

**MHSW Regulation Development July 24, 2020 – Region of Peel Comments**



**Public Works**

10 Peel Centre Dr.  
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July 24, 2020

Charles O'Hara  
Director, Resource Recovery Policy Branch  
Foster Building 8th Flr,  
40 St Clair Ave W, Toronto, ON M4V 1M2

**RE: Proposed Regulation for Hazardous or Special Waste under the Resource Recovery and Circular Economy Act, 2016**

Dear Mr. O'Hara:

The Region of Peel (Region) appreciates the opportunity to provide comments and feedback on the development of the new hazardous or special waste regulation. The Region as one of the largest collectors of hazardous or special waste (1.6 million kg per year) plays an important role as the final backstop to ensure many hazardous or problematic products do not end up in the environment. This includes keeping these products out of solid waste disposal systems (e.g. landfill) and stormwater and wastewater systems. The costs associated with collecting and managing these materials is a significant burden on the Region.

**Designating Materials**

The current list of materials included in Ontario's municipal hazardous and special waste (MHSW) producer responsibility program only make up a fraction of what the Region collects and is forced to manage.

The Region understands that some of the producers of these products are advocating that they should not be included in the regulation as they have functioning diversion initiatives already in place or their materials are meant to be fully consumed after purchase. However, based on 2019 data, Peel managed over 16,000 kg of pharmaceutical waste and sharps, 11,000 kg of fertilizer waste, 14,000 kg of pesticides, and 72,000 kg of propane cylinders and compressed gasses. If these programs were functioning well, the Region would not be forced to manage this amount of materials.

Table 1 below provides a breakdown of quantity by weight and management (recycling/disposal) costs for the materials managed under the current MHSW program (Phase 1) and the materials that are not obligated (Phase 2 & 3). It is important to note these costs are based on management and do not include collection, promotion and education costs. As highlighted through Table 1, 49% of MHSW management costs were borne by the municipal taxpayer.

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*Table 1: MHSW Management Costs (based on O. Reg. 387/16)*

	Amount Managed (kg)	Total Management Costs	EPR Funding	Regional Costs	% Covered by Producers
<b>Phase 1</b>	1,051,253	\$1,218,413	\$879,888	\$338,524	72%
<b>Phase 2/3</b>	510,176	\$275,214	\$0	\$275,214	0%
<b>Total</b>	1,561,429	\$1,493,627	\$879,888	\$613,738	59%

The proposed Regulation should ensure that all the materials currently captured in O. Reg. 387/16 under the Waste Diversion Transition Act, 2016 (WDTA) are included in the new regulation. The materials collected at our depots fall into all or some of the following categories:

- Are hazardous and can negatively impact the environment and human health;
- Are managed in significant quantities; and
- Are managed at a significant cost to the municipal taxpayer.

The Table below includes all the consumables and containers/products that should be designated as obligated materials.

*Table 2: List of Materials Proposed for Designation*

Categories	Definitions
<b>Paints and Coatings</b>	All materials that are designed and intended to be used to coat a surface including but not limited to Architectural paints, automotive paints, furniture paints, undercoating's, bitumen-based driveway sealers, roof patches, tars, high heat paints, wood stains, varnishes and sealers, foundation coatings, industrial paints etc.
<b>Paint and Coatings Containers</b>	All forms of containers that are used to contain paints and coatings
<b>Solvents</b>	Thinners, mineral spirits
<b>Solvent Containers</b>	All forms of containers that are used to contain solvents
<b>Oil Filters</b>	All sizes of oil filters after they have been used for intended purpose
<b>Oil Containers</b>	All size of oil and lubricant containers that were used for the purpose of containing lubricating oil
<b>Used Oil and Lubricants</b>	All types of oils and lubricants designed and intended to lubricate any engines including but not limited to automotive oils, small engine oils, chain oils, hydraulic fluids, power steering fluids, brake fluids etc.
<b>Antifreeze</b>	All materials that are designed and intended to be used as a coolant or anti-freezing agent including but not limited to automotive antifreeze, RV antifreeze, plumbing antifreeze, coolants etc.
<b>Antifreeze Containers</b>	All forms of containers that are used to contain antifreeze and coolants

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Categories	Definitions
<b>Pressurized Containers</b>	All refillable and non-refillable pressurized containers including but not limited to propane cylinders, oxygen cylinders, acetylene and other forms of compressed gasses
<b>Fertilizers</b>	All forms of fertilizers designed and intended to be used for the purpose of encouraging the growth of plants (certified compost should be excluded)
<b>Fertilizer Containers</b>	All durable containers that contained fertilizers
<b>Pesticides</b>	All materials with chemical compositions designed and intended to kill or repel pests, insects, vectors, vermin and invasive plants, including but not limited to pesticides, herbicides, fungicides, insect repellants, insecticides, algicides
<b>Pesticide Containers</b>	All durable containers that contained pesticides
<b>Aerosols</b>	All forms of aerosols including but not limited to paint aerosols, body sprays, hair sprays, insect repellants, etc.
<b>Portable Fire Extinguishers</b>	All size and chemical formulas of portable fire extinguishers
<b>Fluorescent Light Bulbs</b>	If not included in the EEE regulation should include all sizes of Fluorescent light bulbs including Compact Fluorescent lights etc.
<b>Pharmaceuticals</b>	All forms of materials designed for the intended purpose of improving the health and wellness of humans and animals including but not limited to over the counter and prescribed medications, vitamins, cold medications, supplementals etc.
<b>Sharps</b>	All forms of devices that are designed and can break the skin including but not limited to needles, syringes, diabetic lancets, glucose sensors, acupuncture needles, straight razors from all potential residential sources and public spaces.
<b>Mercury Containing Devices</b>	Including but not limited to thermometers, thermostats, barometers and all other mercury containing switches or devices
<b>Automotive Additives and Cleaners</b>	Including but not limited to diesel exhaust fluid, brake fluid, and other fuel cleaners and additives
<b>Automotive Additives and Cleaner Containers</b>	All containers that contained automotive additives and cleaners
<b>Fuels</b>	Including but not limited to Kerosene, gasoline, diesel, camping fuels, mixed fuel blends for small engines
<b>Miscellaneous Flammable Materials</b>	All products that by chemical formulation have the inherent risk of being flammable if not included in any of the other categories. Including but not limited to adhesives, contact cements, glues, epoxies, caulking, fiberglass resins, polishes, waxes, water proofing solutions, acetone, nail polish remover etc.

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Categories	Definitions
<b>Oxidizers</b>	All products that have the characteristics of an oxidizer including but not limited to peroxides, bleach, oxidizer cleaners, organic peroxides (Methyl Ethyl Ketones), hardeners, some pool chemicals and some photo chemicals
<b>Corrosives- Acids</b>	All products that have a pH between 0 – 7 including but not limited to acid cleaners, rust removers, masonry cleaners, deck washers, boric acid, muriatic acid, pH down, some photo chemicals, furniture and paint strippers
<b>Corrosives – Caustics</b>	All products that have a pH between 7.5 – 14 including but not limited to caustic cleaners, soaps, etching solutions, oven cleaners, toilet and drain cleaners etc.
<b>Reactive Chemicals</b>	Products that are by their chemical characteristics reactive to light, water or vibrations including but not limited to sodium metal, phosphorus, lithium, organic peroxides, picric acid, calcium carbide
<b>Flares, Fireworks and Ammunitions</b>	Including but not limited to spent and unspent road flares, fireworks, marine flares and ammunition

The designation of the above materials is preferred to occur all at once. However, while we do not agree with the concerns raised by producers and their associations, we have recommended designation to occur over a two stage period:

- Phase 1 (July 1, 2021): Paint and coatings, expanded pesticides category, solvents, expanded fertilizer category, used oil filters, oil containers (under 30 litres), pressurized containers, anti-freeze, aerosols, portable fire extinguishers, mercury containing devices, fluorescent light bulbs (if not in the EEE regulation), and all associated containers of the above.
- Phase 2 (January 1, 2023): pharmaceuticals and sharps, automotive additives and cleaners, automotive additives and cleaner containers, fuels, miscellaneous flammable materials, oxidizers, corrosives – acids, corrosives – caustics, fuels, reactive chemicals, flares, fireworks and ammunitions and all associated containers of the above.

The phase 1 list which includes materials already designated under the current program is also recommended to include broadened pesticides and fertilizer categories as the current definitions do not account for the types of materials being returned. It is also recommended that the Province expand the designated material list to include those that were a part of the Recycling Council of Ontario MHSW program which reimbursed municipalities for certain materials including aerosols, portable fire extinguishers, mercury containing devices, and fluorescent light bulbs (if not in the EEE regulation).

The definition of pesticides should be expanded to include Schedule IV of the Pest Control Products Regulation as this represents the bulk of retail pesticides that residents currently return to Regional depots. Based on audit data, currently 85% of all pesticides managed are non-obligated.



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Phase 2 includes the bulk of other materials being collected via Regional depots. As noted above, the Region continues to receive large volumes of these products back through the depots – including increasing amounts of products that are not obligated but need to be properly managed at the end-of-life.

A designation of these materials will help align Ontario with other provinces like British Columbia, Quebec, and Manitoba which include a broader range of flammable, corrosive and toxics materials and their containers.

We would also recommend that the Province institute a program to compensate collectors for the cost to manage obligated materials returned in unmarked containers and legacy materials.

The Region advocates that the responsibility to manage all the above materials should be that of the producers that manufacture these products rather than the municipal taxpayer. This responsibility includes ensuring that consumers purchase the appropriate amount and that they are properly managed at end of life. These companies have a much more direct relationship with the consumer rather than the Region. Government policies like producer responsibility have an opportunity to create efficient market signals. Burden will only be increased on the municipal taxpayer if the Province decides to retract or maintain the current shared model rather than move to full producer responsibility.

### Management and Standards

Producers should be required to report on the amount of materials collected (e.g. consumables and products/containers separately) and how all of the collected materials were managed.

It is acknowledged that the goal for some of these materials is to simply ensure they are used up properly rather than disposed of. Table 3 below outlines the recommended targets (including new and stockpiled items).

*Table 3: Proposed Reporting and Targets Framework*

Categories	Collection Reporting	Target on Collection	Management Reporting	Target on Management
<b>Paints and Coatings</b>	✓	✗	✓	80%
<b>Paint and Coatings Containers</b>	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
<b>Solvents</b>	✓	✗	✓	Best efforts to improve outcomes
<b>Solvent Containers</b>	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
<b>Oil Filters</b>	✓	80% (year 1),	✓	80%

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Categories	Collection Reporting	Target on Collection	Management Reporting	Target on Management
		85% (year 2), 90% (year 3)		
Oil Containers	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Used Oil and Lubricants	✓	✗	✓	Best efforts until targets set
Antifreeze	✓	✗	✓	80%
Antifreeze Containers	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Pressurized Containers	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Fertilizers	✓	✗	✓	Best efforts to improve outcomes
Fertilizer Containers	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Pesticides	✓	✗	✓	Best efforts to improve outcomes
Pesticide Containers	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Aerosols	✓	80% (year 1), 85% (year 2), 90% (year 3)	✓	80%
Portable Fire Extinguishers	✓	Best efforts until targets set	✓	Best efforts until targets set
Pharmaceuticals	✓	✗	✓	Best efforts to improve outcomes
Sharps	✓		✓	Best efforts to improve outcomes
Mercury Containing Devices	✓	Best efforts until targets set	✓	Best efforts until targets set
Automotive additives and cleaners	✓	✗	✓	Best efforts until targets set
Automotive additives and cleaner containers	✓	Best efforts until targets set	✓	Best efforts until targets set
Fuels	✓	✗	✓	Best efforts to



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Categories	Collection Reporting	Target on Collection	Management Reporting	Target on Management
				improve outcomes
<b>Miscellaneous Flammable Materials</b>	✓	✗	✓	Best efforts until targets set
<b>Oxidizers</b>	✓	✗	✓	Best efforts until targets set
<b>Corrosives- Acids</b>	✓	✗	✓	Best efforts until targets set
<b>Corrosives – Caustics</b>	✓	✗	✓	Best efforts until targets set
<b>Reactive Chemicals</b>	✓	✗	✓	Best efforts until targets set
<b>Flares, Fireworks and Ammunitions</b>	✓	✗	✓	Best efforts until targets set

**Promotion and Education**

MHSW materials are hazardous waste by definition and the proper management of materials and containers is of paramount importance. The basis for proper management begins with an educated consumer relative to the human health and safety and environmental risks associated with MHSW products and clear and convenient direction on how and where to access collection infrastructure for product and containers.

Promotion and education activities should at a minimum inform the public of how materials can be managed, to encourage participation, and to motivate consumers to adopt and maintain the desired environmental behaviour.

In addition, due to the human health & safety and environmental risk associated with MHSW products and the absence of material management targets, producers should be required to provide at least one direct educational piece to every household once per year. This outreach could be through direct promotion and education engagement with households or could be through Regional mailouts such as waste collection calendars and other educational materials.

**Collection and Consumer Accessibility**

Collection requirements and targets are pivotal for MHSW materials. Residents need convenient and easy access to collection points to ensure these materials are managed properly and are not simply disposed of down the drain or into the Regions solid waste disposal system or incorrectly managed through the Blue Box program.

For automotive products, the regulation should establish similar accessibility rates to those in the Used Tire Regulation, which captures a similar collection system of municipal depots and auto shops.



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For pharmaceutical and sharps, the regulation should increase the accessibility requirements in place in O. Reg. 298/12: Collection of Pharmaceuticals and Sharps to address the large volume of materials still being returned to our depots or found in the litter stream (e.g. public space sharps receptacles), Public Health sources, or other waste management programs (e.g. blue box).

For the rest of the materials, which are largely captured by the Region's depots and special events it would be reasonable to follow similar accessibility rates to the draft electronic and electrical equipment regulation.

Fundamental to the new regulation is the requirement that accessibility and collection not be curtailed or impeded when producers are approaching or have met any management targets before the end of the reporting year. In this case, the regulation must require that all materials and containers collected must be managed and recycled with the costs being borne by producers. This should mirror similar requirements in the Tire Regulation.

Producers should be required to report on the amount of materials collected (e.g. products and containers separately) and how all of the collected materials and their containers were managed.

If the accessibility requirements and collection targets for containers in some categories are robust, then there may not be a need to specify management targets for certain products. In some categories, collection targets for containers and accessibility requirement will lead to excess consumable materials being collected. These materials will require management by the producer if the regulatory concept around accessibility and collection described above is adopted. These material categories would include paint, pesticides, solvents, fertilizers, pressurized containers, aerosols, sharps and pharmaceuticals. Where no material collection or management target has been established, it is essential that Resource Productivity and Recovery Authority (RPRA) oversight include assessing producer performance for collection and material management against historical norms to ensure there is no 'slippage' and progressive annual increases in both collection and management volumes are achieved.

In addition, to prevent harm to the environment and human health, it is critical that collection sites of hazardous and special waste adhere to Provincial environmental and health and safety rules and standards for the materials managed. If the expectation following the start of the new program, is a proliferation of collection sites, the process to confirm adherence to the appropriate rules and standards will need to be reaffirmed.

### Registration Reporting and Auditing

The Region appreciates how important it will be to collect and track data to assess progress towards objectives and continuous improvement. We are however concerned with compliance in the first year of the regulation. It is difficult to determine if Producer Responsibility Organizations (PROs) and producers under the current Tires regulation are meeting their obligations. The concern is that if the required audit uncovers problems, those problems will not be known until over a year after the regulation came



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into force. By that point, the market may have been substantially disrupted and it may be difficult to rectify problems created. Additional forms of interim auditing within the first year would help to ensure the right market conditions are established at the onset of the program.

It would also be helpful to make sure the regulation on administrative monetary penalties is enacted as soon as possible to ensure all participants understand the consequences of failing to comply.

Additionally, while not specific to the draft Regulations, the Province should consider having the RPRA perform periodic waste composition audits across the Province to assess performance of the program.

Please feel free to reach out if you have any questions and/or comments about the contents of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman Lee', with a stylized flourish at the end.

Norman Lee  
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