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January 25, 2018

***RE: Tire Regulation under the Resource Recovery and Circular Economy Act, 2016 (EBR Registry Number: 013-1716)***

Please find below comments from the Canadian Environmental Law Association (CELA), the Toronto Environmental Alliance (TEA), and the Citizens' Network on Waste Management on the draft Tire Regulation. Our organizations advocate for high environmental standards that protect human and environmental health, and are advocates for full producer responsibility and a circular economy.

Over the last year, our organizations have participated in various meetings and webinars on the Tire Regulations under the Resource Recovery and Circular Economy Act, 2016, (RRCEA).

Ontario's Used Tires Program has been one of the most effective collection programs under Ontario's previous waste diversion framework. The Tire Regulations under the RRCEA should build on this diversion success to advance key objectives in the RRCEA, and ensure that there is no backtracking on the previous program components.

We highlight the following areas of concerns and comments:

### **1) Define Diversion to better follow the waste hierarchy and incent EPR**

The proposed definition of recycling in the Draft Used Tire Regulation is inadequate and vague. It is likely to lead to lower environmental performance than is currently achieved in the existing program. The language that requires 'processing into new products' is too vague, especially for tires which have an extremely developed and robust recycling market already in existence in Ontario. Without further detail in the definition and without requirements to achieve higher value recycling, tire producers will choose the least cost option to meet their obligations. This will result in lower value recycling and lower environmental performance than the existing program.

While the goal of Extended Producer Responsibility is to encourage innovation and environmental performance by allowing producers to meet their obligations, there must be sufficient detail and requirements in the regulation to promote higher value recycling.

The Used Tire Regulation must include mechanisms to encourage the recycling of tires into equal or higher value products that displace the use of virgin materials, especially of virgin materials with high environmental impacts in their extraction. Additionally, higher value recycling results in products and uses that permit repeated recycling and reuse at the end of the product's life.

Recycling into lower value products or land cover ('downcycling') not only does not displace virgin materials, but it cannot easily be recovered and recycled into equal or higher value products at the end of life. The types of changes just described are essential for a truly circular economy.

**Recommendation: Modify the definition of recycling to include 'to displace the use of virgin materials'**

We strongly support the use of a waste hierarchy to encourage the highest and best use of tires. To ensure the best outcomes, guidelines should be developed to provide further direction to producers and processors on how recovery obligations can be met. Additional 'credit' should be provided for producers who meet their obligations with higher order recovery. For example, reduction of waste by enhancing the life of the tire, providing better public education and other steps should be rewarded. Reuse and re-treading of tires should also be prioritized to reduce the environmental impact. Higher value recycling, such as into new tires, or into new products that would otherwise be made with virgin material with a high environmental footprint should be encouraged.

**Recommendation: Develop a guideline to state more explicitly what types of end uses, recycling and processing are acceptable and encouraged. Review and update the guideline on a regular basis.**

To move more seriously towards the circular economy, the government will have to go beyond encouraging high end uses. The government should require that a certain percentage of tires collected go to high-end uses and this high-end use requirement should increase over time.

**Recommendation: Develop requirements stating a minimum percentage of the collected tires that must go to high-end use.**

## **2) Inadequate Collection Targets and Diversion Targets**

The draft Tire Regulation proposes a collection target of 85%. The diversion target is 85% **of the tires collected**. This means that the diversion target for tires sold into the market is only around 75%. For items such as tires in which the diversion methods of reuse, recycling, etc. are so well developed, a mere 75% diversion target is sadly lacking.

We believe the diversion target should be at least 90%, to advance the goal of a truly circular economy and the intent of the Ontario Waste-free Strategy. Scheduled increases in the target over time will also drive the desired environmental performance and innovation. Most importantly, the target needs to be disaggregated both by tire type to make sure all types of tires are being diverted, and by diversion methods to drive used tires to higher end uses in terms as judged by the goals of a circular economy.

**Recommendation: An overall diversion target of 90% should be set with scheduled increases in this target over time. This target should be differentiated by type of tire.**

**Recommendation: The diversion target should have targets within the 90% that require a certain percentage of high end uses.**

The draft regulation sets a collection target of 85%. What is to happen to the other 15%? Who is responsible for making sure the rest are collected? This shouldn't be up to municipalities or other government agencies to collect. That 15% shouldn't just go into ditches and hidden in backfields. If

this is truly producer responsibility, the producers should be required to collect 100% of the tires they sell into the market starting on day one of the program.

**Recommendation: The regulation should be changed to require tire producers to be responsible for collection of 100% of the tires they sell into the Ontario market.**

### **3) Expanding obligated producers & designated tires**

The proposed Tire Regulation targets four tire types for collection while excluding a number of substantial tire types including commercial aircrafts, personal mobility devices, bicycles and tires less than 1 kg in weight. These exclusions represent a significant list of materials uncollected without any provisions proposed for collection and recycling programs.

Rather than excluding some tire types from the collection system, there should be provisions to expand the types of tires collected in the move towards a fully circular economy with zero waste. This will improve public perception and understanding of the program, and increase the diversion of tires in Ontario.

**Recommendation: The Tire Regulation should include a provision for RPRA to develop a plan to expand the Tire Regulation to additional types of consumer tires within two years.**

### **4) Ensuring access to diversion services for all communities including rural, remote and indigenous communities.**

The requirements for tire collection sites are reasonably good. There is, however, one situation that we feel needs more exploration, i.e., collection from isolated communities. "Isolated communities" is here meant to be those communities that do not have reasonable road access to other communities. It is of particular importance to provide collection for remote and isolated communities to protect the environment and human health, as, without access to these services, situations including open pit burning of waste and tires may be used in these communities.

**Recommendation: The Tire Regulation should require that producers develop special collection methods specific to each "isolated community" in the province. That method should be developed in consultation with and agreement of each isolated community.**

### **5) Reducing impacts of toxic and hazardous substances throughout the product life cycle**

The ENGO community has repeatedly raised concerns about addressing toxics in the circular economy - chemicals and other toxic ingredients from one product can get inadvertently recycled into new products without better controls. The use and presence of toxic substances in tires have significant implications to the environment and human health throughout its lifecycle, including at the end of life management phase. The draft Tire Regulation does not address this important issue and lacks a plan to tackle the issue of hazardous substances.

Used tires are a prime material to develop new mechanisms and regulations to manage hazardous substances due to the use and release of potentially toxic substances, the consistency of the obligated product, and the established collection and diversion market in Ontario. Innovations in tire manufacturing is seeing the increased use of additives and potentially toxic substances to improve on-road performance, and efforts need to be made to ensure these innovations do not compromise human and environmental health in a circular economy.

Key options to address hazardous substances include:

- Develop a mechanism for tire manufacturers to identify, track and report on the ingredients and substances used in tire manufacturing. Use existing legislation including the Ontario Toxic Reduction Act to establish tracking and reporting for toxic substances in products.
- Develop a reporting and tracking system for tire processors and producers using recycled tire ingredients to report on end products and materials that contain known or potentially hazardous substances to ensure they are processed into end-products that will prevent exposure to vulnerable populations.
- Require manufacturers to label all tires with a code to allow processors to identify hazardous substances in the tires prior to processing.

These reporting mechanisms are important for current management and processing, but more importantly, will ensure that tracked and reliable data is available if, at a future date, new information emerges that shows a substance is recognized as toxic or harmful in certain uses. This will build in the capacity to identify and manage those hazardous substances to protect future generations of Ontarians.

**Recommendation: The Tire Regulation should require that producers make available information to the public and processors about the hazardous substances and composition of their tires to enable safe processing.**

**Recommendation: RPRA should form a stakeholder working group to identify and develop mechanisms to identify, monitor and safely separate hazardous substances to prevent the perpetuation of hazardous substances into new products.**

**Recommendation: A review of existing legislation including the Ontario Toxics Reduction Act, should be assessed to ensure tracking and reporting on toxic substances related to the production of tire products is undertaken.**

## **6) EPR Charges to Consumers should not be allowed**

In section 18, the draft Tire Regulation refers for the first time to charges. The section requires the producers to report on, among other items, “How charges imposed with respect to tires or tires provided in a vehicle relates to resource recovery or waste reduction has been used to increase collection, reuse, recycling and recovery of tires.” This implies that the producers are allowed to charge a specific fee to tire consumers in order to have the tires collected, recycled, etc. This is unacceptable. A prime principle of EPR is that collection and diversion costs should be a basic part of the normal cost of items that they produce – not a special add on that consumers should pay extra for. No products have a tag on them saying that the consumer will have to pay a certain amount extra as the check out for the safety features or for the producers advertising costs. Proper handling after use must be seen as a normal part of business and, therefore, should be included in the product’s normal price.

**Recommendation: The Regulation should specify that no extra charges can be added at the point of purchase dedicated to handling after use.**

## **7) No to Landfilling and Incineration or Energy-from-waste for used tires.**

The Tire Regulation states that any tires and processed materials landfilled, incinerated, or used as a fuel may not count towards the inaccurately called 85% diversion rate (actually only 75%, see section 2). The Regulation should go further and prohibit the disposal and incineration of tires and processed materials entirely.

Tires are a major problem in landfill management because they keep rising to the top and because of the hazardous materials in them, which contributes to hazardous leachate. For these reasons, municipalities are increasingly banning tires from being disposed of in landfills. Likewise because of the toxic materials in tires, they create air contamination (e.g. dioxins, PAHs, heavy metals, lead, mercury) when they are burnt. Using 'tire fluff' or other tire components as an 'alternative fuel' in specific industrial sectors (e.g. cement, steel, lime) also creates toxic emissions. In addition, disposing of them is a waste of valuable materials.

**Recommendation: The regulation should clearly state that no used tires or processed tire material may be sent to incineration or EFW facilities in Ontario, including as 'Alternative Fuels'.**

**Recommendation: The regulation should put in place a phase out for used tires going to landfill.**

On behalf of our environmental organizations,



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Canadian Environmental Law Association



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