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May 1, 2026

Ms. Krista Friesen
Manager, Policy Development
Ontario Ministry of the Environment, Conservation and Parks
Resource Recovery Policy Branch
40 St. Clair Avenue West, 8th floor
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Delivered via E-mail: krista.friesen@ontario.ca

Dear Ms. Friesen,

Re: Consultation Feedback and Recommendations – Proposed Amendments to Producer Responsibility Regulations

I am writing to you on behalf of Call2Recycle Canada Inc. ("**Call2Recycle**"), the leading Producer Responsibility Organization ("**PRO**") representing over 400 members/producers nationally, and 54 members/producers in Ontario. Call2Recycle wishes to provide the following feedback and recommendations for consideration with respect to the Ministry's proposed amendments to producer responsibility regulations (in particular, those potentially affecting the battery program) under the Resource Recovery and Circular Economy Act, 2016 (RRCEA).

Call2Recycle supports the Ministry's objective of improving environmental outcomes. However, we recommend deferring the proposed amendments pending broader consultation and a comprehensive regulatory review, with targeted interim measures focused on tire-specific issues. Our feedback focuses on ensuring that changes are proportionate, evidence-based, and aligned with established EPR best practices.

As currently drafted, several of the proposed amendments appear to be primarily directed at addressing operational challenges within the tires program (O. Reg. 225/18). While these issues may require timely action, the proposed changes could have broader implications for other regulated materials, including batteries, governed under the Batteries Regulation (O. Reg. 30/20). Applying system-wide regulatory changes to address issues within a single material category introduces a risk of unintended consequences, including increased system costs, reduced operational flexibility, and regulatory misalignment across otherwise functioning programs.

Hence, it is within the above context that we provide the following detailed feedback and recommendations for the Ministry's consideration:

1. **The Need for a Comprehensive Regulatory Review and Expanded Stakeholder Consultation**
   Ontario's individual producer responsibility (IPR) framework under the RRCEA fundamentally differs from extended producer responsibility (EPR) systems implemented in other Canadian jurisdictions. While the RRCEA was designed to promote accountability and competition, its current implementation has resulted in a system that is more administratively complex, less

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transparent, and less harmonized than comparable frameworks across Canada. In contrast, the Canadian Council of Ministers of the Environment (CCME) has emphasized the importance of harmonized EPR approaches across provinces to support efficiency, consistency, and improved environmental outcomes in its Canada-Wide Action Plan for Extended Producer Responsibility ①.

Provinces such as British Columbia and Quebec have implemented mature, results-based EPR frameworks that establish clear producer accountability, allow flexibility in system design and operation, and achieve environmental outcomes with comparatively lower administrative burden, complexity and cost to consumers. International experience further reinforces this approach. The European Commission's Circular Economy Action Plan and OECD EPR Guidance ② highlight that overly complex or fragmented regulatory systems tend to increase administrative costs, reduce transparency, and require subsequent reform to address inefficiencies.

In this context, the Ministry's proposed amendments represent targeted, issue-specific changes, rather than system-level reform. Without a comprehensive review, such issue-specific changes risk compounding existing complexity, rather than resolving underlying structural challenges.

We therefore recommend that the Ministry undertake a comprehensive regulatory framework review, supported by expanded stakeholder consultation and in-depth data analysis, with a focus on:

- Alignment of Ontario's regulatory framework with that of established EPR frameworks in all other Canadian jurisdictions.
- Addressing structural issues in the Ontario producer responsibility regulations.
- Simplification of regulatory requirements and improved alignment between regulatory obligations and measurable outcomes.
- maintaining an appropriate balance between flexibility, accountability, and enforceability.

Additionally, to address the more immediate challenges identified within the tires program, a transitional approach may be appropriate. As such, the Ministry could consider implementing targeted, time-limited measures that are focused exclusively on tire-related industry issues, while broader regulatory reform (described above) is undertaken in parallel.

2. Addressing Structural Issues in the Batteries Regulation (O. Reg. 30/20)

Notwithstanding the overarching recommendations in section 1 above, the proposed amendments do not address several key structural issues within the Batteries Regulation. One of the most prominent structural issues is the need to de-link the Recycling Efficiency Rate (RER) from the management requirements (as per prior submissions to the Ministry).

We acknowledge that the Ministry's decision in 2024 to combine single-use and rechargeable batteries into a single management requirement represented a positive step toward structural harmonization with other Canadian jurisdictions and international frameworks. This approach simplified target-setting and aligns with broader EPR principles focused on outcome-based performance.

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However, despite this progress, the current linkage between the RER and management requirements introduces a structural disconnect between actual system performance and regulatory compliance outcomes that does not exist in other provinces. Specifically, an Ontario producer's collection target is set based upon the full weight of batteries sold to consumers (i.e. 50% of the full weight of their historical average batteries sales). However, target achievement is not measured based on the full weight of end-of-life batteries collected back from those consumers (which is how all the other regulated provinces measure target achievement). Instead, Ontario's target achievement is measured based upon the weight of resource recovery after the recycling process is completed, and on average, there is a ~20% loss in measurable weight (due to the RER). Hence, this creates the following challenges:

- Strong collection performance may not translate into compliance achievement for producers.
- Producers may be impacted by factors outside their direct control (e.g., processing capabilities of third-party entities).
- The current framework creates artificial constraints on otherwise achievable performance outcomes.

Further, under the current methodology to determine compliance with the management requirements in the Batteries Regulation, it would be mathematically impossible for a producer to achieve a hypothetical management requirement of 100%, as the producer would have to collect the equivalent of >125% of all end-of-life batteries sold to Ontario consumers to achieve compliance (i.e. 100% target grossed up for the ~20% loss in measurable weight due to the RER).

We therefore recommend that the Ministry de-link the RER from management targets to better align regulatory outcomes with measurable collection performance and improve transparency and predictability. By doing so, producers would still be required to report on the RER that was achieved, but it would not be part of the management target calculation. This approach would also be consistent with all other Canadian provinces and international best practices, which increasingly distinguish between collection performance (i.e. a collection target), and recycling efficiency as separate, measurable indicators. Addressing such structural issues would likely provide greater system benefit than introducing additional administrative requirements.

3. **Administrative Penalties (O. Reg. 558/22)**

Notwithstanding the overarching recommendations in section 1 above, the proposal to remove the $1 million cap on administrative penalties represents a significant policy change with potentially broad implications that will affect battery producers.

Existing enforcement mechanisms already allow for RPRA to pursue prosecution through the courts, thus providing a pathway for penalties above $1M with appropriate judicial oversight. Removing the cap may therefore introduce additional financial uncertainty for producers and PROs. Potential implications include:

- Increase business uncertainty as the Ontario Land Tribunal may not be experienced in navigating significant penalties related to complex environmental issues.

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- Increased business and financial risk for producers and PROs, which may lead to a reduction of market participants.
- Need for producers or PROs to establish financial reserves or contingencies to mitigate the risk of substantial penalties.
- Upward pressure on overall system costs and prices to Ontario consumers who are challenged with the current affordability crisis.

Based on estimates, removing the cap could increase the environmental handling fees (EHF) for a single-use AA battery from approximately 9% to 14% of the product's retail price. This may appear to be a nominal increase on the price of batteries, but when aggregating across products and across material categories, the impact on consumers would be considerable.

The proposed amendment also requires PROs to submit financial information annually to help RPRA determine economic benefits in cases of non-compliance. This requirement would add cost and administrative burden to PROs who would need to reallocate resources away from their core business activities of product management and waste diversion. There are also concerns related to RPRA's ability to securely store proprietary or commercially sensitive information.

We therefore recommend retaining the existing cap or deferring changes pending further consultation and in-depth impact analysis. Alternatively, if MECP decided to remove the $1M penalty cap (which we highly advise against), then it should be accompanied by additional policy measures to reduce business uncertainty, such as:

- The introduction of a due diligence defense for producers and PROs.
- Allowing producers and PROs to submit remediation plans to address non-compliance that must be considered by RPRA before issuing penalties (this is aligned with best practices in other provinces).

4. Performance Credits and Sharing of Collection Sites

Notwithstanding the overarching recommendations in section 1 above, we understand that the Ministry is considering introducing additional rules related to the sharing of collection sites and performance credits (e.g. clearinghouse model or adopting RPRA guidelines). It should be noted that the concept of performance credits is not currently defined or regulated under the RRCEA or the Batteries Regulation.

A core objective of the RRCEA is to encourage industry competition. By virtue of this, introducing regulations that force competitors (both at the producer and PRO level) to enter into commercial trading terms goes against a fundamental objective of the RRCEA and principles of the IPR framework.

Under the RRCEA, producers and/or PROs currently design and operate collection systems through commercial arrangements that reflect local conditions, infrastructure availability, and cost efficiency. This flexibility enables system optimization and innovation. Additionally, the purchase and sale of excess tonnage (performance credits) is currently left to the market forces of demand and supply. Introducing prescriptive rules or centralized coordination mechanisms will:

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- Erode public confidence in the RRCEA and the producer responsibility regulations.
- Reduce flexibility in system design and stifle innovation.
- introduce additional administrative complexity (e.g., allocation rules, reconciliation processes).
- Increase system costs without a clear environmental benefit.

With respect to a clearinghouse for performance credits, international experience highlights potential risks associated with centralized or credit-based systems in the EPR landscape. For example, the UK's Packaging Recovery Note (PRN/PERN) system ③ has faced challenges related to a lack of transparency and market distortions, requiring ongoing regulatory intervention.

We therefore recommend maintaining market-based approaches (the forces of demand and supply). Alternatively, if MECP decides to introduce new rules for sharing sites and performance credits in the regulations (which we highly advise against), then elements (not all, as is) of the RPRA's public guidance could be used. However, further robust public consultations should be conducted beyond the current deadline, before such rules are introduced into regulations, given that the RPRA's guidelines on the sharing of sites and performance credits are effectively theoretical and have not been robustly tested.

5. **Ontario-Based Processing Requirements**

Notwithstanding the overarching recommendations in section 1 above, we understand that this proposed change is primarily being considered under the Tires Regulation (O. Reg. 225/18). However, the proposed options to increase Ontario-based processing should be carefully considered before being implemented.

In the case of the battery recycling supply chain, it is highly specialized and technology-dependent, distributed across jurisdictions, and influenced by economies of scale and processing capabilities. For certain battery chemistries, local processing capacity is unavailable in the province. Introducing Ontario-based processing requirements could therefore increase costs, reduce system efficiency, and create barriers to resource outcomes for the province.

We therefore recommend not introducing Ontario-based processing rules and mechanisms without first conducting an in-depth impact assessment.

Recommendations

In summary, our overarching recommendation is that the Ministry:

- Initiate a comprehensive regulatory framework review to harmonize with EPR systems in other jurisdictions. This can be paired with targeted, time-limited measures that are focused exclusively on tire-related industry issues, while broader regulatory reform is undertaken in parallel.

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Notwithstanding the overarching recommendation above, we encourage the Ministry:

- To address structural issues in the Batteries Regulation, for example, de-linking the RER and performance target measurement.
- Do not remove the $1M penalty cap, as a mechanism already exists for RPRA to pursue fines above $1M with appropriate judicial oversight (i.e. via prosecution action). Alternatively, due diligence defense and remediation plan mechanisms should be introduced if the penalty cap is removed.
- Trading in performance credits and sharing of collection sites should be left to the market forces of demand and supply. Alternatively, elements of the RPRA's guidelines could be adopted, but only after in-depth impact assessments and substantive public consultations are conducted.
- Not introducing Ontario-based processing rules and mechanisms without first conducting an in-depth impact assessment and substantive public consultation.

Conclusion
Ontario has an opportunity to strengthen its producer responsibility framework while maintaining efficiency, affordability, and regulatory clarity. Achieving this will require a balanced approach that addresses immediate program challenges while also undertaking broader system-level reform supported by consultation and evidence-based decision-making.

We value the opportunity to share our feedback and look forward to continued collaboration.

Regards,

Michael Partab

Michael Partab
Chief Financial Officer (CFO)
Call2Recycle Canada

References:

① Canada-Wide Action Plan For Extended Producer Responsibility.

② European Commission's Circular Economy Action Plan and OECD EPR Guidance.

③ UK's Packaging Recovery Note (PRN/PERN) system.