

Sent via e-mail to: Krista.Friesen@ontario.ca

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Krista Friesen
Resource Recovery Policy Branch
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Dear Ms. Friesen:

RE: Amendments to four producer responsibility regulations for tires, batteries, electrical and electronic equipment, and hazardous and special products (ERO #019-8866)

The Association of Municipalities of Ontario (AMO), the City of Toronto, the Regional Public Works Commissioners of Ontario (RPWCO) and the Municipal Waste Association (MWA) appreciate the opportunity to provide feedback on the proposed amendments to the four producer responsibility regulations for tires, batteries, electrical and electronic equipment, and hazardous and special products.

It is important to underline at the outset that Ontario municipal governments are supportive of the outcomes-based approach taken under the Resource Recovery and Circular Economy Act (RRCEA) along with the provision for a strong oversight body. We also understand that the use of this approach in Ontario is new, and that amendments will be necessary in response to the experiences of all stakeholders. However, it is important that any amendments aim for continuous improvement consistent with the goals of the RRCEA.

We do have concerns that in each round of amendments to the various RRCEA regulations issued to date, including those made before the initial regulations came into effect, established regulatory outcomes were reduced (e.g., lower targets, more deductions and exemptions) and oversight weakened. This runs counter to the province's stated targets to meet a 50% waste diversion target by 2030. As noted in the latest report by AMO entitled [2023 Ontario Baseline Waste & Recycling Report](#), the province needs to divert an additional 2.5 million tonnes of waste to meet its 2030 waste diversion. Based on the current regulatory amendments and activities, Ontario has no way to achieve this target.

With regard to the proposed amendments to the four producer responsibility regulations for tires, batteries, electrical and electronic equipment, and hazardous and special products, we have three broad concerns:

1. Many of the proposed amendments are vague and lacking in any analysis by the Minister to help reviewers understand the impacts they might have on collection systems, diversion rates and the environment. We recommend that both the analysis and the draft regulatory wording be posted for comment on the Environmental Registry prior to being finalized.

2. Nothing in the regulation drives improvement to the environmental outcomes. Instead, the proposals delay targets, reduce the denominator in targets, and reduce accessibility.
3. Municipal government proposals have largely gone unheard with no feedback as to why they were not considered. This includes:
 - a. The need for targets for collection or the management of HSP items. This is a glaring omission and fails to provide adequate incentives for producers to invest in maximizing collection and management of materials. There is significant data available on capture rates in Ontario to allow the government to establish minimum collection targets for consumable HSP products. The data also shows a fair amount of consistency that would enable targets to be set.
 - b. The addition of more designated materials to align with other jurisdictions and to better reflect the materials that municipal collection sites and events need to manage:
 - i. Hazardous special products (e.g., lubricating oil, lead acid batteries, acids and caustics, oxidizers, miscellaneous, fire extinguishers and expanding foam, the full suite of pesticide, pharmaceuticals, and sharps)
 - ii. Electrical and electronic equipment (e.g., small appliances, power tools, personal care appliances, sports equipment, toys, outdoor power equipment, large appliances)
 - c. The need for promotional and educational requirements in the battery and electronics regulations, especially given ongoing concerns with fires.
 - d. Addition of a requirement for third-party performance and supply audits to be conducted annually instead of every three years.

While out of scope of these amendments, we are also concerned with other advocacy to have changes made to the Blue Box regulation. We understand proposals include cutting some of the recycling targets for materials such as beverage containers and the removal of some or all public space requirements. If realized, these changes would further erode the effectiveness of another waste diversion extended producer responsibility (EPR) while adding volume and cost to municipalities' waste operations. We sincerely hope that this is not the direction in which we are headed; it would represent a major step backward in our shared responsibility to address Ontario's waste challenges.

Detailed Comments on the Proposed Amendments

Proposed Amendments of Higher Concern

Municipal government have concerns with the following proposed amendments:

Amendment	Comment	Proposed Change
Add geographic offsetting	<ul style="list-style-type: none"> The rationale for this amendment is generally understood but there is so little information provided to understand the impacts across different designated materials. 	<ul style="list-style-type: none"> Adjust the offsetting percentage based on further analysis of the need and potential impact of the change. For geographic offsetting, producers must ensure that residents in the

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	<ul style="list-style-type: none"> The lack of analysis on why 10% is appropriate based on current regulation makes it very difficult to provide any level of support. 	<p>adjacent municipality have access to that site (e.g., based on the ECA they can drop materials off; no policies preventing residents of other municipalities accessing the site). This may also create issues for municipal sites accepting from residents of another community, particularly when the roughly 50% of the HSP dropped off is not designated.</p> <ul style="list-style-type: none"> It is recommended that a standard also be included to ensure residents have reasonable access to collection (i.e., within a certain drive time centroid based on the type of municipality.)
Add or increase collection events	<ul style="list-style-type: none"> There is no rationale as to why this change is necessary, nor what the impact of this change might be for any of the designated materials (particularly those with no targets). Permanent sites are known to achieve higher recovery rates as compared to one / half day events. This amendment is not supported in its current form. 	<ul style="list-style-type: none"> What constitutes a public event should be defined in the regulation. At a minimum the event should be at least 4 hours and be advertised for at least a month in advance of the event. The allowable substitution of collection site for events should be adjusted based on further analysis of the need and potential impact of the change and a review of the performance of events as compared to permanent collection sites. It is recommended that any materials without a collection or management target should not be allowed to further replace collection sites with collection events.

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		<ul style="list-style-type: none"> A producer requirement for promotion and education should be added to HSP is properly managed.
Option for HSP producers to meet collection requirements based on the existing municipal collection network	<ul style="list-style-type: none"> It is not understood how practically this would work (i.e., who is collecting the information on the number of collection sites and events that were operated by all municipalities across Ontario in the previous year). There is also no analysis provided or on the feedback that led to this option. 	<ul style="list-style-type: none"> There is a willingness to consider this approach but more discussion is necessary. It is not understood how a change like this would account for growing populations and could lead to stagnated accessibility.
Remove recycling efficiency rate (RER) requirements – Batteries, EEE and HSP Regulations	<ul style="list-style-type: none"> This is a major change to the regulation's provisions that ensure the proper management of designated materials. The removal or substitution of these requirements includes little to no analysis or rationale. This amendment is not supported in its current form. 	<ul style="list-style-type: none"> There is a willingness to consider a more simplified model to collect this information.
Adjust small producer exemptions – Tires, Batteries and EEE Regulations	<ul style="list-style-type: none"> The rationale for this amendment is generally understood but there is too little information provided to assess the impact. The lack of analysis makes it very difficult to provide any level of support. 	<ul style="list-style-type: none"> Maintain current threshold until adequate analysis can be provided.
Extend management target (batteries)	<ul style="list-style-type: none"> Municipal government do not support this amendment. As per the 2023 AMO Ontario Baseline Waste & Recycling Report, batteries recycled has 	<ul style="list-style-type: none"> Maintain the current management target schedule and include a 5% increase in targets every 5 years until a 75% management target is achieved.

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	<p>steadily decreased over the last decade and municipal governments have raised compliance related issues. Delaying the increase in the management target is rewarding producers for poor performance and does nothing to further the government's economic and environmental objectives.</p> <ul style="list-style-type: none"> • Failure to effectively remove batteries from other waste streams leads to significant risks including fires. 	<ul style="list-style-type: none"> • Remove the provision in the regulation that allows producers to reduce their management targets if they use recycled content in the batteries they supply into the market. This approach is counterproductive to driving better environmental outcomes in Ontario as reductions in management targets decreases the need to ensure these batteries are properly collected and recycled. • A producer requirement for promotion and education should be added to inform the public on how to properly manage batteries.
<p>Extend management target for ITT/AV equipment</p>	<ul style="list-style-type: none"> • Municipal government does not support this amendment. • As per the 2023 AMO Ontario Baseline Waste & Recycling Report, electrical and electronic equipment recycled has dropped significantly since 2013, yet the supply and use of these materials has increased. Delaying the increase in the management target is rewarding producers for poor performance and does nothing to further the government's economic and environmental objectives. Nor does it address the growing concerns with fires associated with batteries in waste stream. 	<ul style="list-style-type: none"> • Maintain the current management target schedule and include a 5% increase in targets every 5 years until a 75% management target is achieved. • A producer requirement for promotion and education should be added to inform the public on how to properly manage electronics.

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Revise requirements for refillable pressurized containers	<ul style="list-style-type: none"> • Refillable pressurized cylinders (both propane and other gases) do indeed get dropped off at municipal depots and are very expensive to manage. • Municipal governments were not supportive of the changes made to reduce the requirements for refillable propane cylinders (i.e., annual report, promotion and education, audit) and are not supportive of expanding to all refillable cylinders. • Current 3-month collection window from time of call is impractical for storage and ECA requirements at municipal sites. 	<ul style="list-style-type: none"> • Require all refillable cylinders to meet the same requirements as Category B hazardous and special waste products.

Proposed Amendments Requiring More Supporting Documentation

Municipal governments tentatively/conditionally support the following proposed amendments, based on the plain language wording provided. However, this support is contingent upon a review of the specific regulatory language to be implemented.

Amendment	Comment	Proposed change
Allow all municipal collection sites to count as permanent sites	<ul style="list-style-type: none"> • This appears to be a helpful change that takes into consideration the fact that some municipal sites do not operate year-round or during regular business hours. • However it is not possible to provide support for this amendment based on the information provided. 	<ul style="list-style-type: none"> • The government should at a minimum limit the number of sites that can operate at reduced hours so as not to inadvertently reduce the operation of permanent sites due to a lack of proper funding from producers.
Adjust timeline for new census data	<ul style="list-style-type: none"> • This appears to be a practical change, but information should be provided on the factors considered when setting the adjusted timeline (e.g., timing needs for MECP approvals) and 	<ul style="list-style-type: none"> • Any changes to the required number of collection sites should be achieved within a year for all designated materials.

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	timelines should be limited to no longer than a year.	
Align population density provision in Tires Regulation with other 3 regulations	<ul style="list-style-type: none"> The rationale for this amendment is understood but there is insufficient information to determine whether the nature of tire collection (e.g., size of individual tires, volume of tires at individual collection sites) warrants the amendment. 	<ul style="list-style-type: none"> Prior to moving forward with this amendment, the Ministry should develop and circulate for consultation a document that outlines how this provision maintains or improves public accessibility and recovery rates.
Align “take-back” provisions	<ul style="list-style-type: none"> Need to see clear language to limit this amendment to materials like automotive solvents where they are being managed in a closed loop system (e.g., solvent parts washers). This is a difficult amendment to review and comment on without seeing the specific language. 	<ul style="list-style-type: none"> Limit the amendment to closed loop systems (i.e., clear criteria to ensure materials are regularly collected and processed) and ensure management targets are in place.
Revise collection site record keeping – Tires, Batteries, EEE and HSP Regulations	<ul style="list-style-type: none"> Based on the information provided, it is not possible to provide any comments. 	<ul style="list-style-type: none"> Not applicable.
Remove registration and reporting for tire collectors	<ul style="list-style-type: none"> Based on the information provided, it is not possible to provide any comments. 	<ul style="list-style-type: none"> Not applicable.
Reduce tire hauler reporting	<ul style="list-style-type: none"> Based on the information provided, it is not possible to provide any comments. 	<ul style="list-style-type: none"> Not applicable.
Adjust performance target for tires	<ul style="list-style-type: none"> Based on the information provided, it is not possible to identify any concerns. The scope of this change should be accompanied by more detail especially given the time the Ministry has had to prepare (e.g., it has been a year since the first consultation was undertaken). 	<ul style="list-style-type: none"> We have done some calculations based on the last 4 years of tire supply data and the proposed targets. While the language is not clear exactly how the calculation will be made (i.e., what is meant by the average weight of tires the producer historically supplied in Ontario), the 70% recovery does seem to be more aligned with previous performance. Municipal governments would recommend that

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		the 70% target be used instead of the initial 65% target which appears to be lower than past performance.
Change requirements for ITT/AV replacement parts	<ul style="list-style-type: none"> It is understood the complexity that might be created by this. Municipal governments support if these materials are still required to be collected and processed. 	<ul style="list-style-type: none"> Not applicable.
Revise allowable reuse (EEE)	<ul style="list-style-type: none"> This provision has been opposed by municipal governments since it was initially included in the regulation. As a result, its removal is supported. 	<ul style="list-style-type: none"> Not applicable.
Remove waste reduction incentives (EEE)	<ul style="list-style-type: none"> This provision has been opposed by municipal governments since it was initially included in the regulation. As a result, its removal is supported. 	<ul style="list-style-type: none"> A similar amendment should be made to the battery regulation which allows for a management reduction based on the use of recycled content. This provision should be removed.
Consult on expanding types of regulated EEE	<ul style="list-style-type: none"> Municipal governments are concerned the definition for expanded materials is being limited to the management of batteries in non-regulated EEE products. Municipal governments support the addition of more materials under EEE regulation, beyond what is being proposed. 	<ul style="list-style-type: none"> Expanding electronics and electrical equipment has been included in numerous other provincial consultations¹ and this was a commitment made in the Province's strategy. We urge the province to take action instead of entering into more consultation. Recommendations were provided in AMO's 2023 Ontario Baseline Waste & Recycling Report

¹ This includes but not limited to consultations on the Strategy for a Waste-Free Ontario (2016), [Reducing Litter and Waste in Our Communities: Discussion Paper \(2018\)](#), the various consultations on EEE Regulation in 2019 and 2021.

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Revise producer hierarchy for antifreeze and oil filters	<ul style="list-style-type: none"> This is a prudent change to allow vehicle manufacturers to report on designated materials supplied in their vehicles. 	<ul style="list-style-type: none"> Not applicable.
New performance requirement for large producers of automotive HSP when creating alternative collection networks	<ul style="list-style-type: none"> Additional information is needed to understand how it would be practically implemented. 	<ul style="list-style-type: none"> Not applicable.

Thank you for the opportunity to provide feedback on these amendments and we look forward to further discussion. Please reach out if you have any questions or concerns.

Sincerely,

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