January 7, 2022

To: Ministry of the Environment, Conservation & Parks

From: **<<Company Information removed to adhere to MECP Privacy Policy>>**

RE: **FEEDBACK REPORT – ERO# 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 (Consultation)**

Overview:

This document consolidates the feedback from <<Company Information removed to adhere to MECP Privacy Policy>> regarding the MECP consultation related to the Tires Regulation made under the RRCEA.

A) General Comments and Summary of Main Points
B) Tires Regulation Proposed Amendments – Itemized (with detailed Comments)

A) General Comments and Summary of Main Points

We would appreciate the opportunity to further discuss this feedback in more detail as you proceed with the consultation process.

(1) We recognize and appreciate the need to review and revise the regulation(s) associated with the RRCEA, particularly now that some regulations have been in place since January 1, 2019 and the 'real world application' of the regulation(s) is becoming more clear. However, it is expected that the proposed changes:

- should reinforce the spirit of the RRCEA and Individual Producer Responsibility (IPR)
- should create a more even 'playing field' for the various persons (ie. Producers, PROs, Service Providers), and not create a 'higher standard' for larger industry participants
- should reduce unnecessary administrative burden on the various persons WITHOUT compromising the integrity of regulation (ie. reporting, auditing)
- should take into consideration the 'cross-regulation' impact, ESPECIALLY considering the implications of the Administrative Penalties Regulation.

(2) Many of the proposed changes would erode the intent of Individual Producer Responsibility and essentially create a new "Stewardship model" that would in effect shift the core accountability/ responsibility onto the PRO(s) that a Producer chooses to work with. We have no problem with PROs being accountable, rather this move seems to deemphasize the Producer Responsibility aspect of the Regulation.

The interchangeability of Producer and PRO in the proposed changes (new Section 4.1):

a. Could make PROs ultimately responsible for all reporting, including Producer supply reporting, and therefore subject to administrative penalties.
b. Could eliminate the 'market-based competition', as a PRO would essentially be seen as 'the same as any other PRO' since a Producer could divest themselves of any accountability to the PRO(s)
c. Creates a structure whereby the Collection System and the Tire Management System are 'owned' by the PRO (not the Producer), thus shifting the liability to the PRO (ie. it is no longer a Producer's Collection System, or a Producer's Tire Management System)
d. Could make the PRO subject to the administrative penalties that SHOULD be 'owned' by the Producer, especially if the subject of the penalty is not within the context of the contractual terms between the PRO and the Producer.

Considering the Administrative Penalties regulation, where the Registrar or a Deputy Registrar is incentivized to issue Penalty Orders, both Producers and PROs may now be subject to penalties for the same contravention because they would be considered 'interchangeable'.

(3) The proposed changes to the auditing requirements (eg. Tire Performance Audit after 3 years; Supply to Market audit changed to a 'spot verification' and can be passed on to a PRO or other prescribed person; Visible Fees audit removed), while they may superficially look good 'on paper' creates risk within the system

- Tire Performance Audit
  a. is already done by the PRO on behalf of their Producers, so from a practical point of view, there is no direct benefit to the Producer to move it to a 3-year cycle.
  b. Given the requirement to report accurate information (which needs to be audited eventually), an annual audit should be done regardless in order to ensure accurate annual reporting and avoid administrative penalties related to 'reporting incorrect information'
  c. by making it a 3-year audit, there is greater risk of PROs and/or Producers exiting the industry and/or entering into different contractual arrangements in the middle of the 3-year cycle, thus creating confusion and/or disputes about who is 'on the hook' for particular reporting years' audits

- Supply to Market Audit
  a. Supply to Market determines future years obligation
  b. This is the ONLY mechanism to accurately verify the actual amount of tires introduced into market
  c. Removing the audit creates risk that a given year's obligation may change years down the road once a performance year has been completed, thus impacting whether a PRO/Producer has met their obligation.

(4) The timing for any changes to Regulation 225/18-Tires to come into effect should be January 1, 2023 (for the 2023 performance year onwards), as planning and auditing has already begun for the 2022 performance year.
- This will allow for time/opportunity to fully understand the true impact of the changes to any commercial agreements and subsequently re-negotiate terms if required.

As indicated, the above is a summary of the MAIN POINTS we believe create the greatest risk to the intent of IPR contemplated by the RRCEA, and only forms a part of the full set of comments related to this consultation.

More detail is provided in the following table to further clarify the impact of the proposed changes.

We welcome the opportunity to further clarify any comments.

B) Tires Regulation Proposed Amendments – Itemized (with detailed Comments)

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
ITEM 1		
(1) Subsection 1 (1) of Ontario Regulation 225/18 is amended by adding the following definition: "resident in Canada" means a person having a permanent establishment in Canada; ("résident du Canada")	NEW	
(2) The definition of "resident in Ontario" in subsection 1 (1) of the Regulation is revoked and the following substituted: "resident in Ontario" means a person having a permanent establishment in Ontario; ("résident de l'Ontario")	"resident in Ontario" means a person having a permanent establishment in Ontario within the meaning of the *Corporations Tax Act*; ("résident de l'Ontario")	
(3) The definition of "tire hauler" in subsection 1 (1) of the Regulation is revoked and the following substituted: "tire hauler" means a person who arranges for the transport of tires that are used by consumers in Ontario and are destined for processing, reuse, retreading or disposal, but does not include a person who arranges for the transport of tires initially generated by that person;("transporteur de pneus")	"tire hauler" means a person who transports tires in Ontario to a site for processing, reuse, retreading or disposal, but does not include a person who transports tires for private domestic purposes; ("transporteur de pneus")	Does this mean a PRO is now a Hauler because they have contracts with tire haulers and 'arrange' for transport? Ie. a 'special pick up' is required in the North and the PRO arranges for those tires to be picked up and transported to a processing facility by 1 or more haulers? Does this mean that any PRO can arrange for the pickup and transportation of tires by an individual/transportation company, and that individual/transportation company does not have to independently register with RPRA (ie. since the 'hauler' would be the PRO)? NOTE: if a PRO is subsequently a Hauler, and required to register as such in the Registry, the Registry will need to be configured to allow a PRO to 'select' Hauler as a role.

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(4) Subsection 1 (1) of the Regulation is amended by adding the following definition: "volunteer organization" means a person who owns a brand that is used in respect of tires and is not resident in Canada; ("organisme bénévole")	NEW	On its face, this seems to make sense for those brands that are imported by several different companies – would allow for a 'consolidated' approach to understanding supply into Ontario market.
ITEM 2		
(1) Subclause 3 (1) (a) (i) of the Regulation is amended by striking out "resident in Ontario" and substituting "resident in Canada".	**3.** (1) For the purposes of the definition of "producer" in subsection 1 (1), the producer is, (a) subject to subsections (2) and (3), with respect to new vehicles marketed to consumers in Ontario, on which new tires are provided, (i) if the manufacturer of the vehicle is resident in Ontario, the manufacturer,	
(2) Subclause 3 (1) (b) (i) of the Regulation is amended by striking out "resident in Ontario" and substituting "resident in Canada".	**3.** (1) For the purposes of the definition of "producer" in subsection 1 (1), the producer is, … … … (b) with respect to new tires marketed to consumers in Ontario separately from a vehicle, (i) if the brand holder of the tires is resident in Ontario, the brand holder,	
ITEM 3		

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(1) Subsection 4 (5) of the Regulation is revoked and the following substituted: (5) The producer shall calculate the minimum amount under subsection (2) using the data submitted under paragraph 4 of subsection 18 (2) with respect to the calculated weight of tires supplied or provided on vehicles supplied in Ontario for the calendar year to which Y3, Y4 and Y5 apply.	4 (5) The producer shall calculate the minimum amount under subsection (2) using the following data with respect to the calculated weight of tires supplied or provided on vehicles supplied in Ontario for the calendar years to which Y3, Y4 and Y5 apply: 1. For 2014, 2015 and 2016, the data submitted under paragraph 6 of subsection 15 (2), in accordance with subsection 15 (4). 2. For 2017, the data submitted under subsection 18 (1), in accordance with subsection 18 (3). 3. For 2018, the data submitted under paragraph 4 of subsection 18 (2), in accordance with subsection 18 (3). 4. For 2019 and subsequent years, the data submitted under paragraph 4 of subsection 18 (2), in accordance with subsection 18 (4).	Clean up of transition language.
(2) Subsection 4 (7) of the Regulation is amended by striking out "sections 5 to 10, 12 and 26" and substituting "sections 5 to 10 and 26".	(7) Subsection (1) and sections 5 to 10, 12 and 26 do not apply to a producer in a calendar year if the minimum amount determined under subsection (2) of this section for the producer in that calendar year is 1000 kilograms or less of calculated weight.	Relates to Producer shall implement a Promotion and education program
(3) Subsection 4 (7) of the Regulation is amended by striking out "sections 5 to 10 and 26" and substituting "sections 5 to 10, 15, 18 and 26".	(7) Subsection (1) and sections 5 to 10, 12 and 26 do not apply to a producer in a calendar year if the minimum amount determined under subsection (2) of this section for the producer in that calendar year is 1000 kilograms or less of calculated weight.	Removes obligation to register with RPRA (Sec. 15) and Reporting requirements (Sec. 18) for producers that produce <1000kg of tires per year. Amendment would make RPRA reliant on non-registered Producers to 'keep track' of how much their obligation will be from year to year and 'be honest' about registering and reporting when they are required to.
ITEM 4		
The Regulation is amended by adding the following section:		

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
Producer responsibility organizations 4.1 (1) Every producer responsibility organization that has entered into an agreement with a producer to provide collection services or management services under this Regulation is required to satisfy the requirements set out in sections 6 to 10 and clause 11 (2) (a) that apply to that producer with respect to tires covered in that agreement.	NEW	Is Individual Producer Responsibility now a joint responsibility between a Producer and a PRO? A key output of IPR was to ensure commercial relationships could be formed, but the Producer is the one ultimately responsible (and they can change to a new PRO if they are not getting the service required). Terms related to discharging/managing a Producer's Responsibility/Obligation under an IPR model should be addressed through commercial contract terms between the PRO and the Producer. Expanding Producer obligations to a PRO essentially 'waters down' IPR and effectively creates a new Stewardship IFO, just 'managed' by several PRO's. Does this mean that when taking into consideration the Administrative Penalties Regulation the Registrar or a Deputy Registrar can issue a penalty to either the Producer or a PRO (or both!) even though the responsibility SHOULD be the PRODUCER's responsibility under IPR?
(2) In sections 6 to 10 and clause 11 (2) (a), a reference to a producer includes a producer responsibility organization to which subsection (1) applies.		As above.
ITEM 5		
Subsections 6 (2) and (3) of the Regulation are revoked and the following substituted:	**6.** … … … (2) Subject to subsection (3), if a tire collection site that is owned or operated by the Crown in right of Ontario collects 200 or more tires and the operator of the site notifies a producer referred to in subsection (1) or a producer responsibility organization retained by that producer with respect to the tires, the producer shall collect all of the tires from the site by the end of the year subsequent to the year in which the producer was notified. (3) Subsection (2) does not apply to a tire collection site that is located in the Far North, as defined under the *Far North Act, 2010*.	

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) Subject to subsection (4), with respect to a tire collection site owned or operated by the Crown in right of Ontario or by a municipality with a population of less than 1,000, as reported by Statistics Canada in the most recent official census, if the operator of the site collects 200 or more tires, (a) the operator may notify a producer referred to in subsection (1); and (b) the producer shall collect all of the tires of which it was notified from the site within one year from the day the producer was notified.		It must be clear that 'collection from the site' is not the same as a 'site cleanup'. The Producer/PRO should not be held responsible for 'cleaning up' areas UNLESS that Producer/PRO has entered into a contract with the Crown or Municipality to do a 'site cleanup'. It would be expected that the site take all reasonable steps to prepare the tires to be picked up, likely in association with the hauler (eg. hauler could provide a roll-off bin, at the site's expense, for the site to load tires into). Example: it would be the Crown or Municipality's responsibility to consolidate/arrange the tires such that they can be picked up by the hauler (ie. the hauler should not have to drive around the property/site 'cleaning up' and picking up the tires, digging them out of the ground, etc.) Is the '200 tire' threshold an annual amount or the 'pickup threshold' (ie. once the collector has collected 200 tires, they can call for a pickup vs. multiple pickups of 50 tires throughout a given year)
(3) Subject to subsection (4), with respect to a tire collection site located on a reserve, as defined in the Indian Act (Canada), if the operator of the site collects 200 or more tires, (a) the operator may notify a producer referred to in subsection (1); and (b) the producer shall collect all of the tires of which it was notified from the site within one year from the day the producer was notified.		Same as above, applying to Reserves.
(4) Subsections (2) and (3) do not apply to a tire collection site that is located in the Far North, as defined under the Far North Act, 2010.		Renumbered to reflect new (2) and (3)
ITEM 6		

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
Paragraph 1 of subsection 11 (3) of the Regulation is revoked and the following substituted: 1. The tires are sold and reused for their original purpose, i. without modification, or ii. with modification, including repair but not including retreading.	11. … … … (3) The activities referred to in subsection (2) are the following: 1. The tires are reused without modification for their original purpose.	This may make sense for Large OTR tires, but does not for smaller tires. **Possible clarification of the language:** ii. with modification, including repair for >700kg tires, but not including retreading. For greater clarification, this does not apply to tires <700kg. What is the purpose of this substitution? Why is this being considered as it seems that it would create more burden overall? What would 'including repair' look like in practice? It appears that the repaired tires would need to be SOLD onto the consumer/end user in order to be able to count as an approved use/activity (ie. a consumer bringing in a PLT/MT tire to be repaired and subsequently re-installed on their vehicle would not be considered a 'collected tire' and subsequently 'reused') – this needs to be clearer in the wording. If the above is NOT the case (ie. a consumer can repair a tire and reinstall it on their vehicle and this counts as collection and Reuse recovery) then this opens up TREMENDOUS difficulty in 'tracking & tracing' the collection-through-recovery stream (since this activity would most likely occur at the Collection site directly where there is already little visibility – there are over 6500 registered tire collectors). This would also create a VERY inexpensive way to achieve collection with 100% recovery, where it is conceivable that a small PRO could 'collect and recover' their entire Producer obligation through 'repaired and reused' alone, leaving the other PRO's to do the 'heavy lifting' of actually going out and actually collecting and recovering resources and incurring costs to do so. With respect to MT tires, there is only 1 PRO that would potentially significantly benefit from this change, and subsequently could achieve most (if not all) of their collection and recovery activity through retreading and repairs – they would not actually have to 'collect' anything, thus creating an uneven playing field in the industry whereby other PRO's/Producers would be required to 'operate the collection network' once this particular PRO met their minimum obligation.

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
ITEM 7		
Sections 12 and 13 of the Regulation are revoked.	**Promotion and education, producers** **12.** Every producer shall implement a promotion and education program by, at a minimum, publishing and clearly displaying the following information on their website: 1. The locations of the producer's tire collection sites for each tire type, where consumers may return tires at no charge. 2. A description of any collection services provided by the producer that are available other than at a tire collection site. 3. A description of the resource recovery activities engaged in by the producer in the course of managing the producer's collected tires. **Promotion and education, retailers** **13**. Every retailer who supplies tires or vehicles on which tires are provided, to consumers in Ontario at a retail location, and has a website, shall publish and clearly display on their website, (a) if the retailer is a tire collection site, that the consumer may return tires to the site at no charge; or (b) if the retailer is not a tire collection site, the locations of tire collection sites near each retail location, for each tire type supplied or provided on a vehicle at the retail location, where consumers may return tires at no charge.	Removes Promotion and Education activities Producers no longer required to 'guide' consumers to where there is a collection site for used tires.

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
ITEM 8		
Section 14 of the Regulation is amended by striking out "shall implement a promotion and education program by providing the following information at the time the charge is identified in the same manner in which the charge is communicated" at the end of the portion before paragraph 1 and substituting "shall, as part of the producer's promotion and education program, provide the following information at the time the charge is identified".	**Resource recovery charges** **14.** Every producer and every person who markets new tires to consumers in Ontario, whether separately from or on a new vehicle, and who identifies, in an advertisement, invoice, receipt or similar record in connection with the supply of tires, a separate charge that relates to resource recovery or waste reduction of tires, shall implement a promotion and education program by providing the following information at the time the charge is identified in the same manner in which the charge is communicated: 1. The person responsible for imposing the charge. 2. How the charge will be used to collect, reduce, reuse, recycle and recover tires.	Refers to a Producer's promotion and education program – Promotion and Education Program requirements for Producers has been REVOKED (Sec. 12), above. (ie. Producers are no longer required to implement a Promotion and Education program) **Possible clarification to the wording:** "… … shall provide the following information at the time the charge is identified… …"
ITEM 9		
(1) Subsection 15 (1) of the Regulation is revoked and the following substituted:		
Registration, producers (1) Every producer shall register with the Authority through the Registry by submitting the information set out under subsection (2) within 30 days of marketing tires or a vehicle on which tires are provided, in Ontario.	**15.** (1) Every producer shall register with the Authority through the Registry by submitting the information set out under subsection (2), (a) subject to subsection (3), on or before August 31, 2018, if the producer marketed tires or a vehicle on which tires are provided, in Ontario, between January 1, 2014 and August 31, 2018; or (b) after August 31, 2018, within 30 days of marketing tires or a vehicle on which tires are provided, in Ontario.	Clean-up of Transition Language

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) Paragraphs 6 and 7 of subsection 15 (2) of the Regulation are revoked and the following substituted: 6. The date the producer first marketed tires or provided tires on vehicles marketed in Ontario.		
(3) Subsections 15 (3) and (4) of the Regulation are revoked.	**15.** (1) Every producer shall register with the Authority through the Registry by submitting the information set out under subsection (2), … … … (3) The information required under paragraph 5 of subsection (2) must be submitted on or before November 15, 2018. (4) Any data submitted under paragraph 6 of subsection (2) that was not submitted to the Ontario Tire Stewardship pursuant to a rule or regulation made under the *Waste Diversion Act, 2002* or the *Waste Diversion Transition Act, 2016* must have been audited by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004* and in accordance with the procedures set out in the Audit Guideline.	Clean-up of Transition language.
ITEM 10		
The Regulation is amended by adding the following section:		
15.1 (1) A producer of tires who is not the brand holder of the tires may enter into a written agreement that authorizes a volunteer organization that owns a brand used in respect of the tires to submit information set out under section 15 on behalf of the producer.	NEW	This wording is confusing. How would this work in practice? It is not clear what the problem is that this amendment is seeking to solve? Does the Volunteer Organization essentially 'take on the legal responsibility' for the Producer re: Collection and Management obligations? Or does the PRO now take on the responsibility given the amendments to Section 4 (ie. NEW Sec. 4.1)

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) A volunteer organization that enters into an agreement referred to in subsection (1) shall submit the information set out under section 15 on behalf of the producer at least 15 days before the producer is required to register under that section and shall also submit the following information: 1. The volunteer organization's name, contact information and any unique identifier assigned by the Registrar. 2. The name, contact information and any unique identifier assigned by the Registrar of any producer responsibility organization retained by the volunteer organization. 3. The name and contact information of an employee of the volunteer organization who has authority to bind the corporation or entity and who is responsible for ensuring the registration is complete and up to date. 4. The brand of tires in respect of which the volunteer organization is a brand holder who owns the brand and in respect of which the registration relates.		As above.
(3) The volunteer organization shall submit updated information within 15 days after any change to the information required under subsection (2) or 15 (2).		As Above.
ITEM 11		
(1) Subsection 17 (1) of the Regulation is revoked.	**17.** (1) On or before October 31, 2018, every tire hauler, tire processor and tire retreader shall register with the Authority through the Registry by submitting the information set out under subsection (4).	Clean-up of Transition Language

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) Subsection 17 (2) of the Regulation is amended by striking out "After October 31, 2018" at the beginning.	(2) After October 31, 2018, every tire hauler, tire processor and tire retreader shall, within 30 days of having transported, processed or retreaded tires, register with the Authority through the Registry by submitting the information set out under subsection (4).	Clean-up of Transition Language
(3) Subsection 17 (3) of the Regulation is revoked and the following substituted: (3) Every tire collector, other than a municipality or the Crown in right of Ontario, shall register with the Authority through the Registry by submitting the information set out under subsection (4) within 30 days of collecting, for the first time, 1,000 kilograms or more of calculated weight in a calendar year.	(3) Every tire collector, other than a municipality or the Crown in right of Ontario, shall register with the Authority through the Registry by submitting the information set out under subsection (4), (a) on or before October 31, 2018, if they have already collected 1,000 kilograms or more of calculated weight in the 2018 calendar year; (b) between November 1 and December 31, 2018, within 30 days of having collected 1,000 kilograms or more of calculated weight in the 2018 calendar year; or (c) on or after January 1, 2019, within 30 days of having collected 1,000 kilograms or more of calculated weight in a calendar year.	General clean-up of Transition Language. What about Reserves? Are they required to register or do they follow the same rationale as municipalities and Crown?
ITEM 12		
(1) Subsection 18 (1) of the Regulation is revoked.	**18.** (1) On or before May 31, 2019, every producer shall create and submit to the Authority through the Registry a report that contains the number and calculated weight of tires for each tire type supplied or provided on vehicles supplied in Ontario in 2017.	Clean-up of Transition language

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) Subsection 18 (2) of the Regulation is amended by striking out "On or before May 31, 2020 and on or before May 31 in each subsequent year" at the beginning of the portion before paragraph 1 and substituting "On or before May 31 in each year".	(2) On or before May 31, 2020 and on or before May 31 in each subsequent year, every producer shall submit to the Authority through the Registry an annual report that contains the following information with respect to the previous calendar year or such other specified period: … … …	Clean-up of transition language Does the information reported need to be audited, since the audit report is not 'due' until October 31 (or if the other amendments are approved, the audit would only happen every 3rd year)? RPRA's position is that 'any information reported must be correct, otherwise it is considered an offence (and arguably subject to Administrative Penalties) under the act if it is found to be incorrect'. There is a possibility that information may be provided that is believed to be correct and truthful, only to be found by an audit later in the year (or after 3 years should the other amendments be approved) that some information needs to be restated. At the end of the day, if the information must be correct and ultimately 'line up with' audited results after the 3rd year, an annual audit DOES need to be done and completed in time for the May 31 reporting deadline. So while it may LOOK like it is 'less administratively burdensome' on its face based on the text of this Regulation, the reality is that the actual reporting/audit timing is MORE burdensome than it currently is in order to reduce/eliminate the possibility of 'reporting incorrect information' and having to pay administrative penalties.
(3) Paragraph 1 of subsection 18 (2) of the Regulation is amended by striking out "12 and 14" at the end and substituting "11".	1. A description of the actions taken by the producer to fulfil their responsibilities relating to the requirements set out under sections 4 to 12 and 14.	Removes description of activities related to Promotion and Education (Producer; Retailer) and Resource Recovery Charges.
(4) Paragraph 4 of subsection 18 (2) of the Regulation is amended by adding "using data determined and verified in accordance with the Audit Guideline" at the end.	4. With respect to tires supplied or provided on vehicles supplied in Ontario in the calendar year two years prior to the year in which the report is due, the number and calculated weight of tires for each tire type.	It is unclear what problem this additional wording is seeking to address?

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(5) Subsections 18 (3) and (4) of the Regulation are revoked.	(3) Any data submitted under subsection (1) that relates to 2017 or under paragraph 4 of subsection (2) that relates to 2018 that was not submitted to the Ontario Tire Stewardship pursuant to a rule or regulation made under the *Waste Diversion Act, 2002* or the *Waste Diversion Transition Act, 2016* must have been audited by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004* and in accordance with the procedures set out in the Audit Guideline. (4) Any data submitted under paragraph 4 of subsection (2) that relates to 2019 and onward must have been audited by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004* and in accordance with the procedures set out in the Audit Guideline.	Removes the requirement to have Supply to Market data audited by an independent auditor. Supply Data is the FUNDAMENTAL BASIS of what is used to determine a Producer's obligation (and the fees to be paid by the Producer in any given year). By removing the obligation to have the supply data audited and verified, this reduces the ability for PRO's (and RPRA) to rely on the supply-to-market data (which defines the collection obligation in future years), and puts added pressure/cost on the RPRA. There is already consideration for 'audit relief' depending on whether the Producer is a Small / Medium / Large Producer. Should there be errors/misreporting, this will have ripple effects for several years onwards as Obligation may change 'mid-stream' and retroactively (given the new 3-year Performance Audit timelines) – with an IPR model where Producers are on-the-hook to achieve legislated targets, there is no way to 'go back' and fix/reallocate collection and/or recovery once a performance year is completed (ie. after 3 years) if the Obligation is now changed following a review/determination by RPRA. When considering the ability for the Registrar or a Deputy Registrar to issue Administrative Penalties (of which now the PRO seems to be also on the hook for given the interchangeability of Producer/PRO in these amendments), this presents significant monetary risk for Producers and PROs should it be found that supply data is incorrect YEARS AFTER the data was initially reported is problematic. Independent audits would prevent this, as the data is validated annually. As indicated, the extent of the audit is already taken into consideration depending on whether the Producer is a small/medium/large producer.
ITEM 13		
The Regulation is amended by adding the following section:		

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
Submission of reports by third parties 18.1 (1) A producer may enter into a written agreement that authorizes a third party, including a volunteer organization, to submit a report under this Regulation on behalf of the producer.	NEW	Can the 3rd party be a pro. Does this also apply to PRO's? This will create an expectation by Producers that they can 'divest themselves' of all reporting obligations (including Supply-to-Market) to a PRO (or other entity). When considering the 'interchangeability of Producer and PRO' contemplated by these amendments, this further 'degrades' the IPR model into a "Stewardship IFO" where for all intents and purposes the PRO: • Takes on responsibility for providing RPRA with supply to market data of Producers, which would now be unaudited (which is subsequently used later for Obligation – if the information is incorrect, the PRO is now subject to penalties if any non-compliance, since the PRO and Producer are '1 in the same') • Takes on the full responsibility for the Collection System and Operation of that system (which now would include the penalties associated with non-compliance within that system, since the PRO and Producer are '1 in the same') • Takes on the full responsibility for the Management of ELT's (which includes the penalties of any non-compliance since the PRO and Producer are '1 in the same') • Takes on the full responsibility for achieving compliance to 85% material recovery (which includes the penalties if any non-compliance, since the PRO and Producer are '1 in the same')
(2) If the third party that submits a report under subsection (1) is a volunteer organization, the volunteer organization shall submit the report on behalf of the producer at least 15 days before the producer is required to submit the report.		As above.
ITEM 14		
Section 19 of the Regulation is amended by striking out "On or before May 31, 2020 and on or before May 31 in each subsequent year" at the beginning of the portion before paragraph 1 and substituting "On or before May 31 in each year".	**19.** On or before May 31, 2020 and on or before May 31 in each subsequent year, every producer responsibility organization shall create and submit to the Authority through the Registry an annual report that contains the following information with respect to the previous calendar year:	Clean up of transition language.

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
ITEM 15		
Section 20 of the Regulation is amended by striking out “On or before May 31, 2020 and on or before May 31 in each subsequent year” at the beginning of the portion before paragraph 1 and substituting “On or before May 31 in each year”.		Clean up of Transition language
ITEM 16		
Section 21 of the Regulation is amended by striking out “On or before May 31, 2020 and on or before May 31 in each subsequent year” at the beginning of the portion before paragraph 1 and substituting “On or before May 31 in each year”.		Clean up of Transition language.
ITEM 17		
Section 22 of the Regulation is amended by striking out “On or before May 31, 2020 and on or before May 31 in each subsequent year” at the beginning of the portion before paragraph 1 and substituting “On or before May 31 in each year”.		Clean up of Transition Language.
ITEM 18		
Section 23 of the Regulation is amended by striking out “On or before May 31, 2020 and on or before May 31 in each subsequent year” at the beginning of the portion before paragraph 1 and substituting “On or before May 31 in each year”.		Clean up of Transition Language.
ITEM 19		

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
Section 24 of the Regulation is revoked.		Removes the obligation that the resource recovery charges must be audited and reflect the costs associated with collection, reuse, recycling and recovery of tires. This may create a situation whereby retailers impose a fee at the time of consumer sale that is far in excess of any fees that may have been passed down to them by the Producer/distributor and will never be 'caught' as being not in keeping with the spirit of the regulation. (ie. Producer charges a $4.00/PLT fee, which gets 'flagged' on the invoice/receipt at the time of sale, and the retailer chooses to charge $6.00/PLT, and takes the $2 difference as 'profit').
ITEM 20		
Subsection 26 (3) of the Regulation is amended by striking out the portion before paragraph 1 and substituting the following:		

(3) On or before October 31, 2024 and on or before October 31 in every third subsequent year, the producer shall prepare and submit a copy of a report on the audit to the Authority through the Registry that includes the following with respect to tires collected in the previous three calendar years:	(3) On or before October 31, 2020 and on or before October 31 in each subsequent year, the producer shall prepare and submit a copy of a report on the audit to the Authority through the Registry that includes the following with respect to tires collected in the previous calendar year: 1. The number and calculated weight of tires, for each tire type, that were reused. 2. The number and calculated weight of tires, for each tire type, that were retreaded. 3. The weight of processed materials, by material type, that resulted from the processing of tires. 4. A list of types of products and packaging that were made with the processed materials referred to in paragraph 3, by material type. 5. The number and calculated weight of tires and the weight of processed materials, by material type, that were land disposed, incinerated, used as a fuel or a fuel supplement, or stored, stockpiled or otherwise deposited on land. 6. A statement confirming whether the producer met their resource recovery standard of 85 per cent, as set out in section 11.	Moves the annual audit requirement to 1 audit every 3 years, for the 3 year period. It is unclear why this change is necessary and/or being contemplated and which person/party actually benefits from this change, given that for all intents and purposes, it is the PRO that undertakes the audit on behalf of the Producer. This will create significant increased risk for PRO's (and ultimately Producers) who are responsible for collecting tires in a given collection period (Jan-Dec) and processing those tires within a certain processing period (up to Mar 31 of the year following the collection year), especially if there is still a requirement to report annually (and those reported numbers must be 'right' or be subject to significant administrative penalties 3 YEARS down the road). This will also create an uneven playing field between larger PROs and smaller PROs whereby a smaller PRO may 'disappear' or fundamentally change their operating model mid-stream through a 3-year cycle, leaving the Producer to 'pick up the pieces.' While this may 'look good on paper', in practicality the end result is that a conscientious PRO (or Producer if they are not engaging with a PRO) will still undertake a full audit every year in order to ensure that the reported numbers annually are 'right and correct', and so that any issues may be flagged at the time, rather than 3 years down the road when nothing can be done about it (ie. issues/opportunities may be identified in year 1, and measures put in place for years 2 and 3 if there are annual audits; with a 3-year audit cycle The MECP should really reconsider this particular proposed amendment given: the 'real' impact of 'pushing off the audit'; the foreseen administrative penalty burden this will put on Producers (and PRO's given the interchangeability of PRO/Producer with the suggested NEW Section 4.1) when situations could have been resolved in year 1 of a 3-year cycle but was not 'flagged' until the 3-year audit; the Reporting requirements being 'right and correct' subject to significant penalties; the reality that a Producer does not need to continue to work with any given PRO and can switch PROs mid-stream – how does the 3-year audit occur when there are multiple PROs with proprietary information and different auditors who will have different methodologies? This is not a 'common IFO' where there is 1 common auditor for all PROs/Producers and subsequently a common methodology/approach.

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
ITEM 21		
Section 27 of the Regulation is revoked and the following substituted:		
Access to information and privacy 27. (1) Subject to subsection (2), information and data submitted under this Regulation to the Authority through the Registry shall not be posted on the Registry, unless it is posted in a manner that is consistent with the "Access and Privacy Code" published by the Authority and dated December 14, 2017, as amended from time to time, and available on the website of the Registry.		This is a general expectation re: Privacy of information
(2) For greater certainty, the Authority shall not post information, including data, that is, (a) provided by or on behalf of a producer and that relates to the producer's supply of, or management of, tires; or (b) classified as "commercially sensitive information", "confidential information" or "personal information", as those terms are defined in the "Access and Privacy Code" referred to in subsection (1), as amended from time to time.		
ITEM 22		
[Proposed commencement for consultation purposes 22. (1) Subject to subsection (2), this Regulation comes into force on the day it is filed.		This regulation should come into force January 1, 2023. This will provide enough time/consistency to renegotiate any commercial agreements that are in place, and will ensure that there is no disruption to the 2022 Collection and Performance year. Ie. Supply audits (of 2020 Supply to Market) would still need to be done for 2022 reporting; annual performance audit will still need to be done for 2021 and 2022 Performance years;

AMENDMENT ITEM	ORIGINAL TEXT (Reg 225/18-Tires)	COMMENTS
(2) Section 2, subsection 3 (3) and sections 4 and 6 come into force on the later of January 1, 2023 and the day this Regulation is filed.		This numbering does not seem to make sense (ie. these particular clauses do not appear to have been addressed in this amendment. Section 2 of the Regulation reads: **Designated Class** Tires 2. For the purposes of section 60 of the Act, tires are a designated class of material. Subsection 3(3) reads: Clause (1) (a) does not apply with respect to a new vehicle that is an aircraft. Per above, it makes sense that Section 4 and 6 (as well as all other amendments) should come into force on January 1, 2023.

We would appreciate the opportunity to further discuss this feedback in more detail as you proceed with the consultation process.

Respectfully submitted,

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