

June 23, 2019

Attention: Krista Friesen  
Ministry of the Environment, Conservation & Parks  
Resource Recovery Policy Branch  
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**Re: ERO # 019-0048 - Regulations for Recycling of Electrical and Electronic Equipment (EEE) and Batteries under the Resource Recovery and Circular Economy Act, 2016**

The Toronto Environmental Alliance (TEA) and Health and Environment Justice Support (HEJ) are pleased to see that the Ontario Government is moving forward quickly on electronic waste and batteries under the Resource Recovery and Circular Economy Act (RRCEA). Please find below comments on the ERO posting # 019-0048 on Regulations for recycling of Electrical and Electronic Equipment (EEE) and Batteries.

**We support the following principles for this, and all regulations under the RRCEA:**

- The top priority of the regulations needs to be to protect human and environmental health.
- We strongly support a move to full producer responsibility with high performance targets and outcomes supported by strict enforcement.
- Thermal treatment, even with energy recovery, should be considered only disposal, and not be considered towards a producer's management targets.
- Registration, auditing and reporting to validate the final destination of materials, including through downstream processors, is essential.
- Transparency and public access to reports and results is essential for accountability and public confidence.
- Ensure the result is accessible for all Ontarians, understandable, fair and equitable.
- Regulations should incent design that leads to improved recycling, increased durability, and reduced resource consumption.

**The following principles are of particular importance to regulation of EEE and batteries:**

- The regulation should create incentives to avoid and completely phase out the use of toxic substances and chemicals of concern in products, especially as these will enter the recycling process and be perpetuated into new materials.
- The regulations should be designed to be responsive to new information about toxic substances and impacts on human health and the environment.

## Perpetuation of toxic substances in a circular system.

One of the most glaring gaps in the processing of e-waste and materials with hazardous substances is the fact that these substances are being perpetuated in the supply chain by recycling. This issue has not been sufficiently acknowledged or addressed in this regulation, nor in the consultation process to develop this regulation.

- **This regulation should include mandatory disclosure of hazardous substances found in the product.** Hazardous substances of concern to human and environmental health should be communicated to the public through labelling on products or in product manuals, producer reporting to RPRA, and the information should be made available to waste processors.  
Labelling plays a crucial role in public awareness of the need for proper disposal and safe handling, and it also provides vital information to those handling the products for reuse, repair and recycling.
- The Province should develop a guideline that includes a list (or reference to an existing list) of chemicals of concern to human health and the environment used in electronics production and products. This list should be publicly available and serve as the basis for labelling requirements, and it should be reviewed periodically.
- The regulation should discourage the use of hazardous substances and include targets to phase them out of products.
- Management targets for materials and products with hazardous substances should be significantly higher than materials with no or fewer hazardous substances.

## EEE exports and international agreements

We are concerned about ongoing issues with the improper processing and international transport of EEE. This regulation should be consistent with national and international commitments, agreements and obligations on managing and phasing out hazardous substances, as well as the export and transport of electronic waste and hazardous substances.

- The Province should provide a guideline to clarify the classification of which types of electronics are hazardous with reference to the [Basel Convention on Transboundary Movement of Hazardous Wastes and their Disposal](#), and whether these devices are also qualified as hazardous under the [Canadian Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations](#).
- The Province should develop a guideline to support Ontario producers and processors in understanding their obligations and build capacity to better understand which e-waste is covered by the federal regulations and whether prior informed consent from the receiving jurisdiction is required.

## Designated Materials

- We support a broad list of EEE materials that includes toys and children's products as this will protect the environment and be clear and understandable to the general public. Clothing and textiles with embedded EEE or batteries should be obligated.
- The list of designated materials should be reviewed regularly to ensure that new products and emerging technology is sufficiently managed.
- Setting supply reporting requirements for materials that are not yet included but contemplated for future inclusion will ensure that sufficient information is available for future reviews.
- **All materials that contain hazardous substances that require special handling should be designated.**
- Management targets for materials and products with more and higher amounts of hazardous substances should be significantly higher than materials with no or fewer hazardous substances.
- Producers should be required to manage 100% of their materials. Producer should have responsibility for both diverted and disposed materials, otherwise this substantial percentage will be the responsibility of the public and government.
- Management targets should increase over time need to be clear and favour the highest and best use of recovered materials to support a circular economy.
- **Energy from Waste and other forms of thermal treatment, even with energy recovery, are disposal.** These should not be considered recycling or count towards meeting a diversion target.
- Targets should increase over time. As reporting and audits improves information, material categories and targets should steadily increase, with more specific and higher targets.

## Collection

- Ensuring that all residents across Ontario, no matter where they live, have easy access to collection points is vital. We support setting access requirements to cover all regions of Ontario and requirements for return-to-retail and mail-back programs. Consumers should be able to safely dispose of materials as easily as they can purchase them in Ontario.
- As reporting and further information is collected, access to disposal should be reviewed to ensure all Ontarians understand and are able to dispose of EEE and batteries safely, and the regulations revised to improve access if necessary.

## Reduction

Producers should be required to create durable products that last longer, can be repaired and refurbished easily, can be dismantled for local recycling, contain fewer hazardous substances and use fewer resources.

**We do not support the reduction of a producers obligations in exchange for voluntary reduction activities without demonstrated results. These reduction activities should be mandatory.**

The draft regulation disproportionately rewards producers with reduced obligations for taking token steps that may not increase local recycling, reduce waste, make products more durable or increase repair. The draft regulation allows Producers to reduce their obligation by up to 50%, which ultimately means that more materials will end up in landfills, incinerators or the environment, with the Ontario public paying the increased cost.

- Obligations should not be reduced for including recycled content in EEE or batteries unless the recycled content is from Ontario waste sources and demonstrated to not include substances of concern.
- The regulation should create a basic Right to Repair for consumers for all EEE.
- The regulation should require a minimum 3 year warranty to all EEE for small products and a 10 year warranty for more complex and expensive products.
- The Province should develop Guidelines to outline specific requirements for these reduction activities.
- **Any reduction in a producers obligation must be matched with demonstration and evidence of impact on Ontario's waste stream.** If this draft regulation remains unchanged, producers should be required to prove that the extended warranties resulted in more durable products or more repairs, and that the repair information and parts were accessed by the public and repair industry and increased repair and refurbishment activities.

## Promotion & Education

Producers and obligated parties should be required to undertake promotion and education to ensure consumers understand the hazardous substances in the products, safe handling and disposal requirements and access to repair information and tools. **The regulation as written is insufficient on the issue of promotion and education.**

- The regulation should stipulate that education occurs in a number of ways, not only websites, including at point of sale, directly on products, on packaging, instruction and warranty materials, on product information sites and a central database.
- **This regulation should include mandatory labelling on products to indicate hazardous substances and the associated safe management and disposal methods.**

## Enforcement

- **The use of a range of penalties to enforce compliance is essential.** Penalties for compliance should be used and enforced early to incent compliance. This should include scaling up of penalties as appropriate to achieve the desired outcomes, including administrative penalties, and continue up to the use of sales bans..

For clarification on the above comments, please contact Emily Alfred at 416 596 0660 or [emily@torontoenvironment.org](mailto:emily@torontoenvironment.org). We welcome the opportunity to discuss these comments further to contribute to effective regulations to safely manage Electrical and Electronic Equipment (EEE) and Batteries at the end of life and promote a circular economy in Ontario.

Sincerely,

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