

Tracey Cook
Deputy City Manager

Solid Waste Management Services
City Hall
100 Queen Street West
25th Floor, East Tower
Toronto, ON M5H 2N2

Tel: 416-392-4715
Fax: 416-392-4754
Matt.Keliher@toronto.ca

December 21, 2021

SUBMITTED ONLINE TO THE ENVIRONMENTAL REGISTRY OF ONTARIO:
<https://ero.ontario.ca/notice/019-4656>

Mr. John Fox
Senior Policy & Programs Officer
Resource Recovery Policy Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Ave. West, 8th Floor
Toronto ON M4V 1M2

Dear Mr. Fox:

Re: Environmental Registry of Ontario Number 019-4656: Proposed amendments to the producer responsibility regulations for tires, batteries and electrical and electronic equipment made under the *Resource Recovery and Circular Economy Act, 2016*

City of Toronto (the “City”) is pleased to provide comments in response to the Ontario Ministry of the Environment, Conservation and Parks’ (the “Ministry”) consultation on the proposed amendments to the producer responsibility regulations for tires, batteries and electrical and electronic equipment made under the *Resource Recovery and Circular Economy Act, 2016*, (RRCEA), that was posted on November 26, 2021 to the Environmental Registry of Ontario for comments.

The City supports the direction taken by the province to develop outcomes based regulations as a means to achieve intended results without creating unnecessary burden for businesses in those sectors. However, transparency is prudent to provide assurance to Ontarians that the Province’s commitment to protecting the environment is upheld, regulation outcomes are being achieved, and that producers are being held accountable. This can only be accomplished through monitoring of data, tracking performance, and public reporting which the proposed amendments to the regulations are reducing. Without readily available data it will be challenging for those that are responsible for providing program oversight to monitor performance of responsible individuals.

The proposed amendments will weaken the ability of the regulated oversight body to ensure outcomes are being met and potentially impact the Province's ability to provide the assurance that Ontarians want from their government when it comes to safeguarding the environment and work towards a low-carbon future.

The City offers the following comments to help ensure that the goals of the Extended Producer Responsibility (EPR) regulations will be strengthened and achieved.

Comments:

1. Reducing the frequency of management audits and moving to an internal verification process for supply data will erode the oversight body's ability to effectively monitor EPR regulations' program performance and ensure accountability.

Effective EPR program monitoring of outcomes-based regulations relies on transparency and access to data. Given the flexibility that is provided under RRCEA by the outcomes based regulations, it is reasonable to require producers to provide annual audited supply and management performance data to demonstrate that as the responsible parties under the RRCEA, they are meeting their obligations. This audit requirement should not be viewed as a burden, but rather a trade-off for being managed under an outcomes based regulation that is not prescriptive, encourages competition, and supports innovation. Readily available data also allows for effective oversight by the Resource Productivity and Recovery Authority (RPRA), continuous improvement of the EPR regulations, is fundamental to ensure a level playing field amongst producers, and safeguards the outcomes intended by the EPR regulations. The loss of readily accessible data is detrimental to monitoring program performance and ensuring accountability and will likely add more burden to RPRA as the oversight body (and as a result potential increased operating costs for program oversight which Producers will then pay for).

2. Removing reporting and audit requirements for visible fees in the Tire Regulation reduces transparency.

Given the concerns and confusion by members of the public in the past surrounding "Eco-fees" and their use, the removal of reporting and audit requirements reduces transparency.

3. Removing the requirement for ongoing general promotion and education will lessen opportunities to support environmental stewardship and may diminish outcomes for waste reduction and diversion.

The purpose of ongoing Promotion and Education (P&E) is a means to raise awareness and educate consumers on the importance of proper disposal of waste and help promote diversion opportunities to help achieve positive environmental outcomes for all; P&E is not meant to only serve the objectives of the producers to meet their collection and management targets. Removal of ongoing P&E requirements from the EPR regulation is a lost means to support environmental stewardship, raise awareness of diversion opportunities, and establish positive environmental outcomes by promoting the reduction, reuse, and diversion of materials.

4. Amending the small producer exemption to require just record keeping, rather than registration and reporting will create gaps in data for materials entering the market place and reduce accountability.

The EPR regulations are outcomes based and that requires transparent disclosure of data pertaining to the amount of material supplied into the market by all producers to ensure effective monitoring and to ensure producer accountability. The proposed amendment to require just record keeping will result in missing data regarding the amount of products entering into the Ontario market and this may lead to an overstating of diversion rate measurements. Furthermore, there are small producers and businesses that are committed to being environmental accountable for the products sold into market that would choose to contribute their data and reporting to support Ontario's EPR outcomes.

5. Provisions to clarify that Producer Responsibility Organizations (PROs) have shared liability with producers for certain aspects of the regulation will weaken individual responsibility for producers.

The City is questioning the purpose of this amendment and argues that it undoes the objective of the regulation to hold individual producers accountable for the products they put into the marketplace by diluting the responsibility for the producers by holding a PRO liable for the management of products that they have not produced. These amendments are a fundamental change and a contradiction to the intention of the original regulations. Liability for collection and the establishment of collection sites can be incorporated into any agreement between a producer and a PRO and does not need to, and should not, be incorporated into the EPR regulations.

6. Allowing tires that are reused with modification to count toward a producer's management target should not be allowed.

While the City supports the concept of reuse, incentives for tire reuse must be mutually exclusive from recycling activities and targets.

7. Ensure the increase to targets for information technology, telecommunications and audio visual equipment more robust.

Although the revised proposed targets are higher for 2023 and 2024, they do nothing to ensure improvements in capture rates in 2022, and are still significantly lower than those initially proposed by the Province in the draft regulation. The current goals are not robust enough to strengthen the EPR programs' potential to deliver more ambitious sustainability outcomes to prevent thousands of tonnes of precious metals and finite resources from being disposed of in Ontario landfills.

8. There must be an amendment to the definition of Batteries to include those that weigh 10 kilograms or less.

The proposed changes must amend the definition of a battery to be 10 kilograms or less to include new material categories such as batteries from e-scooters and e-bikes since it is anticipated there will be an increase of this size of battery in the waste system. The City has

seen an exponential increase in the use of electric mobility and transportation devices, the batteries from these products require safe, accessible and environmentally sound management options in order to protect Ontario's natural environment.

Thank you for the opportunity to provide comments on Environmental Registry of Ontario Number 019-4656: Proposed amendments to the producer responsibility regulations for tires, batteries and electrical and electronic equipment made under the RRCEA. The City looks forward to ongoing collaboration with the Ministry, including involvement in any future consultations and proposals.

Should you have any questions regarding our submission, please contact Annette Synowiec, Director of Policy, Planning & Outreach, Solid Waste Management Services, by email at Annette.Synowiec@toronto.ca or by telephone at 416-392-9095.

Thank you for your consideration.

Yours truly,



Matt Keliher
General Manager
Solid Waste Management Services

MK/rd

Copy to: Annette Synowiec, Director, Policy, Planning & Outreach, Solid Waste Management Services, City of Toronto, Email: Annette.Synowiec@toronto.ca

Charlotte Ueta, Project Director, Business Transformation – Extended Producer Responsibility, Policy, Planning & Outreach, Solid Waste Management Services, City of Toronto, Email: Charlotte.Ueta@toronoto.ca

Paul Parsons, Senior Corporate Management & Policy Consultant, Intergovernmental & Agency Relations, City Manager's Office, City of Toronto, Email: Paul.Parsons@toronto.ca