

New Regulations and Proclamations under the *Waste-Free Ontario Act, 2016*

Jack D. Coop, Fogler, Rubinoff LLP¹

The Ministry of Environment and Climate Change is moving to implement its new waste diversion legislation, the *Waste-Free Ontario Act, 2016* (WFOA).

On June 9, 2016, the Act – including its two scheduled statutes, the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WDTA) - received Royal Assent. However, no regulations were made under them, and none of the statutes were proclaimed.

New WDTA Regulations

On November 24, 2016, Ontario made the following seven new regulations under the WDTA:

- [O. Reg. 396/16](#): REVOKING O. REG. 84/03 (USED TIRES) MADE UNDER THE WASTE DIVERSION ACT, 2002 - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 395/16](#): REVOKING VARIOUS REGULATIONS MADE UNDER THE WASTE DIVERSION ACT, 2002 - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 390/16: USED TIRES](#) - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 389/16: WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT](#) - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 388/16: STEWARDSHIP ONTARIO](#) - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 387/16: MUNICIPAL HAZARDOUS OR SPECIAL WASTE](#) - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016
- [O. Reg. 386/16: BLUE BOX WASTE](#) - WASTE DIVERSION TRANSITION ACT, 2016 - regulation filed November 24, 2016

In broad summary, the new regulations do one or more of the following: repeal an old regulation; designate as waste the relevant used materials; specify board composition of the Industry Funding Organization (IFO) in question; establish formulas for the calculation of stewardship fees.

¹ Jack D. Coop is a Partner of Fogler, Rubinoff LLP, and a Certified Specialist in Environmental Law

While the fact that these regulations were filed can be found by searching the e-Laws website (at

https://www.ontario.ca/laws?search=&filterstate%5B%5D=current&filteroption=source&filteryear=2016&source_type%5B%5D=regulation&pit_date=&filtertype=Statute&sort=&sort_letter=&browse=on), curiously, the Ministry issued no news release notifying the public.

By virtue of the commencement wording in each of these regulations, they do not become effective until section 73 of the WDTA is proclaimed – on November 30, 2016 (see below).

Proclamations

On November 30, 2016, most of the provisions of the two scheduled statutes will be proclaimed.

All of the RRCEA will be proclaimed, except section 33 – the requirement that the new Authority submit a Business Plan to the Minister – that comes into effect January 1, 2017.

Also, on November 30, 2016, most of the WDTA will be proclaimed, except sections 56-64, which will be proclaimed on May 1, 2017. The excepted provisions are those which will give the Authority the power to issue administrative penalties against transitioned Industry Funding Organizations, as well as giving IFO's the right to appeal such penalties to the Environmental Review Tribunal.

To view proclamation notices on-line, go to <https://www.ontario.ca/laws/proclamations>, and search for the term "Waste-Free". Here are the excerpted search results:

Waste-Free Ontario Act, 2016, S.O. 2016, c. 12	Sched. 2, s. 75	30/11/2016	Waste Diversion Act, 2002
Waste-Free Ontario Act, 2016, S.O. 2016, c. 12	Sched. 2, s. 1-55, 65-73	30/11/2016	Waste Diversion Transition Act, 2016
Waste-Free Ontario Act, 2016, S.O. 2016, c. 12	Sched. 2, s. 56-64	01/05/2017	Waste Diversion Transition Act, 2016
Waste-Free Ontario Act, 2016, S.O. 2016, c. 12	Sched. 1, s. 33	01/01/2017	Resource Recovery and Circular Economy Act, 2016
Waste-Free Ontario Act, 2016, S.O. 2016, c. 12	Sched. 1, s. 1-32, 34-108	30/11/2016	Resource Recovery and Circular Economy Act, 2016

Industry Funding Organizations and Stewards (ie. Producers, Brand Manufacturers and First Importers) under the new legislation should have regard to the impact these regulatory changes could have upon on their legal rights.

This publication is intended for general information purposes only and should not be relied upon as legal advice.