

For Information

REPORT TITLE: Municipal Hazardous and Special Waste Transition to Full Producer Responsibility Update – Impact of Final Regulation

FROM: Kealy Dedman, Commissioner of Public Works

OBJECTIVE

To provide Council with an update on the final Hazardous and Special Products regulation (O. Reg. 449/21) and the transition of the Region of Peel's Municipal Hazardous and Special Waste program to full producer responsibility.

REPORT HIGHLIGHTS

- The Region of Peel is one of the largest collectors of Municipal Hazardous and Special Waste (MHSW) in the province collecting 1.8 million kilograms per year and has been participating in the current MHSW program since its inception in 2008.
 - In 2018, the Ministry of the Environment, Conservation and Parks began consultations on a replacement program based on full producer responsibility.
 - In February 2021, the Ministry posted its proposed Hazardous and Special Products (HSP) Regulation for comments and Peel submitted comments.
 - On June 8, 2021 Ontario filed the final HSP Regulation (O. Reg. 449/21).
 - The current MHSW program will end on September 30, 2021 and will be replaced by the HSP program, which will begin on October 1, 2021.
 - Staff does not anticipate any significant operational or financial impacts to the Region's program for the 2022 budget and will advise Regional Council of any significant service or financial impacts prior to the 2023 budget.
 - The necessary steps to amend existing funding and service agreements or enter into new agreements will be undertaken by staff to ensure a successful transition to the new HSP program by October 1 in accordance with the authority delegated to staff by Regional Council (Resolution 2021- 439).
 - The Region will continue to collect HSP materials at its Community Recycling Centres during the 15-month transition period from October 1, 2021 to December 31, 2022 to ensure these materials do not end up in sewers, landfills, or the natural environment.
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DISCUSSION

1. Background

The Region of Peel is one of the largest collectors of Municipal Hazardous and Special Waste (MHSW) in the province collecting 1.8 million kilograms per year and has been participating in the current MHSW program since its inception in 2008. The Region currently

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accepts MHSW from Peel residents and eligible small businesses at its Community Recycling Centres (CRCs) free of charge.

In 2018, the Ministry of the Environment, Conservation and Parks (MECP) announced the end of the MHSW program and began consultations on a replacement program based on full producer responsibility under the *Resource Recovery and Circular Economy Act, 2016*.

In February 2021, the MECP posted a proposed draft Hazardous and Special Products (HSP) regulation, with a comment period of 45 days. Staff submitted comments on the draft regulation, with the provision that they were subject to Council endorsement, by the deadline of March 28, 2021.

On April 1, 2021 Regional Council received an overview of the current MHSW program and a preliminary analysis of the proposed HSP Regulation and Regional Council endorsed the comments submitted by staff in response to the proposed HSP Regulation (Resolution 2021-439). Peel's comments included the following recommendations:

- Designating all materials currently included in the three phases of the current MHSW program.
- Setting ambitious collection and management targets for all designated materials.
- Requiring producers to be responsible for all collection and management costs, including costs incurred by municipalities.
- Delaying the start of the HSP program until Jan 1, 2022 to allow municipalities, producers, and service providers adequate time to prepare and enter into the required funding and service agreements.

On June 8, 2021 the Province of Ontario filed the final HSP Regulation (O. Reg. 449/21) under the *Resource Recovery and Circular Economy Act, 2016*.

2. Key Provisions of the HSP Regulation

The final HSP Regulation does not address the Region's recommended changes.

Key provisions of the HSP Regulation include:

- The MHSW program will end on September 30, 2021 and the new HSP program will begin on October 1, 2021.
- Producers will be responsible to operate a collection network of their own and may wish to coordinate collection at municipal depots, as the regulation allows them a variety of options to satisfy consumer accessibility requirements.
- A 15-month transition period from October 1, 2021 to December 31, 2022 where producers are required to continue operating the same number of collection sites and events that existed during the MHSW program.
- New requirements come into effect on January 1, 2023 that are largely accessibility targets where producers must provide a specified number of collection sites in each municipality based on the quantity of HSP they sell into the marketplace and the size of the municipality.
- Producers may reduce the required number of collection sites in any municipality by providing curbside pick up or call-in services.
- Municipalities operating as a collection site are required to:

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- For any of the five categories of HSP for which they provide collection, accept all HSP materials that are in that category;
- accept from a person up to 25 kg per day of each type of HSP accepted at the site; and
- record the person's name, contact information, and weight of HSP if the site accepts more than 50 kg of a type of HSP from that person on a single day.
- New call-in provision requiring producers to pick up designated materials from municipal collection sites within three months of receiving such request. This provision could be problematic for Peel as we do not have three months of storage capacity at our collection sites.

The regulation also outlines requirements for registration, promotion and education, reporting, auditing, and record keeping, and resource recovery charges.

3. Impact on the Region of Peel

The HSP regulation has been analyzed to determine how the requirements will impact the Region's role in managing these materials. Overall, the limited number of designated materials and the lack of collection and management targets will result in higher costs for municipalities and could result in less HSP being collected and properly managed. Key considerations are discussed below.

Municipal Costs

The list of designated materials has not changed significantly from the existing MHSW program. Only mercury containing devices (i.e. thermometers, barometers, and thermostats) were added. Since the list of designated materials in the HSP regulation represents only a portion of what the Region collects, the Region will continue to be responsible for collecting and managing non-designated materials. This responsibility means that the Region will need to cover the full cost associated with managing these materials, which is estimated to cost \$1.8 million per year. This is a continuation of the funding gap the Region has been covering for the current MHSW program. Peel could, of course, close its MHSW depots and avoid this cost since the regulation does not require municipalities to provide collection sites. Such a move would be met with frustration from residents and could result in hazardous materials being disposed of improperly by residents. Based on discussions with Producer Responsibility Organizations (PROs) to date, there is the possibility for program funding to remain constant or increase, however this is subject to negotiations.

Operational changes

The new HSP regulation does not present any immediate operational changes to the Region's MHSW program, at least not during the initial 15-month transition period. There is a possibility that the new call-in provision could pose a challenge on available storage capacity, but staff will work with Producer Responsibility Organizations (PROs) and service providers to address this concern.

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4. Implementing the HSP program

Marketplace Outlook

Staff conducted market soundings with producers and Producer Responsibility Organizations (PROs) to obtain information on how they are planning to fund the collection and management of HSP and with service providers to obtain information on what services they are planning to offer under the new HSP program.

At the moment, there are five PROs in the marketplace: Product Care Association (PCA), Automotive Materials Stewardship (AMS), Ryse Solutions, Heating, Refrigeration and Air Conditioning Institute (HRAI) and Mobius PRO Services. Table 1 below provides an overview of how each PRO plans to transition to the HSP program. It is important to note that there is little to no competition among PROs for most of the designated materials.

Table 1 – Overview of PROs transition plans

PRO	Designated Materials Covered	Proposed Funding Structure Collection	Proposed Funding Structure Management	Proposed Agreement	Comments
Product Care Association (PCA)	<ul style="list-style-type: none"> • Paints and Coatings • Pesticides • Solvents <p>Considering adding:</p> <ul style="list-style-type: none"> • Non refillable pressurized containers • Refillable pressurized containers • Refillable propane containers 	PCA pays Peel for collection	<p>PCA pays service provider for management of paints and coatings</p> <p>Peel pays service provider for management of pesticides and then gets reimbursed 15.16% of the cost for the designated fraction of this stream</p> <p>Peel pays service provider for management of solvents and then gets reimbursed 5.93% of the cost for the designated fraction of this stream</p>	Amend existing agreements	Lack of a competitive marketplace/PRO limits options for these materials

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PRO	Designated Materials Covered	Proposed Funding Structure Collection	Proposed Funding Structure Management	Proposed Agreement	Comments
Automotive Materials Stewardship (AMS)	<ul style="list-style-type: none"> • Antifreeze • Oil filters • Oil containers 	AMS pays Peel for collection	AMS pays service provider for management	New agreement based on existing agreement	Some potential for a competitive market
Ryse Solutions (Ryse)	<ul style="list-style-type: none"> • Non refillable pressurized containers <p>Considering adding:</p> <ul style="list-style-type: none"> • Refillable pressurized containers • propane 	Ryse pays Peel for collection	Ryse pays service provider for management	New agreement	Some potential for market competition
Heating, Refrigeration and Air Conditioning Institute (HRAI)	<ul style="list-style-type: none"> • Thermostats 	No payment for collection	HRAI pays service provider for management	Peel to register as collection site – no formal agreement	No competitive market
Mobius PRO Services	<ul style="list-style-type: none"> • Paints and Coatings • Solvents • Antifreeze • Oil filters • Oil containers • Non refillable pressurized containers 	Recent addition as a PRO. Further details pending at this time.	Recent addition as a PRO. Further details pending at this time.	Recent addition as a PRO. Further details pending at this time.	Some potential for market competition.

With PROs proposing to transition existing MHSW funding agreements to the new HSP program without any major changes, there will not be a significant change to the Region’s funding for designated materials. Notwithstanding the costs for collecting and managing HSP materials, the Region will continue to provide this service at the CRCs for both designated and non-designated HSP materials to ensure these materials do not end up in sewers, landfills, or the environment.

Agreements and Negotiations with PROs

Timelines are tight to enter into agreements with PROs before the start of the HSP program on October 1, 2021.

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For the 15-month transition period starting on October 1, 2021 and ending December 31, 2022, the intent is to minimize service disruption and negotiate the best deal possible considering the environmental interest and minimizing the impact to the taxpayers. Other GTA municipalities are also moving in this direction.

It is anticipated that producers and PROs will engage in consultation with municipalities and service providers during the transition period to determine if any program changes are warranted to comply with regulatory provisions that apply as of January 1, 2023. It is likely that PROs will propose program changes, effective January 1, 2023 and staff will need to assess the impact of those changes prior to recommending agreements that extend beyond December 31, 2022.

5. Next Steps

Staff will consider any offers presented by PROs for the 15-month transition period and will enter into funding agreements in accordance with the authority delegated to staff by Regional Council at its meeting held on April 22, 2021 (Resolution 2021- 439).

A report to Regional Council will be provided in 2022 with up-to-date information on any HSP program changes being proposed by PROs for the period commencing on January 1, 2023, and a recommendation for any changes to the Region's implementation of the HSP program.

FINANCIAL IMPLICATIONS

There are no immediate financial implications resulting from this report. Staff does not anticipate any significant operational or financial impact to the Region's program for the 2022 budget. Any financial implications arising from the transition to the new HSP program will be communicated to Regional Council throughout the transition process and will be reviewed as part of the 2023 annual budget process.

CONCLUSION

The new Hazardous and Special Products Regulation does not have a significant impact on the Region's Municipal Hazardous and Special Waste program during the 15-month transition period from October 1, 2021 to December 31, 2022. The Region will enter into funding agreements with Producer Responsibility Organizations for the 15-month transition period in accordance with authority delegated to staff by Regional Council. Staff will report back with recommendations during 2022 for the period commencing on January 1, 2023.

For further information regarding this report, please contact Norman Lee, Director Waste Management, Ext. 4703, norman.lee@peelregion.ca.

Reviewed and/or approved in workflow by:

Department Commissioner, Division Director, Financial Support Unit and Legal Services.