

Introduction

This General Fee Setting Policy sets out the principles and rules that the Resource Productivity and Recovery Authority (the Authority) applies in setting fees, costs or other charges under the [Resource Recovery and Circular Economy Act, 2016 \(RRCEA\)](#).

The RRCEA permits the Authority to “set and collect fees, costs or other charges due to the Authority related to the performance of its duties and exercise of its powers under the Act.”

The Authority was continued from the former Waste Diversion Ontario on November 30, 2016 with the proclamation of the RRCEA, along with 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 continuation 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. These responsibilities include developing and operating an electronic registry to effectively monitor producer performance, oversight of programs under the WDTA and compliance of obligated parties under both the WDTA and the RRCEA.

Cost Recovery under the WDTA

The General Fee Setting Policy applies to costs recovered under the RRCEA. It is not applicable to waste diversion programs operating under the WDTA.

Under the WDTA, the Authority recovers its oversight costs from the IFOs and industry stewardship organizations² (ISOs) that, in turn, recover their costs as fees from stewards. The Authority receives no funding from the Government.

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 these 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

¹ The Authority oversees three IFOs: Stewardship Ontario, Ontario Tire Stewardship and Ontario Electronic Stewardship.

² The Authority oversees three ISOs: Product Care Association, Automotive Materials Stewardship and SodaStream.

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- 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 allocated to the WDTA. The methodology which applies 50% of the WDTA allocation 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.

Cost Recovery under the RRCEA

The General Fee Setting Policy is related to Section 41 of the RRCEA which gives the Authority the ability to set and collect fees, costs or other charges to recover costs related to the exercise of its mandate. Fees collected by the Authority under the RRCEA are to be used exclusively to offset operating costs related to its duties and responsibilities under the RRCEA, including:

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

Registry and other capitalized expenses will be amortized to apportion costs to future registrants through 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 Business Plan.

Consultation

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.

The Authority consulted on the General Fee Setting Policy, Fee Setting Methodology and the 2018 Registry fees for Tires in three phases, from October 2017 to March 2018. For a summary of the Authority's consultation and a summary of how the Authority adjusted the General Fee Setting Policy, the Fee Setting Methodology and the 2018 Registry fees for Tires as a result of consultation, please see the Authority's Consultation Report posted on the [consultation page](#) of the website.

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

Following consultation on the General Fee Setting Policy, the Fee Setting Methodology and the 2018 Registry Fees for Tires, it was determined that for 2018 the Authority will recover its costs through fees from responsible parties (e.g., brand holders) and producer responsibility organizations (PROs) rather than all regulated parties under the RRCEA section 64 (e.g., collectors, haulers, processors). This decision was made following feedback received during consultation in order to:

- Reduce financial burden for collectors, haulers, retreaders and processors, many of which are small businesses
- Reduce administrative burden for the Authority to administer fee collection from the relatively larger number of service providers compared to producers and PROs
- Increase predictability for the Authority's fee revenue

General Fee Setting Policy

Under the RRCEA, costs associated with collecting and managing designated products and packaging are the responsibility of producers.

Objectives, Principles and Rules

The *objectives* of the General Fee Setting Policy are:

- 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

The fee setting *principles* are those included in the [OECD's Guidelines for User Charging \(1997\)](#) with the exception of principle 9 which has been adapted to apply to the effect of fees on a competitive marketplace:

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 marketplace⁴

Six overarching *rules* will apply when calculating fees in 2018. Additional rules may be identified as other materials are designated under the RRCEA. The rules may be modified in the future to extend to all regulated parties under the RRCEA section 64 (e.g., collectors, haulers, processors).

The rules are:

⁴ The OECD Principal 9 is: Ensure competitive neutrality.

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1. No proration – fees charged are for the calendar year in which the fees are paid
 2. No in year adjustments – any adjustment required will be reflected in the calculation of fees for the next calendar year
 3. Fees apply to each material (e.g. a producer of tires and WEEE will pay two fees)
 4. Under producer responsibility, annual costs are borne primarily by the responsible parties – the producers
 5. PROs will pay a flat fee
 6. Producer fees will be variable above a minimum threshold and fixed below the threshold

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 General Fee Setting Policy was developed within the context of the wind up of the Used Tires Program and Ontario Tire Stewardship and the Tires Regulation, and in anticipation of other material groups being designated under the RRCEA in the future.

The General Fee Setting Policy has been developed based on the best available information but will be reviewed in 2019 to ensure that it reflects the information available at that time.