

Minimum Management Requirements Guidance

1.0 Purpose

This document provides compliance guidance for the following regulations issued under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA):

- Tires Regulation ([O.Reg. 225/18](#))
- Batteries Regulation ([O.Reg. 30/20](#))
- Electrical and Electronic Equipment (EEE) Regulation ([O.Reg. 522/20](#))
- Hazardous and Special Products (HSP) Regulation ([O.Reg. 449/21](#))

This guidance is intended for producers with minimum management requirements, or producer responsibility organizations (PROs) working on their behalf, as well as service providers operating collection and management systems. This document assumes familiarity with, and should be read in the conjunction with, RPRA's compliance bulletins and the above regulations.

This document clarifies when and how producers or their PROs can meet minimum management requirements and provides guidance around buying and selling "recovered weight" and "performance credits" in a manner that complies with regulatory requirements. For example, for producers or their PROs to claim recovered weight, they must have organized the collection and management of materials through agreements with registered service providers (unless the service provider is exempt from registration under the relevant regulation) established before the end of the performance year. Producers or their PROs can, however, transact performance credits during or after the performance year up until the reporting deadline.

This guidance addresses recommended and mandatory activities:

- Before the performance period;
- During the performance period;
- After the performance period and until the annual reporting deadline; and
- After the annual reporting deadline.

It does not cover designated materials that do not have management requirements. For details on management reporting, visit the producer responsibility program pages on [RPRA's website](#).

2.0 Key Terms

Accredited third-party verifier

A third-party hired by a registrant who has one of the following designations in good standing:

- Chartered Professional Accountant (CPA) in Canada
- Certified Public Accountant (CPA) in the United States of America
- Association of Chartered Certified Accountants (ACCA) Qualification

Agreement

A legally binding contract between two or more parties. An agreement may be:

- related to management requirements (e.g. a producer or PRO might have an agreement with a service provider to provide collection and/or processing services for designated materials.)
- related to performance credits (e.g. a producer or PRO might have an agreement with another producer or PRO to transfer performance credits, including an approach for verification of performance credits by an accredited third-party verifier.)

Annual reporting deadline

The date set out in the regulations when a producer must submit an annual report for the performance period to RPRA through the Registry.

Collection system

The network of public and private collection sites, and other collection activities that a producer or their PRO establishes to meet accessibility, collection and/or management requirements.

Other collection activities

Events, curbside pickup, call-in collection, direct collection, and other activities related to the collection of materials that a producer may use to increase the amount of material collected. Specific regulations may allow a producer to reduce the number of collection sites required in a community based on these activities.

Performance credit

Verified recovered weight from designated materials that were collected and recovered, in accordance with the regulations and this guidance, that a producer or a PRO representing producer clients transfers to another producer or PRO as part of an agreement at any time before the annual reporting deadline for that performance period.

Performance period

The calendar year in which producers must meet their minimum management requirements.

Producer Responsibility Organization (PROs)

A person **retained by a producer** for the purpose of carrying out one or more of the following producer responsibilities noted below, but does not include a processor retained solely for the purposes of processing designated materials or a refurbisher/retreader retained solely for the purposes of refurbishing/retreading designated materials:

1. Arranging for the establishment or operation of a collection or management system.
2. Establishing or operating a collection or management system.
3. Preparing and submitting reports.

In addition, the hazardous and special products regulation also includes producer responsibility for:

4. Implementing a promotion and education program.

The following table includes some specific scenarios:

Specific Scenarios	Assessment
A company has been retained by one or more producers to provide compliance services to establishing or operating a collection or management system.	The company is considered a PRO.
A company has established and operates a collection system for ITT/AV and decides it wants to offer services to EEE producers to assist them in meeting their compliance obligations in Ontario for establishing and operating a collection and management system.	The company is <u>not</u> considered a PRO until it is retained by a producer.
A company implements a promotion and education program for fertilizers to help multiple producers comply with the requirements in the HSP Regulation.	The company is considered a PRO. Note the promotion and education responsibility is unique to the HSP regulation.
A company hired by a battery producer to prepare and submit reports related to the producer's supply data to RPRA.	The company is considered a PRO.
A company both hauls and processes oil containers and is only retained by the producer to meet minimum management requirements.	The company is <u>not</u> considered a PRO.

Recovered weight

Tonnage from designated materials that were collected and recovered, in accordance with the regulations and this guidance by a service provider, on behalf of a producer or their PRO, as part of an agreement during a performance period. The recovered weight is transferred from a service provider to a producer or their PRO, in accordance with the terms of their agreement.

Producers may only count the recovered weight of these materials towards minimum management requirements where the service providers hauling and managing materials have reported them to RPRA.

Service provider

Any of the following who are registered with RPRA:

- A hauler: a person who arranges the transport of designated material used by a consumer in Ontario that is destined for processing, reuse, refurbishing, retreading, or disposal;
- A refurbisher: a person who prepares or refurbishes batteries or EEE used by a consumer in Ontario for the purpose of reuse;
- A tire retreader: a person who replaces the tread on worn tires with a new tread in order for the tire to be used for its original purpose; or

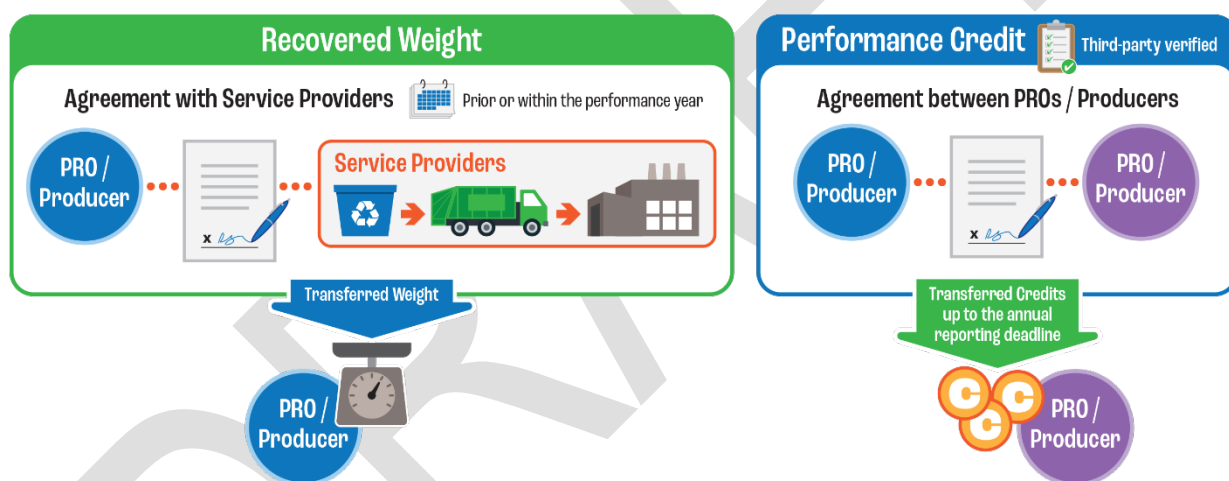
- A processor: a person who receives and processes designated material used by a consumer in Ontario for the purpose of resource recovery.

3.0 Guidance for Meeting Minimum Management Requirements

Minimum management requirements refer specifically to the minimum weight of designated materials that is required to be recovered for the purpose of resource recovery, calculated based on supply into Ontario. Recovered weight can count toward a producer's minimum management requirements if it is collected within Ontario from public or private collection sites or other collection activities within the performance period. This means that if producers do not meet their minimum management requirements within the performance year, they can address shortfalls only by purchasing performance credits through an agreement with other producers or PROs with producer clients. Refer to the regulations and the Registry Procedures for what is considered a recovered resource.

The figure below outlines the difference between the transaction of recovered weight and performance credits.

Figure 1: Recovered Weight vs Performance Credits



Below are required and recommended actions before, during and after the performance period, related to meeting minimum management requirements.

Guidance related to collection requirements are addressed in RPRA's Collection System Guidance.

3.1 Before the Performance Period

3.1.1 Recommended activities

Producers or their PROs are encouraged to establish agreements with service providers ahead of the performance period for recovered weight.

Producers or their PROs are also encouraged to establish agreements with other producers or PROs should there be a need to transact performance credits during the performance period and before the reporting deadline. Agreements may be established through a third-party organization to protect commercially sensitive information and establish verification mechanisms.

Producers or their PROs should consider addressing the following in their agreements for performance credits:

- a means for producers and/or PROs to address minimum management shortfalls or potential surpluses through the transaction of performance credits or the sharing or operation of collection sites and management of materials collected throughout the performance period;
- a methodology for pricing performance credits (i.e., how costs might be established based on, for example, the type of designated materials, where they were collected, and where and how they were processed); and
- a shared and consistent approach to verifying performance credits (see section 4.0).

Producers and their PROs may wish to seek competition law advice in establishing agreements. Concerns related to competition (e.g., market dominance) should be directed to the Competition Bureau.

3.2 During the Performance Period

Recovered weight is generated during the performance period by a service provider who has an agreement with a producer or their PRO.

During the performance period, producers or their PROs should actively monitor progress towards minimum management requirements and proactively ensure they can be achieved before the performance period ends (see section 3.2.2).

3.2.1 Mandatory activities

Producers or their PROs must have agreements in place with service provider(s) before the end of the performance period to count recovered weight towards minimum management requirements. RPRA will recognize only recovered weight that was transferred through an agreement with a service provider before or within the performance period.

RPRA may require evidence that a producer or their PRO has, or had, an agreement in place for that performance period.

3.2.2 Recommended activities to address potential minimum management requirement shortfalls.

PROs should maintain regular communication with their producers to inform them of their progress in meeting minimum management requirements and of proactive actions necessary for compliance.

If a producer or their PRO anticipates they may fail to meet their minimum management requirements, they can consider and undertake the following non-exhaustive corrective actions:

1. Improve processing efficiency by increasing recycling efficiency or enhancing the effectiveness of the existing collection network such as through better promotion and education efforts.
2. Expand collection activities by establishing more collection sites (public or private) or other collection activities either on their own or by collaborating with partners or service providers to collect additional designated materials.
3. Collaborate with other producers or PROs by sharing sites and the associated recovered weight with other producers or PROs.

4. Purchase Performance Credits from other PROs or producers to cover anticipated shortfalls.

These options are available to producers during the performance period. After the performance period ends, the only option to make up for minimum management requirement shortfalls is to purchase performance credits from other producers or their PROs (see section 4.0). To avoid reliance on this option, producers or their PRO should actively monitor progress towards minimum management requirements throughout the year and take proactive actions before the performance period ends to ensure their minimum management requirement will be met.

3.2.3 Optional activities when exceeding minimum management requirements

Management requirements are a minimum requirement; producers or their PRO may exceed management requirements. This might happen because producers and PROs cannot stop operating their public collection systems. If producers or PROs are exceeding their requirements and want to make adjustments, their options include:

1. Assisting other producers (i.e., new clients) who are not meeting their performance requirements.
2. Collaborating with other PROs for the operation of collection sites and management of materials collected.
3. Shifting collection focus by continuing to collect from the public collection system and reevaluating collection of materials from private sites.
4. Continuing to collect and manage designated materials, and
 - a) Selling performance credits before the performance reporting deadline (see section 4.0).
 - b) Retaining excess performance credits to potentially sell to producers that may have underreported or did not report and as a result may need performance credits to meet compliance requirements.

Producers and their PROs are encouraged to monitor performance throughout the year and assess their options early and strategically.

3.3 After the Performance Period and Until the Performance Reporting Deadline

3.3.1 Mandatory Activities

After the performance period ends, producers and their PROs can only address shortfalls in minimum management requirements by purchasing performance credits through an agreement with other producers or PROs with producer clients, up until the annual reporting deadline. Performance credits must be verified within two weeks after the annual reporting deadline (see section 4.0).

Service providers and producers or their PROs must submit their annual report by the annual reporting deadline.

3.4 After the Annual Report Deadline

After the annual reporting deadline there are limited circumstances when RPRA will allow recovered weight or performance credits to count towards historical minimum management requirements. These circumstances are:

1. Newly-registered producers who must come into compliance with the regulation(s).
2. Adjustments to supply reporting.

RPRA may consider other circumstances on a case-by-case basis.

4.0 Guidance on Performance Credits – Owning, buying, and selling

Performance credits can be owned only by producers or PROs with producer clients and must be verified by an accredited third-party verifier.

4.1 Verification Requirements

Recovered weight must be audited in accordance with the applicable program verification and audit procedure. This audit needs to be completed at the latest two weeks after the annual reporting deadline and should include but is not limited to confirming:

- The designated materials were collected during the performance period from collection sites within Ontario;¹
- Processed materials were recovered according to applicable regulatory requirements; and
- Agreements between service providers and the producer or PRO were entered into prior to or within the performance period.

In addition to the verification of recovered weight as part of the regulation's minimum management requirements, performance credits will also need to be verified through an engagement in accordance with the Canadian Standard on Related Services (CSRS 4400) or equivalent standard to confirm the performance credits bought or sold between producers or their PROs to ensure:

- An agreement between a producer or a PRO with a producer client to transfer these performance credits to another producer or a PRO was executed between the parties.
 - This agreement should acknowledge for reporting purposes, that each party will report to RPRA the recovered weight, adding or subtracting any performance credits bought or sold. For example, If PRO 1 buys 10,000 kg of performance credits from PRO 2, PRO 1 would report 153,000 kg as recovered weight (the 143,000 kg of recovered weight plus the 10,000 kg performance credit purchased from PRO 2). PRO 2 would subtract 10,000 kg of performance credits from what it reports as recovered weight on behalf of its producer customers.
 - This agreement should also allow for a third-party to audit these performance credits to ensure they are not counted more than once (i.e., only 'claimed' by one entity).
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Verification of performance credits must be completed at the latest two weeks after the annual reporting deadline.

¹ While RPRA does not require verification that designated materials were generated from Ontario consumers, if it does find evidence of materials transported from out of province it could invalidate the use of these materials towards minimum management requirements.

4.2 CSRS 4400 Agreed-upon Procedures

The following identifies the procedures which should be agreed-upon between a producer or a PRO with a producer client and an accredited third-party verifier for the performance of an engagement in accordance with the Canadian Standard on Related Services (CSRS 4400) or equivalent standard:

1. Obtain copies of all performance credits purchase and sales agreements. Ensure agreements have been signed by both parties. Ensure the agreement was signed by both parties prior to the annual performance reporting deadline.
2. Obtain an email confirmation from all purchasers/sellers contracting with [insert engaging party's name] confirming the total volume of performance credits bought/sold by [insert engaging party's name]. Agree the confirmed volume(s) with the volume(s) of performance credits included in the purchase and sales agreements obtained in procedure 1.
3. Obtain copies of all purchase and sale invoices. Agree the monetary transaction total amounts in the invoice provided by [insert engaging party's name] to the total amounts included in the purchase and sales agreements obtained in procedure 1.
4. Obtain [insert engaging party's name]'s bank statement(s) for the relevant period of the purchase/sale transaction(s). Agree the monetary transaction amounts included in the invoices obtained in procedure 2 to the total amount of funds withdrawn from or deposited to [insert engaging party's name]'s bank statement.
5. Obtain [insert engaging party's name]'s Performance report which has been audited in accordance with the applicable program verification and audit procedure. Calculate and report the net performance of [insert engaging party's name] taking into account the purchase and/or sale of performance credits obtained in procedure 1, in the below table.
6. Obtain [insert engaging party's name]'s collection and performance submission to RPRA through their portal. Agree the net performance calculated in procedure 5 to the volume of collected and recovered material in [insert engaging party's name]'s collection and performance submission to RPRA.
7. Calculate the resource recovery percentage (recovered material divided by collected material) using the net performance calculated in procedure 5.

Gross Performance ([insert engaging party's name]'s Performance report)	
Collected Material (KG)	
Recovered Material (KG)	
Purchased Credits (the purchase of performance credits obtained in procedure 1)	
Collected Material (KG)	
Recovered Material (KG)	
Sold Credits (the sale of performance credits obtained in procedure 1)	
Collected Material (KG)	
Recovered Material (KG)	
Net Performance	
Collected Material (KG)	
Recovered Material (KG)	