

# PROPOSED AMENDMENTS TO TIRES AND OTHER PRODUCER RESPONSIBILITY REGULATIONS

## PREAMBLE

Ontario is seeking feedback on proposed changes to the following regulations under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA):

- the Tires Regulation (*O. Reg. 225/18*)
- the Hazardous and Special Products (HSP) Regulation (*O. Reg. 449/21*)
- the Administrative Penalties Regulation (*O. Reg. 558/22*)

We are also seeking feedback on potential changes that may affect all producer responsibility regulations, including for batteries and electrical and electronic equipment (EEE).

The changes are intended to strengthen Ontario's producer responsibility framework to better support waste diversion and set clear, enforceable requirements for producers.

## **ITEM 1: Expand the existing “call-in” collection requirement to any site that generates tires and add a guaranteed response time – Tires**

The proposed change would come into effect upon filing.

### Current Requirement:

Section 5 of the regulation requires that producers must establish a collection network with a certain number of sites as set out in sections 6 to 10.1. The number of sites is based either on the population of individual municipalities or the number of retail sites that sell a producer's tires.

In addition, Section 6.1 of the Tires Regulation currently requires producers to collect tires within one year from

1. A council of the band.
2. A municipality that is not located in the Far North.
3. A local services board that is not located in the Far North.
4. A depot where tires are collected that is owned or operated by the Crown in right of Ontario and that is not located in the Far North.

if notified that more than 200 tires have been collected.

### Proposed Change:

The ministry is proposing to add a new provision that would require producer responsibility organizations (PROs) to collect tires from any tire collection site (e.g. tire retailers/dealers) that is not part of a PRO's collection network, that has accumulated at least 50 tires and requests pick-up, and to add the same service standard to sites within a PRO's network. Once notified, the PRO would have to collect the tires within **one month** during peak tire change months i.e. Oct-Dec and April-May, and **two months** the rest of the year.

RPRA will be responsible for determining an approach for allocating responsibility to collect tires from sites outside the PRO's networks based on each PRO's market share. If PROs come together to voluntarily develop their own allocation system (e.g. such as a clearinghouse to allocate collection and share and reconcile costs), RPRA could use that to guide how it allocates sites among PROs.

This requirement is expected to address issues with collection backlogs at tire collection sites that are not part of the PROs' collection networks and ensure that all collection sites have regular collection service in the future.

***Additional feedback sought:***

- Are there any other potential approaches for allocating sites that should be considered instead of RPRA assigning sites based on PRO market share?
- Are the threshold of 50 tires and the proposed timeframes of one month and two months appropriate for PROs to respond to call-in collection requests?
- Should the proposed service standards be different for sites within PROs' registered collection networks compared to those outside the network?
- Should consideration be given to requiring that producers establish and operate more collection sites as part of their network to ensure tires are collected in a timely manner?

**ITEM 2: Add a new requirement that collected tires must be managed within 3 months of pick-up – Tires**

The proposed change would come into effect upon filing.

Current Requirement:

Section 12 of the Tires Regulation states that for tires to count towards producers' management targets, collected tires must be processed by March 31 of the following calendar year. Otherwise, producers are not required to ensure that collected tires are processed within a specified amount of time.

Proposed Change:

The ministry is proposing to add a requirement that all tires (whether they are to be counted towards meeting management targets or not) be managed by a registered

processor or retreader within 3 months of being collected from a site. This requirement would apply to tires collected from the sites within a PRO's collection network as well as call-in requests.

This requirement is expected to ensure that collected tires are recycled and not stored for long periods of time or sent directly to landfill, energy from waste (EFW) or incineration if not needed to meet management targets. But the ministry is also interested in hearing if any portion of the tires should be allowed to go to EFW in recognition of the energy that is generated.

This proposed provision would align with similar requirements currently in the Batteries, Electrical and Electronic Equipment (EEE), Hazardous and Special Products (HSP) and the Blue Box Regulations.

***Additional feedback sought:***

- Is 3 months the appropriate timeframe to ensure tires are processed in a timely manner?
- Should the 3-month management requirement allow a portion of collected tires to be sent to energy from waste (EFW) facilities after targets have been met, rather than only allowing collected tires to be sent to registered processors or retreaders? If so, what should that portion be?
- Should the use of EFW for this portion of collected tires be restricted to specific geographic areas (e.g., rural Ontario) to reduce transportation impacts of shipping longer distances for processing?
- What impact would allowing some tires to go to EFW have on the market for retreading tires and processing tires for other uses?

**ITEM 3: Revise recycling efficiency rate (RER) requirements – HSP**

The proposed change would come into effect in 2027.

Current Requirement:

Section 30 of the HSP Regulation requires producers to process the following HSP materials at a processor that meets certain minimum RERs, in the calendar year two years prior. This requirement comes into effect from 2027.

Item	Type of HSP	Average recycling efficiency rate (percentage)
1.	Antifreeze	90
2.	Barometers, Thermometers and Thermostats	90
3.	Oil containers	95
4.	Paints and coatings	75
5.	Solvents	10

### Proposed Change:

The ministry is proposing that the requirement to meet the RER for antifreeze and oil containers be delayed to 2028 from 2027. However, the numerical value of recycling efficiency rates for both materials will not change (i.e. 90% for antifreeze, 95% for oil containers).

The RER for paints and coatings, and solvents will remain unchanged and will come into effect for 2027.

This change is being proposed because the ministry has heard that more time is needed to consider options for recycling oil and antifreeze containers and during this period producers and PROs need flexibility to use alternative management solutions for some of these containers (e.g. energy from waste). This is understood to be a short-term constraint that will no longer apply after 2027.

### ***Additional feedback sought:***

- Is there a short-term constraint in Ontario for the processing of antifreeze and oil containers?
- Should the requirement to meet the RER for antifreeze (i.e. the product, not the container) remain for 2027 and just antifreeze containers (along with oil containers) be delayed to 2028?
- Should the ministry consider removing or revising the RER for mercury-containing products since mercury cannot be recycled and is managed by sending to long-term storage?
  - RER for mercury could be reduced to align with current recycling outcomes for all parts of the mercury-containing product (not just parts with mercury).
  - Alternatively, RER for mercury-containing products could be removed and replaced with specific management requirements for mercury.

The change to the RER for oil containers and antifreeze is intended to give producers/PROs one additional year to achieve compliance but not change the overall outcome of the regulation. A change to the RER for mercury-containing products is being considered to ensure the regulation is setting achievable requirements.

### **ITEM 4: Administrative change to clarify collection site requirements – HSP**

The proposed change would come into effect upon filing.

### Current Requirement:

Section 21 of the HSP Regulation requires at least one HSP collection site or collection event in every local municipality with a retail location.

Subsection 20(4) only obligates a minimum of one collection site in the base municipality within the same upper-tier municipality and does not extend this requirement to municipalities captured under the adjacent municipality provision.

Proposed Change:

The ministry is proposing to revise the sections to clarify that the requirement to establish at least one collection site in a base municipality only applies to offsetting within the same upper-tier municipality, not for sites that are offset in adjacent municipalities.

In order to provide some flexibility in creating a collection network, a producer is allowed in limited cases to move around some of their collection sites within an upper-tier municipality or between adjacent municipalities. Within an upper-tier, they can move a limited number of sites to other lower-tier municipalities as long as they maintain at least one site in every “base” municipality and maintain the same number of overall sites in the upper-tier. They are also allowed in limited cases to count an extra site in an adjacent municipality in place of the required site in the “base” municipality. In the case of adjacent municipalities, it would not make sense if they were required to keep a site in the “base” municipality. The regulation is currently not clear on the rules for adjacent municipalities.

This is an administrative update and not expected to change any existing requirements under the regulation, as it aligns with RPRA’s current interpretation of the requirement.

**ITEM 5: Remove the \$1 million cap – Administrative Penalties (AP) Regulation**

The proposed change would come into effect on filing and would apply to any contraventions that occur on or after that date.

Current Requirement:

Subsection 7(2) and Subsection 7 (3) of the AP Regulation state that the total AP amount for non-continuing contraventions and continuing contraventions (in the previous 365 days) shall not exceed \$1 million.

Proposed Change:

The ministry is proposing to remove the \$1 million cap and allow RPRA to issue AP orders to the full value of economic benefit achieved through non-compliance. This change would apply to the Tires, HSP, Batteries, EEE and the Blue Box regulations.

The amount of the AP shall continue to be determined by RPRA’s Registrar or a Deputy Registrar in accordance with the regulation.

The ministry is also proposing to require PROs to report annually on financial information that can inform RPRA's assessment of economic benefit (e.g., cost to collect and manage material). Once reported to RPRA, this information would be kept confidential. Having this information available to RPRA will support an accurate assessment of economic benefit and will also speed up the time it takes RPRA to determine an AP amount.

This change is expected to encourage producers and PROs to work towards system improvements and to discourage non-compliance. It does this by allowing RPRA to issue APs that reflect the full economic benefit that a producer would have gained through non-compliance, in addition to a base penalty amount. This removes any incentive to see paying penalties as a cheaper option than compliance.

***Additional feedback sought:***

- If stakeholders do not agree with removing the AP cap, are there any alternative recommendations that could encourage compliance?

**ITEM 6: Rules for shared PRO activities – Tires, HSP, Batteries, EEE**

Current Requirement:

Tires Regulation (section 5), HSP Regulation (section 10), Batteries Regulation (section 11) and EEE Regulation (section 12) allow producers to share collection sites for the purposes of meeting collection system requirements.

In addition, RPRA allows producers to purchase excess performance (i.e. credits) for the purposes of meeting minimum management requirements.

Proposed Change:

The ministry is seeking feedback on whether Ontario's producer responsibility framework should include new rules related to PROs sharing collection sites and trading excess performance (i.e. credits) to meet targets.

***Approach 1:*** The ministry could amend the regulations to incorporate rules that PROs would have to follow if they opted to share sites or trade excess performance. These rules could be based on RPRA's [Collection System and Minimum Management Requirements Guideline](#). For example:

- If PROs share sites, they must have an arrangement on how to service those sites and allocate material collected at those sites
- If PROs buy or sell excess materials (i.e. credits), there must be an agreement between parties (e.g. on how credits will be verified and priced) before the end of the compliance year and buying/selling must be done by a certain deadline

***Additional feedback sought:***

- It is thought that these rules would apply on a go-forward basis, effective upon filing but the ministry is seeking feedback if a longer transition is needed.
- Should the rules be based solely on RPRA's existing [guidance](#), or are there additional elements that should be incorporated into the framework?
- Should these rules apply only to the Tires Regulation, or should they extend to all non-Blue Box EPR regulations?

These rules would only apply if PROs chose to work together; there would not be a requirement for all PROs to share a collection network or force them to buy any available credits.

**Approach 2:** The ministry could consider changes to require that all PROs use a clearinghouse to allocate shared collection responsibilities and set credit trading rules and prices as is done in some other jurisdictions. This approach would likely need a legislative change and will require some time to implement.

***Additional feedback sought:***

- Who should be responsible for establishing the clearinghouse: PROs, RPRA, or the government?
- Who should operate the clearinghouse: an independent third party or RPRA?
- Should this requirement apply across all non-Blue Box EPR regulations, including Tires, Batteries, EEE, and HSP?

**ITEM 7: Increase Ontario based recycling – Tires**

Current Requirement:

There are currently no restrictions or requirements on the location of where tire processing is to be carried out.

Proposed Change:

The ministry is seeking feedback on the following options to drive Ontario based processing:

- Require that a certain percentage of a producer's management target be met with tires processed at Ontario-based facilities
- Provide an incentive to count tires processed in Ontario at a higher value (e.g. 2 times actual weight) than material processed outside Ontario
- Apply a reduced credit for tire weight processed outside Ontario (e.g. counting 1 kg of out-of-province processing as 0.5 kg)

This change is expected to direct more material to Ontario based recycling facilities, supporting local processing capacity.

***Additional feedback sought:***

- Which of the above options is the most appropriate, and what are the potential impacts and considerations associated with each option?
- Should local processing requirements/incentives be considered for the Tires Regulation only or for all EPR regulations (including blue box)?
- Should local processing requirements/incentives be limited to Ontario-based activities or expanded to Canadian activities?
- If retreading was not allowed to count towards the management target for tires, would it help drive more material to Ontario-based tire processors?