

**Ministry of the Environment,
Conservation and Parks**

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**Ministère de l'Environnement,
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November 2, 2023

Thank you for attending the Hazardous and Special Products (HSP) Regulation review sessions held on August 29 and 30, 2023. I have heard that the sessions were productive and provided insight into ways that Ontario's producer responsibility framework can be improved.

As the new Minister of the Environment, Conservation and Parks, I want to assure you that the government is committed to moving forward with our review of the producer responsibility regulations and exploring opportunities for improvement.

Attached with this letter is a summary of the feedback we received on the HSP Regulation, along with a list of opportunities to be considered for future review. I invite you to submit any additional comments you have, as well as add to or expand on the opportunities for review.

The ministry will accept feedback until December 1, 2023. Please send your submission to Ramsha Junaid, Policy Advisor, Resource Recovery Policy Branch at ramsha.junaid@ontario.ca. The ministry will analyze the information we receive and determine options for possible amendments.

As we continue to consider your feedback and recommendations, we will inform you if there is a need for any future consultations. We will also keep you informed as we determine plans and timing for next steps.

Thank you again for your support and commitment to improving the HSP Regulation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrea Khanjin".

Andrea Khanjin
Minister of the Environment, Conservation and Parks

Summary of the HSP Regulation Consultation

Cross-Cutting Issues

Ontario's Extended Producer Responsibility (EPR) Framework:

- Most participants indicated that the current Ontario EPR approach that makes individual producers liable or jointly liable with a producer responsibility organization (PRO) for outcomes is a good idea as it supports a competitive PRO framework.
- There was discussion about the current EPR framework compared to the older stewardship model where PROs carried all liability; some felt the current EPR framework places too much onus on producers who have little control over the operations of PROs.
- There was also discussion regarding the costs and administrative burden with the current approach compared to the previous stewardship model; it was noted that the regulation has not increased diversion results compared to previous municipal hazardous or special waste (MHSW) program.

Competitive PRO Model:

- Some participants noted there could be more competition among HSP PROs and suggested that collection requirements may limit competition (e.g. all PROs have to provide coverage across the province).
- There was discussion about the need for equitable responsibility for shared collection sites as there are not enough possible collection sites for PROs to have separate collection networks.
- Some noted that the lack of management targets for most HSP materials further inhibits competition as it removes the driver for PROs to demonstrate that they can more efficiently meet or exceed the required targets.

Topics participants proposed for review:

- Explore if there is value in requiring PROs to create a clearinghouse that could:
 - Determine each PRO's share of required collection sites based on their producer clients' market share, and/or
 - Help to verify and trade excess management obligations (i.e. credits) for the two types of HSP that have targets (e.g. oil filters and non-refillable pressurized containers) at the end of each performance cycle.
- Alternatively, explore impact of requiring that PROs develop agreements for shared sites to ensure no free riders.

Collection Network Requirements and Sharing Collection Sites:

- Many participants felt the population-based collection site requirements are rigid and need to be rethought to provide more flexibility.
- Some participants would like the required collection network under the HSP regulation to more closely align with the collection networks used under the MHSW program.
- There was discussion about shared collection sites and the issue of PROs not paying their fair share of collection and management costs.

Topics participants proposed for review:

- Explore options to increase flexibility in collection requirements without reducing consumer accessibility, for example:
 - Consider how the current population-based collection site requirements could be revised so that collection sites more closely align with the collection networks used under the previous MHSW program.
 - Consider how to provide flexibility in urban areas where there is an oversaturation of collection sites (e.g. City of Toronto).
 - Consider allowing sites to be shared between adjacent communities.
 - Consider allowing seasonal collection sites/events such as private campgrounds and marinas to count toward the required number of sites.
- Examine options for RPRA to provide guidance or other direction on any conditions for sharing collection sites (see clearinghouse above).

Management Requirements:

- Participants agreed with not putting targets on (some) materials, however, they acknowledged that targets in other regulations create incentive for PROs to share sites and costs related to collection and management of materials.
- Some requested a definition for “best efforts” be added to the regulation, as it affects all producer responsibility regulations.

RPRA and Reporting Requirements:

- Most participants agreed that a competitive PRO market needs an independent regulator like the Resource Productivity and Recovery Authority (RPRA).
- There was discussion about the cost associated with compliance; some encouraged government and RPRA to look at ways to reduce overall costs.
- Some noted that verification of management activities is important to ensure materials don't end up in the wrong place and maintain credibility about recycling of materials versus disposed.

Topics participants proposed for review:

- Explore options for RPRA to focus its compliance efforts where it identifies anomalies year over year.

Regulation Specific Issues

Regulatory Requirements:

- Some participants noted the potential regulatory burden for solvents and pesticides where collectors need an Environmental Compliance Approval (ECA) to collect materials at certain sites (under Regulation 347), which makes it hard for PROs to establish new collection sites.

Topics participants proposed for review:

- Explore impact of providing an ECA exemption for collecting materials such as solvents and pesticides at retail locations.

Obligated Producer:

- Some requested that vehicle manufacturers be the producer for factory-fill antifreeze of this material (e.g., not antifreeze producers, as currently required) as they have more accurate data.

Topics participants proposed for review:

- Examine options and impacts of amending the existing producer hierarchy to include vehicle manufacturers for HSP supplied in new vehicles.

Designated Materials:

- Some noted that the definition for solvents in Ontario is unique (e.g. stand-alone definition for solvents, versus solvents being part of flammables definition).
- Some noted that producers/PROs are still required to establish a public-facing collection network even when designated materials are only used in industrial, commercial and institutional (IC&I) settings; examples raised for both solvents and refillable propane containers.
- Some noted that the pesticides definition should not include containers; request to capture empty pesticide containers at curbside (e.g., in blue box) to ensure that the plastic from these containers can be recovered versus disposed of.

Topics participants proposed for review:

- Explore options and impact of aligning Ontario's solvent definition with other provinces.
- Consider impact of revising certain definitions to exclude materials that do not end up in public collection networks, such as solvents or pressurized containers that are only supplied to the IC&I sector and are collected and managed through closed-loop systems.
- Consider impact of revising the pesticide definition to exclude pesticide containers.