

# Used Tires Program Wind Up

RPRRA Stakeholder Consultation

January 2018



# Agenda

1. Introductions and Background (*All*) 9:00
  
2. Used Tires Program Wind Up Plan Review 9:15  
(*All*)
  
3. Break out groups 10:30
  - Producers (North York North)
  - Municipalities, Collectors and Haulers (Crown Room)
  - Processors, Recycled Product Manufacturers (North York South)

# Introduction and Background

- *Waste-Free Ontario Act, 2016*
- RPRA – Roles and Responsibilities, Vision and Mission

# Waste-Free Ontario Act, 2016

## Introduction and Background



1<sup>ST</sup> SESSION, 41<sup>ST</sup> LEGISLATURE, ONTARIO  
65 ELIZABETH II, 2016

1<sup>RE</sup> SESSION, 41<sup>E</sup> LÉGISLATURE, ONTARIO  
65 ELIZABETH II, 2016

## Bill 151

*(Chapter 12  
Statutes of Ontario, 2016)*

**An Act to enact the Resource Recovery  
and Circular Economy Act, 2016  
and the Waste Diversion  
Transition Act, 2016 and to repeal  
the Waste Diversion Act, 2002**

**The Hon. G. Murray**  
Minister of the Environment and Climate Change

## Projet de loi 151

*(Chapitre 12  
Lois de l'Ontario de 2016)*

**Loi édictant la Loi de 2016  
sur la récupération des ressources  
et l'économie circulaire  
et la Loi transitoire de 2016  
sur le réacheminement des déchets  
et abrogeant la Loi de 2002  
sur le réacheminement des déchets**

**L'honorable G. Murray**  
Ministre de l'Environnement et de l'Action  
en matière de changement climatique

# Legislative Context

- *Resource Recovery and Circular Economy Act, 2016*
  - Resource Productivity and Recovery Authority came into effect
    - Non-Crown body with new objects, powers, compliance and enforcement tools, enhanced oversight and accountability
  - Establishes new regime where producers are
    - Accountable for their products and packaging, recovering resources and reducing waste as set out in regulations throughout the life of product
- *Waste Diversion Transition Act, 2016*
  - Sets out provisions to continue existing diversion programs until wind-up as directed by the Minister
  - Sets out provisions for winding up the existing programs and IFOs

# RPRA Mandate

- RPRA
  - Has responsibility to ensure legislation and its regulations are enforced
  - Government oversees RPRA
  - Self-financing through fees levied on the regulated parties
  - Not-for-profit
  - Non-crown

# OUR VISION

Introduction and Background

A waste-free Ontario  
where all resources are  
reused and recycled.

# OUR MISSION

Introduction and Background

To promote and enforce  
accountability for the  
reduction and management  
of packaging and products.



# Used Tires Program Wind Up - Background

- Minister's Direction
- Wind Up Guide
- Wind Up Plan Development
- Receipt of OTS Wind Up Plan

# Minister's Direction to OTS

## Used Tires Program Wind Up - Background

- Consult and communicate during development of Wind Up Plan
- Wind up plan:
  - Not adversely affect Ontario's market place for used tires
  - Be fair, open and transparent in:
    - the sharing of data and information
    - dealing of assets, liabilities, rights and obligations
  - No disruption in the operation of the program
  - Maintain or exceed program target or performance, which ever is higher
  - Include a fee elimination period for passenger/light truck tires (and any other tires class if applicable)
  - An approach to manage the deficit from off-the-road tire classes
  - Approach to deal with OTS' TreadMarks IT system

# Wind Up Guide

Used Tires Program Wind Up - Background

## Evaluation of Wind Up Plan:

- RPRA may approve the Plan if consistent with the Minister's direction and may include conditions
- RPRA Wind-Up Guide (Guide) prepared to assist Ontario's four waste diversion programs operated by Industry Funding Organizations (IFOs)
- The Guide addresses issues that will be considered by RPRA during assessment of an IFO's wind-up plan

# Wind Up Plan Development

Used Tires Program Wind Up - Background

After Minister's Wind Up direction, OTS hosted consultations:

- Individual meetings with various stakeholders: May and June 2017
- All stakeholders: September 25<sup>th</sup> and 26<sup>th</sup>

# Receipt of OTS Wind Up Plan

## Used Tires Program Wind Up - Background

- During the development of the Wind Up Plan, the OTS Board resigned
- RPRA appointed an Administrator to replace Board
  - in accordance with the Waste Diversion Transition Act
- Used Tires Program Wind Up Plan deadline for submission to RPRA extended to November 30, 2017
  - Consulting on this Plan today

# RPRA's Role

Review the Plan against the:

1. Waste Diversion Transition Act requirements
2. Minister's direction to OTS
  - February and June 2017 direction letters
3. RPRA Wind Up Guide

Decision on approval by March 31, 2018

# 1. Waste Diversion Transition Act Requirements

- Operating plan
- Timeline
- Proposal to deal with assets, liabilities, rights and obligations
- Proposal for transferring and sharing data
- Description of the changes to the program
- Consult with stewards, municipalities and anyone else affected by the wind up
- Rules that apply on wind up (modifications to Corporation Act)

## 2. Key Elements – Minister’s Direction

- a) Data transferring and sharing
- b) Monies held in trust
- c) Steward Rules
- d) No disruption
- e) Meet targets or current performance
- f) Consultation report
- g) Communication plan
- h) Limit spending
- i) Fee elimination
- j) Sufficient funds
- k) OTR deficit management
- l) TreadMarks IT



## 2a) Data Transfer and Sharing

*“The sharing of data and information to parties other than the Authority must be done in a fair, open and transparent manner...” (February 17, 2017)*

### Plan proposes:

- Public release of aggregated used tire recycling data for 2015-2017 including:
  - New tire supplies by tire classification (PLT, MT and OTR)
  - Collection data by postal code and tire classification
  - Tire processing tonnage inputs and outputs and processing category outputs (crumb rubber vs. shred)
  - Tire manufacturing tonnage inputs and outputs
- Data transfer to RPRA = historic and detailed tire sales and recycling data

## 2b) Monies held in trust

*“Monies held in trust by OTS are treated appropriately in accordance with the WDTA and its regulations” (February 17, 2017)*

### Plan proposes:

- Steward Rules to include reconciliation for July 1, 2017- December 31, 2018 and reconciliation for 2009-2018
- Remaining funds post-wind up will be disbursed to stewards in accordance with the Steward Rules
- Processor bonds will be returned to processors prior to OTS termination
- Sub collector deposits will be returned to sub collectors upon program termination

## 2c) Steward Rules

*“Rules governing fees for the program during the wind up period in accordance with the principles set out in section 33 of the WDTA...” (June 30, 2017)*

### Plan proposes:

- Amendments to Rules to include:
  - Replacing legislative references
  - Fee reconciliation process for wind up period
  - Wind Up Program Reconciliation
  - OTR account debt recovery fee
  - Penalties for Stewards who fail to report
- Separate Steward Rules consultation to be held by OTS in February

## 2d) No Disruption

*“There is no disruption in the operation of the waste diversion program while the program is operating.” (February 17, 2017)*

Plan proposes:

- Recognize year-end service provider inventories (as per existing contractual commitments)
- Stakeholder outreach and communications strategy to clarify wind up processes and steps
- Briefings with RRCEA producers throughout 2018
- Retain staff necessary to complete OTS wind up functions

## 2d) Incentives and inventory

Service Provider	Eligible Materials
Collectors	Tires collected by collectors by midnight, December 31, 2018 will be eligible for the Collection Allowance
Haulers	Tires that were picked up from registered collector and held by Haulers as of December 31, 2018 will be eligible for Transportation Allowance
Processors	Year-end inventories as of December 31, 2018 that have been processed into TDP between Jan 1 and March 31, 2019 will be eligible for Processing Incentives
Recycled Product Manufacturers	Year-end RPM inventories that have been manufactured and sold between Jan 1 and March 31, 2019 will be eligible for Manufacturing Incentives

## 2e) Meet targets or current performance

*“Current program targets or performance, whichever is higher, must be maintained or exceeded...” (February 17, 2017)*

OTS is proposing to maintain current collection and diversion efforts consistent with 2016 results:

	Program Plan Collection Target	Proposed Wind Up Plan Collection Target
PLT	88% (of supplied)	88%
MT	98% (of supplied)	77%
OTR	83% (of supplied)	100%

## 2f) Consultation Report & 2g) Communications Plan

*“A detailed report of OTS’ communications with affected stakeholders and the public during the development of the wind up plan.” “A detailed report outlining how OTS has met the consultation requirements of ss. 14(13) of the WDTA” (February 17, 2017)*

*“A detailed proposal for a communications plan for all affected stakeholders and the public during the implementation of the wind up plan...” (February 17, 2017)*

### Plan includes:

- Consultation Report including stakeholder feedback on key issues and OTS financial issues.
- Plan also includes Communications Tactic indicating who, how and when OTS will communicate

## 2h) Limit spending

*“Spending should be limited to necessary program expenditures and strictly controlled.”  
(June 30, 2017)*

Plan proposes:

- Maintain service provider incentives for tires in the OTS system by December 31, 2018
- Limit or eliminate Market Development, Promotion and Education and Research and Development programs in 2018
  - Brand ambassadors
  - Retail rebate program
  - Trade shows



## 2h) Financials

Table 1.4.4 OTS Market Development; Promotional and Educational; and Research and Development Costs 2016 – 2018 (\$000s)			
Program Category	2016 Actual	2017 Estimate	2018 Estimate
Promotional and Education	\$1,710	\$2,193	\$609
Market Development	\$1,297	\$2,849	\$220
Research and Development	\$943	\$1,447	\$983
Rubber Modified Asphalt	\$0	\$1,850	\$363
Program Totals	\$3,950	\$8,339	\$2,175

Note: A description of specific Programs eliminated or curtailed in 2018 as part of OTS Wind Up is provided in Section 1 OTS Operational Plan with details of various 2018 P&E, MD and R&D program cost reductions provided in *Schedule 5 FF&B* attached.

## 2i) Fee Elimination

*“Where possible, the rules would eliminate fees for PLT tires in order to minimize the remaining surplus funds... It is my expectation that OTS will implement the fee elimination from May 1, 2018 or as soon as feasible...” (June 30, 2017)*

### Plan proposes:

- Elimination of PLT fees, target date of October 15, 2018, with revised date to be determined in spring of 2018
- Positive resolution of Transportation Incentive HST obligation would result in an added ~\$12.6 Million available for wind up costs accommodating an earlier fee elimination date

## 2i) Funding Fee Elimination

Table 1.4.7 Impact of Revenue/Expense Forecast on OTS Reserves	
	Estimate (\$000s)
Net Assets as of December 31, 2016	\$49,155
2017 Operating Surplus/(Deficit)	(\$11,816)
2018 Operating Surplus/(Deficit)	(\$8,663)
Net Asset Estimate as of December 31, 2018	\$28,706
Estimate of 2019 Wind Up Expenses	(\$19,039)
Initial Estimate of Unrestricted Net Assets after Resolution of OTS Wind Up Obligations*	\$9,667

\* Note: Initial estimate of unrestricted net assets at the conclusion of OTS Wind Up activities is contingent upon a number of financial variables associated with 2017, 2018 and 2019 financial forecasts and Wind Up proposals associated with those years. OTS will revise this initial forecast upon approval of the Wind Up plan. Initial forecast includes a \$12.6 million HST related tax accrual expense which OTS is seeking to clarify prior to program termination in addition to a \$1.5 million OTR end of year invoice.

## 2j) OTR Deficit Management

*“An approach to manage the deficit from OTR tire classes including proposed rules to continue debt repayment...” (June 30, 2017)*

### Plan proposes:

- To invoice OTR Stewards for anticipated shortfall in historic OTR account deficit
- Current estimate of ~\$1.5 Million will be owed by OTR Stewards at program termination
- Steward Rules to include rule to determine individual OTR debts

## 2k) Sufficient Funds for Wind Up

*“Provide for sufficient funds for the costs set out in section 33 of the WDTA including costs of operating the program as well as costs incurred to wind up the waste diversion program for used tires and OTS.” (June 30, 2017)*

Plan Budget proposal includes:

\$19 million for 2019 OTS wind up costs including:

- \$9M in inventory-related incentive payments
- \$3M contingency fund
- \$7M - approximately six months of general and administrative expenses

## 2I) TreadMarks IT

*“An approach to deal with OTS’ Treadmarks IT system that ensure fair and equitable access to all users.” (June 30, 2017)*

Plan proposes:

- To make TreadMarks available to producers
- Producers can share TreadMarks with their own service providers
- TreadMarks to be made available:
  - From OTS on May 1, 2018 until March 2019
  - From RPRA post March 2019

# Wind Up Guide

Used Tires Program Wind Up - Background

Guide defines 13 aspects necessary for a complete Wind Up Plan

1. Operating plan to termination
2. Implementation plan and timeline
3. Communication with stakeholders
4. Financial forecast and budget
5. Assets
6. Liabilities
7. Cut-Off period for incentives
8. Reserves
9. Data security, sharing and transfer
10. Human resources
11. Legal
12. Tax
13. Management of other risks

# Wind Up Guide

Used Tires Program Wind Up - Background

Guide recommends balancing 8 principles:

1. Fair and Equitable
2. Minimal impact to Stakeholders
3. Defined and Measurable Scope
4. Transparency
5. Commercial Reasonability
6. Integrity and Protection of Data
7. Independence and Professionalism
8. Fiscal Responsibility and Operating Performance



# Other Issues

- Tire collection delays
  - OTS RFP
  - Hauler search function
- Tire Dealer Inventory
- Others?

# Wind Up Plan Review – Questions

- Is there enough information in the Plan for you to plan for the wind up of the program?
- What information is missing?

# Break Out Sessions – Dial in Details

- All Break Out Groups
  - Dial in: (416) 548- 6023 or 1-877 394-5901
- Producers –
  - Access Code **1861754**
- Municipalities, Collectors, Haulers
  - Access Code **5840088**
- Processors and RPMs
  - Access Code **4469828**

# Break Out Sessions

# Used Tires Program Wind Up

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# Wind Up Plan: Municipalities, Collectors & Haulers

## Key Issues

- Incentives
- TreadMarks
- Data
- Other?

# Incentives

*“There is no disruption in the operation of the waste diversion program while the program is operating.” (February 17, 2017)*

Recognize year-end service provider inventories (as per existing contractual commitments)

- Any tires collected prior to December 31, 2018 will be eligible for Collection Allowances claims submitted in Q1 2019
- Used tires which have been picked up from registered collectors and held by Haulers as of December 31, 2018 will be paid for provided they are delivered to a registered processor by January 31, 2019

# TreadMarks IT

*“An approach to deal with OTS’ Treadmarks IT system that ensure fair and equitable access to all users.” (June 30, 2017)*

Plan proposes to make TreadMarks available to producers

Producers can share TreadMarks with their own service providers

TreadMarks to be made available for transfer on May 1, 2018

Available from OTS until March 2019 then transferred to RPRA



# Data transferring and sharing

*“The sharing of data and information to parties other than the Authority must be done in a fair, open and transparent manner...” (February 17, 2017)*

Public release of aggregated used tire recycling data for 2015-2017 including:

- New tire supplies by tire classification (PLT, MT and OTR)
- Collection data by postal code and tire classification
- Tire processing tonnage inputs and outputs and processing category outputs (crumb rubber vs. shred)
- Tire manufacturing tonnage inputs and outputs

Data transfer to RPRA = historic and detailed tire sales and recycling data

# Wind Up Plan: Municipalities, Collectors & Haulers

## Key Dates

Date	Action
September 2018	OTS Service Provider briefing re termination Collectors and Hauler notified of termination of contracts for December 31, 2018 (September 30)
December 2018	Program terminates
January 2019	Deadline for collectors to have year-end used tire inventory transported off site (Jan 25) 4 <sup>th</sup> Quarter 2018 Collection Allowance Claims Due (Jan 31) December 2018 Transportation Incentive Claims Due and Deadline for Haulers to have year-end inventories transported to processors (Jan 31)

# Wind Up Plan: Municipalities, Collectors & Haulers

## Key Dates

Date	Action
February 28 2019	January CA year-end inventory claims due – Final CA claims submission deadline January TI year-end inventory claims due – Final TI claims submission deadline
May 2019	Target date for resolution of all service provider contractual payments (May 31)

# Used Tires Program Wind Up

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# Wind Up Plan: Processors and RPMs

## Key Issues

- Incentives
- TreadMarks
- Data
- Others?

# Incentives

*“There is no disruption in the operation of the waste diversion program while the program is operating.” (February 17, 2017)*

Recognize year-end service provider inventories (as per existing contractual commitments)

- Pay out PI in relation to processor year-end inventory as of December 31, 2018 if tires have been processed into TDP between Jan 1 and March 31, 2019
- Pay out of MI in relation to RPM year-end inventories that have been manufactured and sold between Jan 1 and March 31, 2019
- Processor and RPM year-end inventories must be confirmed by OTS by January 10, 2019

# TreadMarks IT

*“An approach to deal with OTS’ Treadmarks IT system that ensure fair and equitable access to all users.” (June 30, 2017)*

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Producers can share TreadMarks with their own service providers

TreadMarks to be made available for transfer on May 1, 2018

Available from OTS until March 2019 then transferred to RPRA

# Data transferring and sharing

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Public release of aggregated used tire recycling data for 2015-2017 including:

- New tire supplies by tire classification (PLT, MT and OTR)
- Collection data by postal code and tire classification
- Tire processing tonnage inputs and outputs and processing category outputs (crumb rubber vs. shred)
- Tire manufacturing tonnage inputs and outputs

Data transfer to RPRA = historic and detailed tire sales and recycling data



# Wind Up Plan: Processors and RPMs

## Key Dates

Date	Action
December 2017	OTS notifies processors and RPMs of termination of contracts for December 31, 2018
April 2018	Release of public tire recycling data
September 2018	OTS service provider briefing re termination/transition
December 2018	Program terminates
January 2019	Processor & RPM year-end inventory audit site visits (Jan 2-8) Processor & RPM year-end inventory counts affirmed (Jan 10) December PI and MI incentive claims due (Jan 31)
February 2019	January PI and MI year-end inventory claims due (Feb 28)

# Wind Up Plan: Processors and RPMs

## Key Dates

Date	Action
March 2019	February PI and MI year-end inventory claims due (March 31)
April 2019	March PI and MI year-end inventory claims due (April 31)
May 2019	Target date for resolution of all service provider contractual payments (May 31)

# Used Tires Program Wind Up

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# Wind Up Plan: Producers

## Key Issues

- Fee Elimination
- OTR Debt Recovery
- Reconciliation – Wind Up and Program
  - July 1, 2017- December 31, 2018 reconciliation
  - September 2009-December 2018 reconciliation
- TreadMarks
- Data transferring and sharing

# Fee Elimination

## Key Issues

*“Where possible, the rules would eliminate fees for PLT tires in order to minimize the remaining surplus funds... It is my expectation that OTS will implement the fee elimination from May 1, 2018 or as soon as feasible...” (June 30, 2017)*

## Proposed plan:

- Elimination of PLT fees, target date of October 15, 2018
  - Based on \$3.4M per month PLT operating cost
    - May be revised in spring of 2018 based on updated financial information
- Positive resolution of Transportation Incentive HST obligation would result in an added ~\$12.6 Million available for wind up costs accommodating an earlier fee elimination date

# OTR Debt Recovery

## Key Issues

*“An approach to manage the deficit from OTR tire classes including proposed rules to continue debt repayment...” (June 30, 2017)*

## Plan proposes to:

- Invoice OTR Stewards for anticipated shortfall in historic OTR account deficit
- Current estimate of ~\$1.5 Million will be owed by OTR Stewards at program termination
- Steward Rules to include rule to determine individual OTR debts
  - OTS to conduct consultation on revised Rules in Feb 2018

# OTR Debt Recovery

Year	OTR Debt	Debt Repayment
2009-2013	\$25.6M	
2014		\$2M
2015 (includes historic revenue reclassification)		\$9.8M
2016 (including reconciliation)		\$3M
2017 (includes reconciliation)		\$2.7M (estimated)
2018		\$3.3M (estimated)
2019		\$3.3M (estimated)
OTR Balancing Owing (Jan 1, 2019)		\$1.5M

# Reconciliation – Wind Up and Program

## Key Issues

*“Monies held in trust by OTS are treated appropriately in accordance with the WDTA and its regulations” (February 17, 2017)*

- Plan proposes:
  - Steward Rules to include reconciliation for July 1, 2017-December 31, 2018 and reconciliation for 2009-2018
  - Remaining funds post-wind up will be disbursed to stewards in accordance with the Steward Rules



# TreadMarks

## Key Issues

*“An approach to deal with OTS’ Treadmarks IT system that ensure fair and equitable access to all users.” (June 30, 2017)*

Plan proposes to:

- Make TreadMarks available to producers
- Producers can share TreadMarks with their own service providers
- TreadMarks to be made available for transfer on May 1, 2018
- Available from OTS until March 2019 then transferred to RPRA

# Data Transferring and Sharing

*“The sharing of data and information to parties other than the Authority must be done in a fair, open and transparent manner...” (February 17, 2017)*

Plan proposes:

- Public release of aggregated used tire recycling data for 2015-2017 including:
  - New tire supplies by tire classification (PLT, MT and OTR)
  - Collection data by postal code and tire classification
  - Tire processing tonnage inputs and outputs and processing category outputs (crumb rubber vs. shred)
  - Tire manufacturing tonnage inputs and outputs
- Data transfer to RPRA = historic and detailed tire sales and recycling data

# Wind Up Plan: Key Dates for Producers

## Key Dates

Date	Action
April 2018	<ul style="list-style-type: none"><li>• Release of tire recycling data</li><li>• Initial meeting with producers re TreadMarks</li></ul>
May 2018	TreadMarks available for Transfer to Producers
September 2018	OTS hosting Producer Transition Meetings
October 2018	PLT TSF eliminated (October 15 or earlier TBD) OTS hosting Producer Transition Meetings
November 2018	OTS hosting Producer Transition Meetings
December 2018	Program Terminates December 31

# Wind Up Plan: Key Dates for Producers

## Key Dates

Date	Action
January 31, 2019	Deadline for final Steward Dec 2018 supply report and payments
February 28, 2019	Deadline for any Steward wholesale reconciliation re: 2018 supply reports
March 2019	Final calculation of OTR steward amounts owing – invoicing OTR stewards
April 30, 2019	Due date for final OTR steward payments to OTS
TBD	Final OTS Steward Reconciliation

# Wind Up Plan: Producers - Related Issues

## Other

- Registry User Acceptance Testing
  - Reaching out to producers to help with testing of Registry
- Tire Regulation
  - MOECC consultation closed January 22
- RRPA Fee Setting Policy and Tire Fees
  - To be released this week for 45 day consultation period