



## **Terrapure Comments re: Amendments to four producer responsibility regulations for tires, batteries, electrical and electronic equipment, and hazardous and special products**

Terrapure would like to thank the Ministry of Environment, Conservation and Parks for the opportunity to provide feedback on the *Amendments to four producer responsibility regulations for tires, batteries, electrical and electronic equipment, and hazardous and special products*. We appreciate your commitment to meaningful stakeholder engagement and appreciate the opportunity to continue to engage on this important subject.

Terrapure is an ardent supporter of the Government's priority to reduce red tape and ensure Ontario is 'Open for Business.' We also strongly support Minister Kahnjin's objectives in reviewing these Regulations, which are designed to improve recycling rates, to provide certainty to businesses over the long run and ultimately, to have producer responsibility.

Terrapure would like to provide feedback on the specific elements of the proposed Regulatory amendments.

### **Extending the Management Target for Batteries**

The draft regulatory amendment proposes to delay the scheduled increase of the management target for primary and rechargeable batteries to 50 per cent by five years, from 2025 to 2030. We are concerned that this delay will disincentivize Producers and PROs from improving their current recovery rates.

Terrapure strongly believes that recovery rates need to improve, particularly for single-use and small rechargeable batteries. While lead batteries already have a high rate of recovery, we believe it's important that all battery chemistries strive to improve diversion rates in order to maximize environmental benefits.

Therefore, Terrapure believes that diversion targets should be maintained at their current rates and timelines, escalating at regular intervals. Without maintaining these aggressive targets, Ontario's battery recovery rates will continue to lag, and we believe these targets are necessary to ensure batteries are being properly diverted from landfill.

### **Removing the Recycling Efficiency Rate Requirements**

Terrapure strongly supports the government's objective of reducing red tape. We believe removing the recycling efficiency rate requirements from the regulation will reduce the burden on administrative requirements for processors.

While we believe eliminating the RER requirement altogether is the simplest and most effective option to reduce administrative burden, Terrapure offers the following comments to the specific

alternative approaches being considered. It should be noted that this is based on our perspective as a lead battery recycler, which may be unique from processors of other products or even other battery chemistries:

- Reducing the requirements for downstream verification requirements would be helpful.
- Reducing the frequency of verification, for example to once every five years, would be helpful. Activities and related data do not change materially from year-to-year (at least as it relates to recycling lead batteries), so verification at a more regular frequency is not useful.
- These requirements are best suited to be included in RPRA verification procedures as opposed to regulation. This offers greater flexibility for enhancement in the future.
- It is difficult to comment on appropriate RER numbers for other products. For lead batteries, a target RER of 85% is reasonable.

## **Additional Comments for MECP Consideration**

### ***Reporting Under the Batteries Regulation Should be Formalized***

Lead batteries are recycled at a rate of over 95%, making them a prime example of the circular economy in action. While we understand that strict reporting is required for the majority of battery chemistries, it is widely documented and agreed that lead batteries have a proven and consistent recovery rate.

RPRA has acknowledged that there is a low level of concern around the management of lead batteries and as such, has agreed to amended reporting requirements for Terrapure. RPRA and Terrapure have an informal agreement (supported by the Ministry) to only report the annual total volume of all lead batteries recovered and the estimated percentage of those batteries that are under 5 kg. That said, Terrapure is now able to accurately track the volumes of under 5 kg batteries it processes and is happy to provide that more specific level of detail in the future.

Terrapure strongly believes this arrangement with RPRA and the Ministry needs to be formalized in provincial Regulations in order to ensure consistency and provide certainty for the business. While Terrapure satisfies the Ministry's and RPRA's requests for information, technically we are operating in a "grey area" of compliance under the Regulation.

Given the widespread recognition of the proven and consistent recovery rate of lead batteries, Terrapure is proposing the Ministry formally amend the reporting requirements for lead battery processors in order to reduce red tape and administrative burden. We propose this be done in one of two ways:

1. Differentiate reporting requirements for lead battery processors
  - a. Create a separate category of reporting requirements for lead batteries given their proven and consistent recovery rates.
2. Differentiate reporting requirements for processors with high recovery rates

- a. Create a separate category of reporting requirements for any processor of any battery type that has a diversion rate of, for example, over 70-80%. This would avoid optics of explicitly singling out a specific battery chemistry, but achieve the same desired outcome – streamlined reporting requirements.

Terrapure believes either of these solutions would lead to the formalization of what is currently an informal arrangement with RPRA and the Ministry. While we appreciate RPRA's and the Ministry's flexibility in allowing this arrangement, we are cognizant that Terrapure is currently operating in a "grey area" of compliance. Formalizing this agreement will lead to certainty for the province and Terrapure, while ensuring that Terrapure is compliant with the Regulations without any significant burden added to the business.

### **Consider RPRA Audit**

We believe that the Ministry needs to ensure there is strong oversight of the calculation and measurement of batteries sold and recovered in the province. We believe it would be beneficial for MECP to consider having the Auditor General audit RPRA to ensure this process is being managed efficiently and effectively, that the system is operating as it should be, and that diversion rates are accurate and reported to the public.

### **Support RPRA's Efforts to Finalize and Implement Battery Resource Recovery Audit**

**Procedures** (for reference, see RPRA consultation document: "Draft Batteries Resource Recovery Performance Audit Procedure, November 2023" and Terrapure's feedback submitted in the Appendix on the next page)

- Make April 30 reporting deadline a firm deadline for both reporting and trading of performance credits for the previous year's period.
- Only require PROs to complete performance audits of Processors every 3 years.
- Only require that batteries be collected in Ontario to qualify as valid program batteries, as opposed to used in Ontario, which is virtually impossible to validate.
- Either not require batteries to be transported by a registered Hauler to be considered valid OR implement a 5-year phase-in period during which all Ontario batteries can be valid, regardless of whether they were transported by a registered Hauler. This will ensure that the significant volume of batteries currently being transported by unregistered haulers can be counted in Ontario's battery stewardship reporting, while RPRA continues its outreach and education efforts to increase registration of Haulers.

### **About Terrapure**

As you are aware, Terrapure operates the only two lead battery recycling facilities in eastern Canada, at which we recycle both lead and plastic from used batteries. They are strategically located near Toronto and Montreal, in addition to a logistics hub near Buffalo, New York, to facilitate the import/export of products. These locations, along with our extensive network of supply chain and commercial partners, allow us to provide unparalleled service to our battery manufacturing customer throughout North America.

We are the only company in Ontario that processes spent lead batteries, ensuring that virtually all materials sold in the province – over 95% - are recovered and processed sustainably in Ontario. Terrapure is a key pillar of the circular economy of lead batteries and a key contributor to Ontario's local waste diversion and recycling infrastructure.

## APPENDIX: FEEDBACK SUBMITTED TO RPRA CONSULTATION

TERRAPURE FEEDBACK RE: DRAFT Batteries Resource Recovery Performance Audit Procedure  
November 2023

Terrapure would like to thank RPRA for the opportunity to provide additional feedback on performance credits and the Draft Batteries Resource Recovery Performance Audit Procedure, November 2023. We appreciate your commitment to meaningful stakeholder engagement and appreciate the opportunity to continue to engage on this important subject.

As you are aware, Terrapure operates the only two lead battery recycling facilities in eastern Canada, at which we recycle both lead and plastic from used batteries. They are strategically located near Toronto and Montreal, in addition to a logistics hub near Buffalo, New York, to facilitate the import/export of products. These locations, along with our extensive network of supply chain and commercial partners, allow us to provide unparalleled service to our battery manufacturing customers throughout North America.

We are the only company in Ontario that processes spent lead batteries, ensuring that virtually all materials sold in the province – typically over 95% -- are recovered and processed sustainably in Ontario. Terrapure is a key pillar of the circular economy of lead batteries and a key contributor to Ontario's local waste diversion and recycling infrastructure.

Below we have outlined Terrapure's comments (in bold) on the draft performance audit procedure for specific items where we have feedback.

### Section: Required Procedures for the Batteries Recovery Credits Transferred CSRS 4400 Engagement

- The first paragraph of this section notes that in order to meet annual resource recovery obligations, producers or PROs may have bought or sold resource recovery performance credits before the annual reporting deadline. Does this imply this will become a firm deadline aligned with the April 30 performance reporting deadline?
  - **Assuming so, Terrapure recommends that RPRA consider making the existence of the April 30 deadline more explicitly clear.**
  - **If not, Terrapure recommends making the April 30 performance reporting deadline a firm deadline for trading performing credits.**
  - **Providing a deadline to sell or purchase performance credits is important to provide marketplace clarity for both buyers and sellers of performance credits.**
- Further on in the first paragraph of this section, there is a suggestion that PROs complete audits annually instead of the required every 3 years.
  - **This will be very onerous for the parties being audited. Therefore, Terrapure recommends leaving the passage suggesting that PROs complete audits annually out of the Procedures.**

- The entire discussion regarding trading of performance credits in the consultation materials, presentation and Draft Procedures focuses exclusively on Producers and PROs.
  - **Terrapure recommends that RPRA confirm that any/all other registered parties can generate and trade credits and make that explicitly clear.**

## **Section: Appendix B – Validating Batteries**

- (b) The draft procedures include, as part of the three criteria a battery must meet in order to be considered valid for collection performance reporting, a requirement that the battery was “used in Ontario”. In clarifying with RPRA, we understand this means that it must have been used by a consumer in Ontario and collected in Ontario.
  - **It is virtually impossible for most of the < 5 kg SSLAs that Terrapure receives to be validated as having been used by a consumer in Ontario. However, they are collected from scrap dealers/brokers that are located in Ontario and can be verified as such.**
  - **Therefore, Terrapure recommends either removing item b) from Appendix B or clearly defining “used in Ontario” as only requiring that the battery be collected in Ontario, as in most cases it will not be possible to confirm that a battery was used by a consumer in Ontario.**
- (c) “...collected in Ontario... and transported to a registered processor or registered refurbisher by a registered batteries hauler...”.
  - **Terrapure understands that RPRA requires that all program batteries be transported by a registered Hauler.**
  - **While appreciative of the intent, Terrapure respectfully recommends that all batteries from Ontario should be considered part of the program and therefore eligible to be traded as performance credits – regardless of whether the hauler is registered. As such Terrapure recommends removing the reference to “by a registered batteries hauler” as part of Appendix B.**
  - **We believe requiring haulers to be registered for their volumes to qualify for use as performance credits adds unnecessary red tape for haulers and the program, as haulers simply transport batteries from a collection point to a registered Processor.**
  - **This requirement would also mean that Ontario batteries that are being transported to a registered Processor by an unregistered hauler – yet still being recovered and recycled – are unnecessarily being excluded from results reporting for the Battery Stewardship program. Including Ontario batteries transported by unregistered haulers will much more accurately reflect the results of the program and will allow the province to demonstrate further improved diversion/recovery rates.**
  - **Should eliminating this unnecessary administrative burden from haulers not be possible, Terrapure suggests adding a phase-in period for hauler registration – perhaps of 5 years. This would allow RPRA time to educate haulers on the registration requirement, while adding to and improving reported recovery**

**numbers in the program by facilitating the inclusion of batteries from currently unregistered haulers.**

Once again, we thank you for the opportunity to provide these comments and we look forward to our continued working relationship.