

**Caution:**

This draft regulation is provided solely to facilitate public consultation under section 16 of the *Environmental Bill of Rights, 1993*. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the draft regulation are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

Ontario Regulation to be made under the *Resource Recovery and Circular Economy Act, 2016*

**TIRES**

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**Definitions**

**Definitions**

1. In this Regulation,

“land disposed” has the same meaning as “land disposal” in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*;

“large tire” means a tire that fits a rim size of 39 inches or larger;

“local municipality” means a single-tier municipality or a lower-tier municipality;

“motor assisted bicycle” has the same meaning as in the *Highway Traffic Act*;

“motor vehicle” includes an automobile, motorcycle, motor assisted bicycle, tractor, transport truck, aircraft and any other vehicle propelled or driven otherwise than by muscular power, but does not include a power-assisted bicycle, personal mobility device or commercial aircraft;

“muscular-powered equipment” means equipment, with tires, that is propelled or drawn by muscular power, but does not include equipment designed to transport a person;

“personal mobility device” means a device, with tires, driven by muscular power or any other kind of power that is designed for a person whose mobility is limited by one or more conditions or physical impairments;

“power-assisted bicycle” has the same meaning as in the *Highway Traffic Act*;

“processing”, in respect of a tire, means,

- (a) transforming a tire into constituent materials for resource recovery by shredding, chipping, grinding, cryogenic crushing and cutting, and
- (b) any activity designed to chemically alter a tire, such as depolymerisation;

“producer” means a person who is required to carry out the responsibilities relating to tires under Part IV of the Act, as determined in accordance with section 3 of this Regulation;

“producer responsibility organization” means a person retained by a producer, for the purpose of carrying out the producer’s responsibilities relating to tires under Part IV of the Act, to arrange for the establishment or operation of a waste disposal site or waste management system;

“resident in Ontario” means having a permanent establishment in Ontario within the meaning of the *Corporations Tax Act*;

“tire” means a primarily rubber component that is designed to surround the rim of a vehicle’s wheel;

“tire collector” means a person who owns or operates a site in Ontario where tires are collected for the purposes of resource recovery or disposal, but does not include a person who collects tires for private domestic purposes;

“tire hauler” means a person who transports tires in Ontario to a site for the purposes of resource recovery and disposal, but does not include a person who transports tires for private domestic purposes;

“tire processor” means a person who receives and processes tires collected in Ontario for the purposes of resource recovery or disposal;

“tire type” includes large tires, medium truck tires, off the road tires and passenger and light truck tires.

“trailer” means any equipment, with tires, that is suitable for being attached to and drawn by a motor vehicle;

“vehicle” includes a motor vehicle, a muscular-powered equipment and a trailer;

“waste disposal site” has the same meaning as in Part V of the *Environmental Protection Act*;

“waste management system” has the same meaning as in Part V of the *Environmental Protection Act*.

## **Designated Class**

### **Tires**

2. For the purposes of section 60 of the Act, tires that weigh one kilogram or more are a designated class of material.

## **Persons Who May Have Responsibilities**

### **Producers**

3. (1) For the purposes of the definition of “producer” in section 1, the producer is,

- (a) subject to subsection (2), with respect to new tires provided on a new vehicle marketed to consumers in Ontario,
  - (i) if the tires are provided on a vehicle manufactured in Ontario by a person resident in Ontario, the manufacturer of the vehicle,
  - (ii) if there is no person described in subclause (i) and the tires are provided on a vehicle manufactured outside of Ontario and imported by a person resident in Ontario, the importer of the vehicle,

- (iii) if there is no person described in subclause (i) or (ii) and the tires are provided on a vehicle manufactured outside of Ontario and imported by a person not resident in Ontario for sale in Ontario, the person resident in Ontario who markets the vehicle,
  - (iv) if there is no person described in subclause (i), (ii) or (iii) and the tires are provided on a vehicle manufactured outside of Ontario by a person not resident in Ontario and purchased by a consumer in Ontario, the person resident in Ontario who marketed the vehicle to the consumer, or
  - (v) if there is no person described in subclause (i), (ii), (iii) or (iv) and the tires are provided on a vehicle manufactured outside of Ontario by a person not resident in Ontario and purchased by a consumer in Ontario, the person not resident in Ontario who marketed the vehicle to the consumer; or
- (b) with respect to new tires marketed to consumers in Ontario separately from the purchase of a new vehicle,
- (i) if the brand holder of the tires is resident in Ontario, the brand holder of the tires,
  - (ii) if there is no person described in subclause (i) and the importer of the tires is resident in Ontario, the importer of the tires,
  - (iii) if there is no person described in subclause (i) or (ii) and the distributor of the tires is resident in Ontario, the distributor of the tires,
  - (iv) if there is no person described in subclause (i), (ii) or (iii) and the retailer of the tires is resident in Ontario, the retailer of the tires, or
  - (v) if there is no person described in subclause (i), (ii), (iii) or (iv) and the tires are purchased by a consumer in Ontario from a person not resident in Ontario who marketed the tires, the person who marketed the tires.

(2) For the purposes of clause 61 (6) (c) of the Act, a person referred to in subclauses (1) (a) (i), (ii), (iii) and (iv) of this section is required to carry out the responsibilities of a producer under Part IV of the Act with respect to tires if they market a vehicle on which tires are provided in Ontario.

## **Registration**

## Producers

4. (1) Subject to subsection (3), every producer shall register with the Authority through the Registry by submitting the information set out under subsection (2),

- (a) on or before June 30, 2018, if the producer marketed tires or a vehicle on which tires are provided, in Ontario, between January 1, 2014 and June 30, 2018; or
- (b) after June 30, 2018, within 30 days of marketing tires or a vehicle on which tires are provided, in Ontario.

(2) The following information is required to be submitted for registration:

1. The producer's name, contact information and any unique identifier assigned by the Registrar.
2. The designated class of materials the producer is required to collect.
3. For producers to which clause (1) (b) applies, the date they first marketed tires or provided tires on vehicles marketed in Ontario.
4. The name, contact information and any unique identifier assigned by the Registrar of any producer responsibility organization retained by the producer.
5. The name and contact information of an employee of the producer who has authority to bind the corporation or entity and who is responsible for having the registration complete and up to date.
6. A description of how the producer is fulfilling or plans to fulfil their responsibilities relating to tires under Part IV of the Act, including the following:
  - i. A list of retail locations in Ontario where the producer supplies tires or vehicles on which tires are provided.
  - ii. A list of all tire collection sites, tire haulers and tire processors that are part of the producer's tire collection and management system.
7. For producers to which clause (1) (a) applies, the number and weight of tires for each tire type that were supplied or provided on vehicles supplied in Ontario in 2014, 2015 and 2016.

(3) The information required under paragraph 6 of subsection (2) must be submitted,

- (a) for producers to which clause (1) (a) applies, on or before November 15, 2018;

- (b) for producers to which clause (1) (b) applies who register on or before November 15, 2018, on or before the later of November 15, 2018 and 30 days from the date of registration; and
- (c) for producers to which clause (1) (b) applies who register after November 15, 2018, at the time of registration.

(4) The data referred to in paragraph 7 of subsection (2) must have been audited by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*.

(5) The producer shall submit updated information within 15 days after any change to the information required to be submitted under this section.

### **Producer responsibility organization**

**5.** (1) Every producer responsibility organization shall, within 30 days of being retained by a producer, register with the Authority through the Registry by submitting the following information:

1. The producer responsibility organization's name, contact information and any unique identifier assigned by the Registrar.
2. The designated class of materials in respect of which the producer responsibility organization is arranging services for the producer.
3. A description of how tires collected by the producer responsibility organization are allocated, for the purposes of meeting the requirements in subsection 7 (1), among producers who have retained the organization's services.
4. The name, contact information and any unique identifier assigned by the Registrar of each producer who retains the producer responsibility organization and a description of the following:
  - i. The services that the organization was retained by the producer to provide.
  - ii. The tire types within the designated class of materials in respect of which the organization is providing the services referred to in subparagraph i.
5. The name and contact information of an employee of the producer responsibility organization who has authority to bind the corporation or entity and who is responsible for having the registration complete and up to date.

(2) The producer responsibility organization shall submit updated information within 15 days of any change to the information required to be submitted under subsection (1).

## **Tire haulers, processors and collectors**

6. (1) On or before September 30, 2018, every tire collector, tire hauler and tire processor shall register with the Authority through the Registry by submitting the information set out under subsection (3).

(2) After September 30, 2018, every tire collector, tire hauler and tire processor shall, within 30 days of having collected, transported or processed tires, register with the Authority through the Registry by submitting the information set out under subsection (3).

(3) The information that is required to be submitted for registration is the following:

1. The name and contact information and any unique identifier assigned by the Registrar of the tire collector, tire hauler or tire processor, as the case may be.
2. The name and contact information of an employee of the tire collector, tire hauler or tire processor, as the case may be, who has authority to bind the corporation or entity and who is responsible for having the registration complete and up to date.
3. If the person is a tire collector, the tire types the person is collecting.
4. If the person is a tire hauler, the tire types the person is transporting.
5. If the person is a tire processor, the tire types the person is processing and the recovered resources that result from the processing.

## **Tire Collection and Management**

### **Tire collection amounts**

7. (1) Starting in 2019 and in each subsequent calendar year, every producer shall collect a minimum amount of tires, by weight, from tire collectors or tire haulers registered under section 6.

(2) The minimum amount of tires that must be collected each calendar year shall be calculated using the formula,

$$(Y3 + Y4 + Y5) / 3 \times 0.85$$

in which,

“Y3” is the weight of tires supplied or provided on vehicles supplied in Ontario by the producer in the calendar year three years prior to the collection year,

“Y4” is the weight of tires supplied or provided on vehicles supplied in Ontario by the producer in the calendar year four years prior to the collection year, and

“Y5” is the weight of tires supplied or provided on vehicles supplied in Ontario by the producer in the calendar year five years prior to the collection year.

(3) If applicable, the amount determined under subsection (2) shall be calculated using the data referred to in paragraph 7 of subsection 4 (2) and paragraphs 4 and 5 of subsection 13 (3).

(4) If a producer collects more than the minimum amount required in a calendar year, as determined under subsection (2), they may carry over and apply up to five per cent of that minimum amount towards the minimum amount required to be collected in the subsequent calendar year.

(5) No producer shall collect tires from outside of Ontario for the purpose of satisfying the minimum amount of tires required under subsection (2).

(6) Every producer who markets large tires or a vehicle on which large tires are provided, in Ontario, shall ensure that, with respect to the minimum amount collected in a calendar year, the weight of large tires collected is equal to or greater than 60 per cent of the portion of the weight of the tires used to calculate the minimum amount under subsection (2) that were large tires.

### **Tire collection sites**

**8.** (1) Every producer shall establish and operate a collection system for tires that satisfies the following requirements:

1. If tires are sold at a tire collection site, the site must, at a minimum, collect tires from consumers that are of the same tire type as those sold.
2. Every tire collection site must accept up to 10 tires per day from any person and if more than 10 tires are accepted from a person at a site on a single day, the person's name, contact information and any unique identifier assigned by the Registrar must be recorded.
3. Producers without a retail location in Ontario who only market tires to consumers in Ontario including through the Internet, using a catalogue order system, using a telephone order system, or by a similar remote sales method, shall provide for the collection of tires in a manner that is, at a minimum, equivalent to the manner in which the tires were supplied.
4. Producers who market large tires or a vehicle on which large tires are provided shall provide for the collection of large tires in a manner that is, at a minimum, equivalent to the manner in which the tires were supplied.

5. In local municipalities in which the producer supplies tires or vehicles on which tires are provided at a retail location, the producer shall establish and operate as many tire collection sites as are equal to or greater than 75 per cent of the number of those retail locations.
6. Subject to subsection (2), in local municipalities with populations of more than 1,000 the producer shall establish and operate at least one tire collection site in the municipality or hold at least one public tire collection event each calendar year.
7. In unorganized territory, the producer shall establish and operate a tire collection site within 30 kilometres of each retail location where the producer supplies tires or vehicles on which tires are provided.
8. Subject to subsection (2), in territorial districts with populations of more than 1,000 the producer shall establish or operate at least one tire collection site or hold at least one public tire collection event each calendar year.
9. Tire collection sites shall be operated during normal business hours to collect tires from consumers.

(2) The requirements with respect to tire collection set out in paragraphs 6 and 8 of subsection (1) do not apply to,

- (a) producers of large tires or of vehicles on which large tires are provided; and
- (b) producers without a retail location in Ontario who market tires to consumers in Ontario including through the Internet, using a catalogue order system, using a telephone order system or by a similar remote sales method.

(3) In this section,

“territorial district” means a geographic area, other than a municipality, named and described in Schedule 2 of Ontario Regulation 180/03 (Division of Ontario into Geographic Areas) made under the *Territorial Division Act, 2002*.

### **Management of tires**

9. Every producer shall, in addition to establishing and operating a collection system for tires under section 8, establish and operate a system for managing the collected tires in accordance with the following requirements:

1. The producer shall ensure that one or more of the following is undertaken with respect to at least 85 per cent of the weight of the tires collected in a calendar year:

- i. Tires are reused without modification for their original purpose or a new purpose, other than for the purposes of land application.
  - ii. Tires are re-treaded by a tire processor registered under section 6 and then used for their original purpose.
  - iii. Tires are processed by a tire processor registered under section 6 and used in the making of new products, packaging or other things.
2. The following tires or processed materials shall not be included in the 85 per cent minimum requirement referred to in paragraph 1:
  - i. Tires and processed materials that are land disposed.
  - ii. Tires and processed materials that are incinerated or used as a fuel or a fuel supplement.

## **Promotion and Education**

### **Producers**

**10.** Every producer shall implement a promotion and education program by 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's tire management system.

### **Retailers**

**11.** Every person who supplies tires or vehicles on which tires are provided, to consumers in Ontario, shall implement a promotion and education program by publishing and clearly displaying on their website the locations of nearby tire collection sites, for each tire type, where consumers may return tires at no charge.

### **Resource recovery charges**

**12.** Every person described in subsection 3 (1) who identifies, in an advertisement, invoice, receipt or similar record in connection with the sale of tires or with respect to tires provided on a

vehicle, 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 by the person to collect, reuse, recycle and recover tires.

## **Reporting, Auditing and Record Keeping**

### **Reports, producers**

**13.** (1) On or before September 30, 2019 and on or before September 30, 2020, every producer shall create and submit to the Authority through the Registry an interim progress report that contains the information set out under subsection (3) with respect to January 1 to June 30 in each of those years.

(2) On or before March 31, 2020 and on or before March 31 in each subsequent year, every producer shall submit to the Authority through the Registry an annual report that contains the information set out under subsection (3) with respect to the previous calendar year.

(3) The following information is required to be included in the reports referred to in subsections (1) and (2):

1. A description of the actions taken by the producer to fulfil their responsibilities relating to the requirements set out under sections 7, 8, 9, 10 and 12.
2. The number and weight of tires for each tire type that were collected by the collection systems established by the producer, including amounts collected by any producer responsibility organization retained by the producer.
3. A description of the resource recovery activities engaged in by the producer's management system and by any producer responsibility organization retained by the producer, including the following:
  - i. The number and weight of tires for each tire type that were provided for reuse for their original or a new purpose.
  - ii. The number and weight of tires for each tire type that were re-treaded for their original purpose by a tire processor registered under section 6.
  - iii. The number and weight of tires for each tire type that were processed by a tire processor registered under section 6 and the weight of recovered material by type from the processing.

- iv. A list of types of products, packaging and other things that were made with recovered materials, and the weight of recovered materials used in the making of such products, packaging and other things.
  - v. The amount of tires and processed materials, by weight, that were land disposed, incinerated, used as a fuel or a fuel supplement or subject to land application.
  - vi. The weight of residue, including tire fluff, that was generated by the processing of tires that were land disposed, incinerated, used as a fuel or a fuel supplement or subject to land application.
4. For the interim report required on or before September 30, 2019, the number of tires for each tire type that were supplied or provided on vehicles supplied in Ontario in 2017.
  5. For annual reports referred to in subsection (2), the number of tires for each tire type that were supplied or provided on vehicles supplied in Ontario for each full calendar year starting in 2018.

(4) The data referred to in paragraphs 4 and 5 of subsection (3) must have been audited by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*.

### **Reports, producer responsibility organizations**

**14.** On or before March 31, 2020 and on or before March 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:

1. The number and weight of tires for each tire type that were collected by the producer responsibility organization.
2. The amount of tires, by weight, allocated to each producer for the purposes of that person meeting their requirements under sections 7 and 9.
3. The number and location of collection sites or public tire collection events established and operated on behalf of producers by the producer responsibility organization and the producers' names, contact information and any unique identifier assigned by the Registrar.

### **Reports, tire collectors**

**15.** On or before March 31, 2020 and on or before March 31 in each subsequent year, every tire collector 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:

1. The total number of tires collected for each tire type.
2. For each tire hauler to whom the tire collector gave collected tires, the total number of tires given for each tire type and the tire hauler's name, contact information and any unique identifier assigned by the Registrar.
3. If the tire collector provides services as part of a producer's tire collection system, the name and contact information and any unique identifier assigned by the Registrar of the producer or of the producer responsibility organization retained by the producer.
4. If any of the tires referred to in paragraph 1 were collected from outside of Ontario, the number of those tires for each tire type.
5. If a tire collector has accepted more than 10 tires from a person at a site on a single day, the person's name, contact information and any unique identifier assigned by the Registrar.

### **Reports, tire haulers**

**16.** On or before March 31, 2020 and on or before March 31 in each subsequent year, every tire hauler 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:

1. The total number of tires, for each tire type, picked up from a tire collector and transported to another site and the tire collector's name, contact information and any unique identifier assigned by the Registrar.
2. For each tire processor to whom the tire hauler gave collected tires, the total number and weight of tires given for each tire type and the tire processor's name, contact information and any unique identifier assigned by the Registrar.
3. If the tire hauler provides services as part of a producer's tire collection system, the name and contact information and any unique identifier assigned by the Registrar of the producer or of the producer responsibility organization retained by the producer.
4. If any of the tires referred to in paragraph 1 were collected from outside of Ontario, the number and weight of those tires for each tire type.

### **Reports, tire processors**

**17.** On or before March 31, 2020 and on or before March 31 in each subsequent year, every tire processor 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:

1. The total number and weight of tires, for each tire type, received from a tire hauler and the tire hauler's name, contact information and any unique identifier assigned by the Registrar.
2. A description of the processing activities undertaken by the tire processor, including the number and weight of tires processed and the weight of each processed material, including process residue.
3. The weight of each processed material sent for an end use and a description of that end use.
4. The weight of process residue that is land disposed, incinerated, used as a fuel or a fuel supplement or subject to land application.
5. If the tire processor provides services as part of a producer's tire management system, the name and contact information and any unique identifier assigned by the Registrar of the producer or of the producer responsibility organization retained by the producer.
6. If any of the tires referred to in paragraph 1 were collected from outside of Ontario, the number and weight of those tires for each tire type.

### **Reports, resource recovery charges**

**18.** On or before September 30, 2020 and on or before September 30 in each subsequent year, every person who implements a promotion and education program under section 12 shall create and submit to the Authority through the Registry a report that contains the following information with respect to the previous calendar year:

1. How the charge imposed with respect to tires or tires provided on a vehicle that relates to resource recovery or waste reduction has been used to increase collection, reuse, recycling and recovery of tires.
2. An audit, conducted by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*, verifying that the charge imposed accurately reflects the costs incurred in relation to the collection, reuse, recycling and recovery of tires.

## Records

**19.** Every producer, producer responsibility organization, tire collector, tire hauler and tire processor shall keep the following records in a paper or electronic format that can be examined or accessed in Ontario for a period of five years from their date of creation:

1. Records related to arranging for the establishment and operation of a collection or management system for the purposes of fulfilling their responsibilities relating to tires under Part IV of the Act.
2. Records related to the retention of persons operating a waste disposal site or waste management system for the purposes of fulfilling their responsibilities relating to tires under Part IV of the Act.
3. Records related to information required to be submitted to the Authority through the Registry.
4. Records related to implementing a promotion and education program required under this Regulation.
5. Any agreements that relate to paragraphs 1 and 2.

## Audit, management systems

**20.** (1) Every producer shall cause an audit to be undertaken, by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*, of the practices and procedures the producer implemented each calendar year in order to comply with their responsibilities related to management systems under section 69 of the Act, as set out in section 9 of this Regulation.

(2) On or before September 30, 2020 and on or before September 30 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 the previous calendar year:

1. The number and weight of tires for each tire type that were provided for reuse for their original or a new purpose.
2. The number and weight of tires for each tire type that were re-treaded for their original purpose by a tire processor registered under section 6.
3. The number and weight of tires for each tire type that were processed by a tire processor registered under section 6 and the weight of recovered material by type from the processing.

4. A list of types of products, packaging and other things that were made with recovered materials, and the weight of recovered materials used in the making of such products, packaging and other things.
5. Verification that the recovered materials generated after processing tires, by weight, were used in the making of new products, packaging or other things.
6. The amount of tires and processed materials, by weight, that were land disposed, incinerated, used as a fuel or a fuel supplement or subject to land application.
7. The weight of residue, including tire fluff, that was generated by the processing of tires that were land disposed, incinerated, used as a fuel or a fuel supplement or subject to land application.
8. Verification of whether the producer met their resource recovery standard of 85 per cent, as set out in section 9.
9. Verification of sales data used to determine the minimum amount of tires to be collected under section 7.

## **Commencement**

### **Commencement**

#### **21. [Commencement]**