up of the WEEE Program
  - Program directed to end on June 30, 2020
  - OES will wind up as a corporation shortly thereafter
  - In December 2018, the Minister of the Environment accelerated the wind up of the batteries program to June 30, 2020 to better coordinate with the wind up of the WEEE Program
- The Minister's direction enables the transition of WEEE to individual producer responsibility

# What's changing

## Going from:

Stewards/producers collectively responsible for the end-of-life management of electrical and electronic products

A system centrally managed by OES

## To:

Stewards/producers individually responsible for the end-of-life management of electrical and electronic products

A system managed by multiple competing producer responsibility organizations (PROs), and/or producers managing their own products



# What's changing

## Going from:

A supply chain operated according to a Program Plan

OES collects system data and the Authority oversees OES

The *Waste Diversion Transition Act, 2016* (WTDA)

## To:

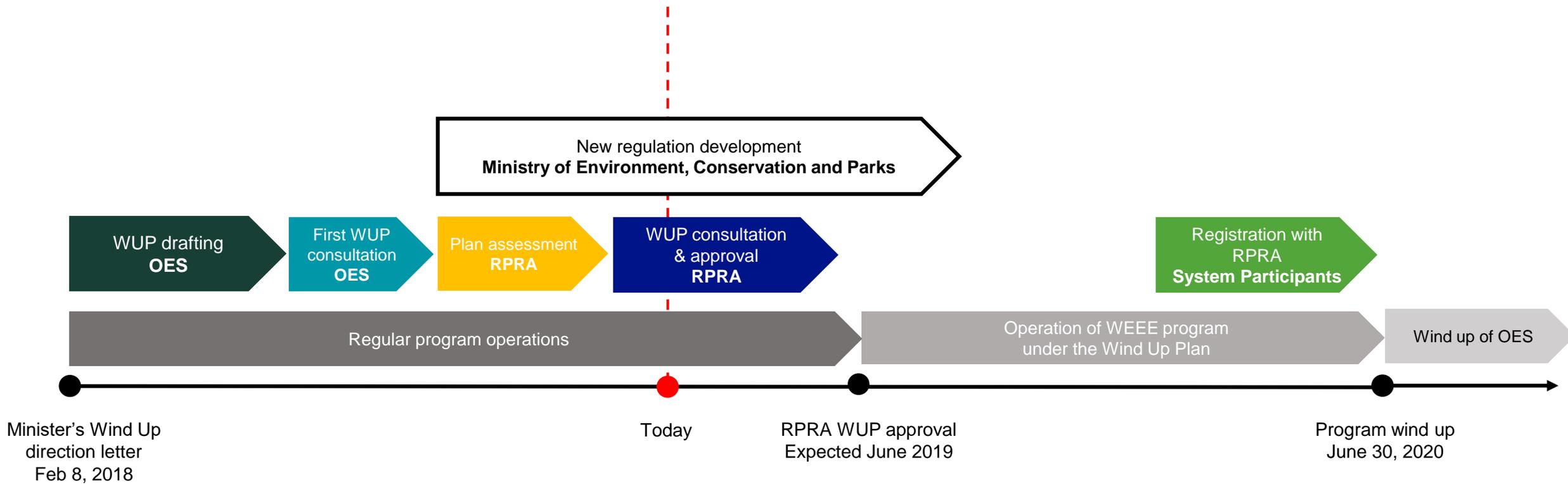
A supply chain operated without a Program Plan, resulting from commercial negotiations within the parameters of a new regulation

The Authority collects system data through a secure registry to enforce individual producer compliance

The *Resource Recovery and Circular Economy Act, 2016* (RRCEA)



# Wind Up Plan (WUP) Development and Approval





# About RPRA

# The Resource Productivity and Recovery Authority

- Regulatory body created by the Ontario government to oversee producer responsibility requirements
  - Compliance and enforcement responsibilities delegated by the province
- Mandated to support the transition to a circular economy and waste-free Ontario
  - Despite efforts, Ontario's diversion rates have stalled
  - New emphasis on producer responsibility to drive better economic and environmental outcomes

# The RRCEA and WDTA

- RPRA receives its authority from the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WTDA)
- RRCEA establishes a new regime where producers are accountable for their products and packaging, recovering resources, and reducing waste
- WDTA allows for the continuation of waste diversion programs and sets out provisions to wind up those programs as directed by the Minister of the Environment, Conservation and Parks

A high-angle, top-down view of a person walking on a wooden spiral staircase. The person is wearing a dark hat and a light-colored top. The staircase is made of light-colored wood and curves around a central point. The background is a light-colored wall with a grid pattern. The text is overlaid on the left side of the image.

# **Our Vision**

**A circular economy today  
for a waste-free tomorrow.**

# **Our Mission**

**Enforce producer responsibility and advocate for  
the circular economy to spur innovation and  
protect the environment.**

# What we do

Under the **WDTA**, our responsibilities include:

- Overseeing existing waste diversion programs and industry funding organizations until wind up
  - Tires- Program ended December 31, 2018
  - Waste Electrical and Electronic Equipment
  - Municipal Hazardous or Special Waste
  - Blue Box
- Approve wind-up plans developed by industry funding organizations
  - Oversee the implementation of wind-up plans



# What we do

Under the **RRCEA** our responsibilities include:

- Developing and operating a registry to register and receive information from obligated parties responsible for materials under the RRCEA
- Managing, analyzing and reporting on the information in the registry
- Carrying out compliance and enforcement activities





# The Wind-Up Plan

# The Wind-Up Plan

## Minister's Direction

The plan should be consistent with the following principles:

- Demonstrate transparent communications and meaningful consultation
- Support competition and prevent conflict of interest
- Demonstrate fairness to stewards and protect consumers
- Maintain and improve program performance



# **Topic 1: Governance and Administration**

# Conflict of interest mitigation

- Minister directed in wind-up letter that:
  - *“OES shall take all necessary steps to ensure there is no real, potential or apparent conflict of interest when developing and implementing the plan.”*
- Potential concerns identified:
  - Electronic Products Recycling Association (EPRA) administers the OES WEEE Program through a service agreement with OES
  - EPRA may have an operational role under the RRCEA after wind up
  - OES and EPRA Boards had significant cross representation
- Conflict of Interest Mitigation Plan:
  - RPRA required that OES develop and implement a Conflict of Interest Mitigation Plan and that this plan be implemented prior to wind up

# OES Conflict of Interest Mitigation Plan

## Board Governance

- Existing OES Board resigned and new Board appointed in August 2018
  - New Board eliminated all OES/EPRA cross board memberships
  - New Board eliminated EPSC and RCC observer members
  - Oversaw the drafting of the Wind-Up Plan



# OES Conflict of Interest Mitigation Plan

## Administration

- New independent manager for the WEEE Program appointed in March 2019
  - Reports to new OES Board
- OES will separate operations from EPRA to minimize conflict during wind up
- OES will function as a corporate entity following the wind-up date to process claims from service providers
- OES will appoint a liquidator to dispose of any remaining assets and coordinate corporate dissolution



# Conflict of Interest Mitigation Plan

## Data Management

- Minister directed that:
  - *“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.”*
- New OES Board and Program Manager will oversee data management and transfer during wind up
  - OES will identify any confidential or commercially sensitive data transferred to RPRA and take measures to ensure that data is supplied in confidence
  - RPRA is required to treat information in its possession as confidential
- All steward and service provider data in OES’s possession will be destroyed following transfer to RPRA



# Topic 2: Budget and EHF



# Revised financial forecasts

- In April- June 2018, the Tax Court of Canada overturned a ruling from early in the program that stated that industry funding organizations, such as OES, were not allowed to claim Input Tax Credits (ITCs) for HST paid to third parties
- This meant claiming ITCs was allowed for the HST paid on services and goods received in managing the program from 2009-2018
- The Wind-Up Plan financial forecasts were revised following OES's consultations as a result of receipt of final refunds from CRA in February 2019
  - In total, OES received a refund of \$60.8 million from the CRA as a result of ITCs

# Background - EHF reduction

- In light of the larger than expected OES forecast reserve surplus resulting from the CRA decision:
  - OES implemented a 17-month steward fee reduction to \$0
  - The fee reduction took effect on February 1, 2019
  - Eliminated:
    - Steward fees to OES until wind up
    - Consumer EHF fees until wind up
- OES formally notified stewards of the fee elimination on December 3, 2018 so that stewards could prepare their internal IT systems

# Proposal- Budget

| <b>Revenue:</b>                    | <b>2018 Forecast</b> | <b>2019 Budget</b> | <b>2020 Budget</b> |
|------------------------------------|----------------------|--------------------|--------------------|
| EEE Fee Revenue                    | \$51,309             | \$3,327            |                    |
| EHF Fee Refund                     |                      | (\$2,300)          |                    |
| Tax Refund                         | \$60,840             |                    |                    |
| Interest                           | \$936                | \$545              | \$250              |
|                                    | \$113,085            | \$1,572            | \$250              |
| <b>Expenses:</b>                   |                      |                    |                    |
| Processing                         | \$27,142             | \$26,013           | \$12,681           |
| Handling                           | \$6,103              | \$6,231            | \$3,280            |
| Transportation/Storage             | \$6,236              | \$6,419            | \$3,380            |
| <b>Direct Program Costs:</b>       | \$39,481             | \$38,663           | \$19,341           |
| <b>Other:</b>                      |                      |                    |                    |
| Promotion and Education            | \$2,885              | \$2,860            | \$1,000            |
| Administration                     | \$3,101              | \$3,370            | \$2,485            |
| Wind-up Fees                       | \$150                | \$2,400            | \$2,900            |
| RPRA fees                          | \$1,256              | \$2,600            | \$1,300            |
| <b>Indirect Costs:</b>             | \$7,392              | \$11,230           | \$7,685            |
| <b>Total Costs:</b>                | \$46,873             | \$49,893           | \$27,026           |
| <b>Surplus/(Deficit)</b>           | <b>\$66,212</b>      | <b>(\$48,321)</b>  | <b>(\$26,776)</b>  |
| <b>Tonnage (metric tonnes)</b>     | <b>47,711</b>        | <b>45,684</b>      | <b>22,271</b>      |
| <b>Reserve</b>                     | <b>\$109,815</b>     | <b>\$61,494</b>    | <b>\$28,480</b>    |
| <b>Drawdown on Reserve for HST</b> |                      | <b>(\$6,238)</b>   | <b>(\$2,597)</b>   |
| <b>Closing Reserve</b>             |                      | <b>\$55,256</b>    | <b>\$25,884</b>    |

# Proposal- Budget

- OES is projecting a program surplus of \$25.8 million following the steward fee elimination and the resolution of outstanding financial obligations
- Forecasts subject to financial contingencies, such as fluctuations in WEEE supply
- If needed, OES reserves the right to adjust steward fees to fund any financial shortfalls that may occur



# Minister's letter on surplus funds

- The Authority received a letter from the Minister on April 2, 2019 requesting that the Authority conduct consultations on the use of OES surplus funds
  - Minister noted that surplus funds were larger due to the resolution of the tax issue with CRA
- The Minister requested that the Authority:
  - consult on options to ensure that any surplus at program termination be used for the benefit of Ontario consumers
  - report back by April 30, 2019



# Contingency reserve

- Need for hold-back of a contingency to ensure OES can meet all of its financial commitments and not run out of funds prior to program wind up
- This contingency will have to address the uncertainty of the underlying assumptions and estimations associated with any option
- A conservative contingency will likely result in some final surplus funds remaining at wind up
- A determination will be made on the use of this final remaining surplus at corporate dissolution



# Options for use of OES surplus funds

Based on the Minister's request, these are the possible options:

| Surplus fund options that benefit Ontario consumers |   |
|---|---|
| 1   | Modify the current elimination of consumer Electronic Handling Fee to provide a consumer rebate |
| 2   | Extend the current fee elimination period by extending the wind-up date                         |
| 3   | Credit consumers at point-of-waste or product return  |



# Additional considerations for assessment

- Operational ease of implementation within available time
- Legal/contractual feasibility
- Cost efficiency

## Option 1: Modify the current elimination of EHF fee to provide a consumer credit

### Description

- Rebate applied to purchases of electric and electronic equipment (EEE) products
- Distribution method:
  - Credit at point-of-purchase/invoice
  - Mail-in coupons
- Implementation mechanism:
  - Distributed via stewards, remitters and sub-remitters
  - Mail-in management outsourced by OES

### Key questions

- How should the rebate amount be set?
  - Fixed across EEE categories
  - Variable (e.g. mirroring former EHF)
- Which distribution method is preferred?
- What challenges do you see in implementing this option in your supply chain?
- What are timing and duration considerations?

## Option 2: Extend the current fee elimination period by extending the wind-up date

### Description

- Currently the fee elimination is implemented for the last 17 months of the program
- Continue operating the program at no cost to consumers beyond June 30, 2020

### Key question

- Would you support the extension of the existing program as a way to drive down the surplus?

## Option 3: Credit consumers at point-of-waste or product-return

### Description

- Fixed or variable credit distributed to consumers of EEE at point-of-return
- Distribution method:
  - Direct or invoice credit
  - Mail-in coupons or receipts
- Implementation mechanism:
  - Distributed via processors, generators and collectors
  - Mail-in management outsourced by OES
  - Voluntary or mandatory participation

### Key questions

- What factors should determine the rebate amount?
- What challenges do you see in implementing this option in your supply chain?
- Which distribution method is preferred?
- Voluntary or mandatory participation considerations?
- Timing and duration considerations?

# Topic 3: Operations



# Proposal- Program operation

- In OES's view a business as usual approach will ensure that program performance is maintained and there is no disruption to the existing program during wind up
- OES is not proposing any changes to WEEE material definitions
- OES is not proposing changes to collection, transportation and processing incentive rates prior to or during the wind up period
- OES is proposing to maintain existing service provider contracts related to collection, transportation and processing during the wind up period



# Operations summary

## Stewards:

- Despite the reduction of steward fees to \$0, stewards must submit EEE supply reports until June 30, 2020
  - Final steward reports for the month ending June 30, 2020 will be due **July 31, 2020**
  - Corrections or adjustments due by **September 15, 2020**
- Following program termination, stewards who normally submit annual supply reports will submit a six month supply report covering the period January 1, 2020- June 30, 2020



# Operations summary

## Service providers:

- OES is proposing to make a clean version of MTS available as a free software to stewards and potential producer responsibility organizations as of January 2020
- OES is not proposing changes to current collection, transportation and processing incentive rates prior to or during the wind up period
- OES is proposing that it maintain existing service provider contracts related to the collection, transportation or processing of WEEE materials
- OES will monitor applications for additional service providers during this period in light of maintaining current program performance and streamlining program wind up



# Operations summary

## Service providers:

- Collected WEEE will only be eligible for program incentives if the WEEE is dropped off at a collection site by **June 30, 2020** and the related MTS Bill of Lading (BOL) for pick up and transportation of these materials is created and submitted to OES by end of day on **June 30, 2020**.
- Collector and generator BOL submissions must be made by **June 30, 2020** with arrangement for pickup of such materials arranged no later than **July 10, 2020**
- OES is proposing to conduct additional onsite processor visits to validate inputs and outputs related to processor reports
- Processors will have until **August 15, 2020** to submit claims to OES for the MTS BOL's completed and submitted by June 30, 2020 end of day and with corresponding pick ups completed by July 10, 2020





# Topic 4: Promotion and Education

# Proposal- Consumer collection sites

- OES is proposing that program access, collection sites, events, and spending on promotion and education activities be maintained throughout the wind up period
- OES will coordinate the collection of any OES collection materials previously provided to OES collection partners in a manner that does not adversely impact consumer access to WEEE disposal sites prior to June 30, 2020.

# Proposal- Consumer awareness

- OES uses EPRA's Recycle My Electronics logo, branding, campaigns and marketing collateral to increase consumer awareness and participation in Ontario through radio, print and digital initiatives
- OES proposes to continue using the Recycle My Electronics brand to promote recycling of waste electronics throughout the wind up period
- Current promotional and education campaigns and partnerships will continue throughout 2019. In 2020 these events will be assessed on a case-by-case basis to determine their need given the pending program termination
- After program termination, use of Recycle My Electronics brand will revert to EPRA



# Breakouts

**Stewards/Remitters/Sub-Remitters: This room**

**Processors: Cumberland Room**

**Collectors/Generators/Municipalities: Howland Room**

