

INTRODUCTION

This document provides background information to support public consultations the Resource Productivity and Recovery Authority (the Authority) is holding on its General Fee Setting Policy, including context for the development of the policy and an overview of the consultation process.

The outcome of the consultations will assist the Authority in developing its General Fee Setting Policy, which in turn will inform how the Authority structures and sets its specific fee amounts.

It is important to note that the General Fee Setting Policy consultations will focus on the general approach to structuring and setting fees and not on specific categories, thresholds, timelines and fee amounts. The Authority will consult separately at a later date on specific fee amounts once the General Fee Setting Policy has been finalized.

BACKGROUND

The Authority was continued from the former Waste Diversion Ontario on November 30, 2016 with the proclamation of the [Resource Recovery and Circular Economy Act, 2016 \(RRCEA\)](#) and the [Waste Diversion Transition Act, 2016 \(WDTA\)](#), both enacted by the [Waste-Free Ontario Act, 2016 \(WFOA\)](#).

The RRCEA sets out the new individual producer responsibility framework while the WDTA sets out requirements for the ongoing operation of existing waste diversion programs and outlines the process for their eventual wind up along with their associated industry funding organization¹ (IFO).

The Authority is a not-for profit, non-Crown organization with responsibilities related to the government's efforts to advance a circular economy and achieve a waste-free Ontario as outlined in the [Strategy for a Waste-Free Ontario: Building the Circular Economy](#). These responsibilities include developing and operating an electronic registry to effectively monitor producer performance, as well as oversight of programs under the WDTA and compliance of obligated parties under the RRCEA.

¹ Ontario regulates three IFOs: Stewardship Ontario, Ontario Tire Stewardship and Ontario Electronic Stewardship

As an administrative authority mandated by the Government of Ontario, the Authority does not receive government funding. Under the RRCEA's individual producer responsibility framework, the Authority will recover its costs through registration fees paid by responsible parties (e.g., brand holders) and other regulated parties (e.g., service providers). Under the WDTA, the Authority recovers its oversight costs from the IFOs and industry stewardship organizations² (ISOs) that, in turn, recover the costs in fees received from stewards. Section 41 of the RRCEA gives the Authority the ability to set and collect fees, costs or other charges to recover costs related to the exercise of its mandate.

Before the Authority can establish or amend fees and charges, it is required under the RRCEA to consult with stakeholders. The Authority must also post any fee or charge proposal on its website for public comment for at least 45 days. Following public consultation, the fee or charge must be posted on the Authority's website, along with a description of how the Authority considered public comments in determining the final fee or charge. The fee or charge comes into effect 30 days after its publication or on a later date specified by the Authority.

Cost Recovery Under the RRCEA

Registration fees collected by the Authority are to be used exclusively to offset operating costs related to its duties and responsibilities under the RRCEA, including:

- Administration costs
- Establishing, maintaining and operating a registry
- Management of information in the registry
- Compliance and enforcement activities including inspections and investigations
- Stakeholder engagement and communications

Sections 61 to 65 of the RRCEA set out the regulated parties:

- Brand holders of a designated product or package
- Businesses with a commercial connection to a designated product or package
- Service providers to brand holders or businesses with a commercial connection to a designated product or package

Currently, products and packaging have not been designated and parties have not been obligated as regulations have not yet been passed under the RRCEA. The General Fee Setting Policy under development will be used to set registration fees for future regulated parties.

Costs associated with individual producer responsibilities for collecting and managing designated products and packaging, including public education, will be borne directly by the brand holders. As such, it is important to note that the General Fee Setting Policy will only

² Product Care Association; Automotive Materials Stewardship; SodaStream

apply to fees set by the Authority to recover its costs. Under the RRCEA, costs associated with collecting and managing designated products and packaging are the responsibility of brand holders.

Cost Recovery Under the WDTA

The General Fee Setting Policy under development is not applicable to waste diversion programs operating under the WDTA.

The Authority's costs to oversee current waste diversion programs under the WDTA – Blue Box (BB), Municipal Hazardous or Special Waste (MHSW), Used Tires (UT), and Waste Electronics and Electrical Equipment (WEEE) – are recovered from IFOs as set out in WDTA Section 33 (5) (vi) and from ISOs as set out in WDTA Section 41.

The Authority has previously consulted with IFOs and ISOs on the methodology to recover its costs. The methodology developed through this consultation process is as follows:

- Direct costs are tracked separately and allocated to the respective IFO or ISO; and
- Costs that cannot be attributed directly to an IFO or ISO are divided in half with 50% pro-rated across the programs based on direct costs and 50% divided equally among the designated materials.

The Authority will continue to charge IFOs and ISOs for its costs related to its oversight responsibilities under the WDTA. The methodology using direct costs will continue without change as programs and IFOs are wound up. The methodology to allocate the 50% of unattributable costs divided equally across the designated materials will be adjusted, as programs and IFOs are wound up, to reflect the declining number of designated materials³ to ensure both fairness in apportioning those costs and full cost recovery.

Authority Costs

The Authority's operating budget for 2017 is \$7 million as depicted in Figure 1. This reflects annual operating costs associated with its responsibilities related to existing waste diversion programs, one-time costs associated with start up of the Authority and costs associated with building the Authority's capacity to deliver its mandate.

³ Currently the 50% of unattributable costs are divided equally across four designated materials. Following wind up of the UT program and Ontario Tire Stewardship, the 50% of unattributable costs will be divided equally across three designated materials.

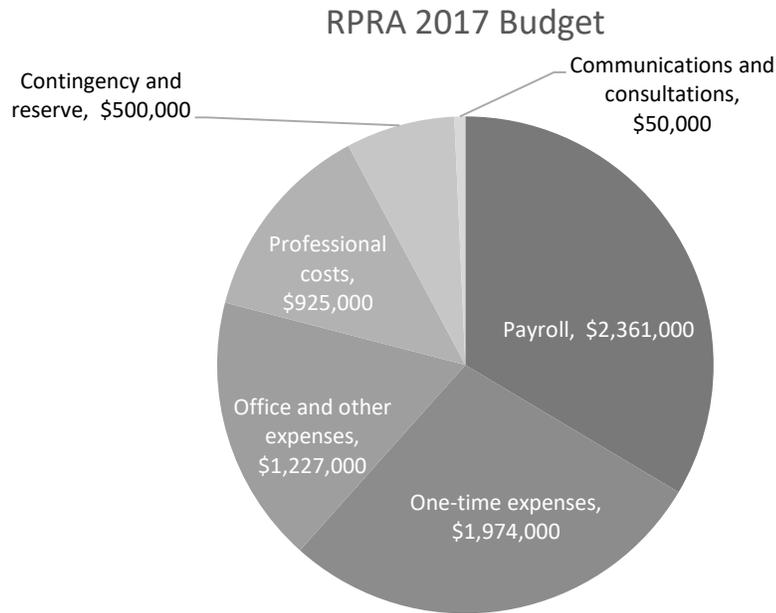


Figure 1: RPRRA 2017 Budget

The Authority’s 2017 budget, as outlined in its [2017 Business Plan](#), segregates costs related to its ongoing responsibilities for existing waste diversion programs under the WDTA from costs associated with the Authority’s responsibilities under the RRCEA.

Registry costs will be amortized to apportion costs to future registrants through registration fees under the RRCEA and to distribute the costs for IFOs and ISOs over a number of years.

Further details on RRCEA and WDTA segregated budgets are available in the Authority’s 2017 Business Plan.

GENERAL FEE SETTING POLICY

The Authority has reviewed fees and fee policies established by other regulators in Ontario and in other comparable jurisdictions, as well as the Organization for Economic Co-operation and Development’s (OECD) best practices for setting regulatory fees, and has set the following objectives for its General Fee Setting Policy:

- Transparent fee setting process
- Fees, costs and other charges are reasonable and reflect costs incurred by the Authority
- Long-term financial sustainability of the Authority
- Fee predictability for regulated parties

More specifically, the General Fee Setting Policy will provide guidance to the Authority in structuring and setting fees, including:

- Fee setting principles
- Fee categories, including thresholds
- Fee payment timelines
- Fee review timeline
- Fee policy review timeline

Fee Setting Principles

The Authority reviewed the [OECD's Guidelines for User Charging \(1997\)](#) when developing its proposed fee-setting principles. The Authority proposes to adopt the OECD principles as set out below, with the exception of principle 9 which has been adapted to apply to the effect of registration fees on a competitive marketplace. The Authority's proposed principles are as follows:

1. Clear legal authority
2. Consultation with users
3. Determine full costs
4. Effective and efficient collection system (e.g. clear instructions for payment and defined payment deadline)
5. Improve and monitor organizational performance (e.g. in setting fees, costs and other charges)
6. Treatment of receipts (e.g. fees are booked as revenues to offset costs)
7. Appropriate pricing strategies
8. Recognize equity considerations
9. Consider the effects of fees in the competitive marketplace

Fee Categories and Thresholds

The Authority's General Fee Setting Policy will likely include a number of fee categories. The Authority will be seeking input into what those categories should be and will present options during its consultation sessions.

The Authority reviewed other Ontario regulators' fee policies and categories when developing the following examples of fee categories:

- Registration
 - Initial registration
 - Registration renewal
 - Change to registration information
- Reporting
 - Audit and verification
- Compliance and Enforcement
 - Inspection

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- Compliance order
 - Investigation

The Authority is also seeking input on approaches that could, for example, establish fee thresholds based on certain characteristics of the obligated parties, such as quantity of the designated material supplied or managed. It should be noted that, if the thresholds are based on information not required to be reported by the obligated parties through regulation, the Authority would require the obligated parties to report the additional information and would need to undertake verification of the additional information to utilize such a threshold for fee setting.

Fee Payment Timeline

The Authority is considering various timelines for different fees, including establishing timelines for late payments. Fees could be required to be paid on an annual, biannual or quarterly basis, or in some instances on a transaction basis.

Late payments could be applied after failure to pay following 30 or 60 days.

The Authority seeks to minimize both transaction and administrative costs and is seeking stakeholder input on the most appropriate fee payment timelines.

Fee Review Timeline

The Authority seeks to find the right balance between the frequency of fee adjustments to ensure financial sustainability of the Authority while providing reasonable predictability for regulated parties. The Authority is currently considering a fee review timeline of every two years. It is anticipated that the fee review timeline would be extended once the Authority's activities are established.

Fee Policy Review Timeline

The Authority believes the process of developing a fee setting policy is an iterative one. The General Fee Setting Policy that the Authority approves in 2017 will reflect what RPRA currently knows and believes to be true. The 2017 policy is being developed within the context of the wind up of existing waste diversion programs and their associated IFOs and the designation of products and packaging under the RRCEA. As part of the consultation, the Authority is seeking stakeholder perspectives on an appropriate timeframe for reviewing its General Fee Setting Policy.

HOW TO PARTICIPATE

Consultations are important to developing effective policies and the Authority seeks to engage with interested stakeholders in the development of its General Fee Setting Policy. The Authority invites all stakeholders to participate in the consultations through the multiple channels of engagement that will be established.

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- If you have comments on the issues raised in this backgrounder, you can send your feedback to: consultations@rpra.ca. Please be sure to note 'General Fee Setting Policy' in the subject heading and include your name, title and organizational affiliation.
 - Additionally, the Authority will be convening both in-person and online webinar consultations in the coming weeks. If you are interested in participating in either in-person or online consultations, please check the Consultation page of the Authority's website for additional details, including dates, times, locations and information on how to register.

The outcomes of the consultations, including a Consultation Report and the final General Fee Setting Policy, will be made available on the Authority's website at www.rpra.ca.

Consultations on specific fees and categories for Used Tires under the RRCEA are anticipated for late 2017. Please check the Authority's website for further details or [subscribe to the Authority's mailing list](#) for regular updates.