

# Consultation on Proposed 2023 RRCEA Program and Excess Soil Registry fees

September 26, 2022



# Proposal scope

The Resource Productivity and Recovery Authority (RPRA) is a regulator mandated by the Ontario government to:

1. Support the transition to a circular economy by winding up and transitioning legacy waste diversion programs under the [Waste Diversion Transition Act, 2016](#) (WDTA) and implementing the new producer responsibility framework under the [Resource Recovery and Circular Economy Act, 2016](#) (RRCEA)
2. Provide digital registration and reporting services (referred to as “registries” in RPRA communications) for the province’s Excess Soil and Hazardous Waste programs under the [Environmental Protection Act](#) (EPA), as directed by the Minister

As an administrative authority of the Government of Ontario, RPRA does not receive any government funding and funds its operations through fees charged to regulated parties on a cost-recovery basis.

This proposal is provided for information and to obtain feedback on proposed 2023 fees for RPRA’s RRCEA programs (Tires, Batteries, ITT/AV, Lighting, Hazardous and Special Products, Blue Box, and Lighting) and the Excess Soil Program.

The proposal for 2023 fees for the Hazardous Waste Program (HWP) Registry will be posted for feedback in early October.

Fees are being proposed in advance of the calendar year in which they will apply. RPRA’s 2023 budget, on which 2023 fees are based, has already been finalized as part of RPRA 2023 Business Plan. The plan will be submitted to the Minister on October 1 and published on RPRA’s website promptly thereafter.

# Background

- The RRCEA and WDTA allow RPRA to set and collect fees to recover its costs. Fee revenues come from three sources:
  1. Annual fees to obligated parties required to register and report to RPRA under RRCEA regulations. RRCEA program fees cover RPRA's costs to develop and operate registry systems, carry out compliance and enforcement activities related to the RRCEA regulations, and provide support to registrants in complying with their regulatory obligations.
  2. Transaction fees to parties obligated to register and report through RPRA's Excess Soil and Hazardous Waste registries. These fees cover RPRA's cost to build and operate registry systems for programs under the EPA and provide support to users on an ongoing basis. The Ministry of the Environment, Conservation and Parks is responsible for compliance activities related to these EPA programs.
  3. Monthly cost recovery charges to industry funding organizations (IFOs) and industry stewardship organizations (ISOs) under the WDTA. WDTA monthly charges cover RPRA's costs to oversee the operation of legacy waste diverse programs, IFOs and ISO's, and their wind-up.
- RPRA engaged Optimus SBR to conduct a third-party review of its fees in fall 2021 to identify any enhancements to reflect best practices in fee setting. The review was completed before 2022 RRCEA Program Fees were set. Read [Optimus SBR's Executive Summary](#) of their review of RPRA's Cost Allocation Methodology and Fee-Setting Model.

# Consultation process

- RPRA's legislative framework requires RPRA to consult on proposed fees for 45 days and post the final fees for 30 days.
- The consultation on RPRA's proposed 2023 RRCEA and Excess Soil Program fees **begins on September 26 and ends on November 10.**
- You can share feedback at [consultations@rpra.ca](mailto:consultations@rpra.ca) **on or before November 10.**
- Three Webinars will be held in October. Follow the links below to register:
  - [Session 1: Proposed fees for Batteries, ITT/AV, Lighting and Tires producers](#)
    - Wednesday, October 19, 9:00a.m. to 11:00a.m.
  - [Session 2: Proposed fees for Excess Soil Registry users](#)
    - Thursday, October 20, 1:30p.m. to 3:30p.m.
  - [Session 3: Proposed fees for Blue Box and HSP producers](#)
    - Friday, October 21, 1:00p.m. to 3:00p.m.
- Feedback from the consultation will be summarized in a report that will be posted to RPRA's website.
- The final **fees will be posted to the website on or before December 1<sup>st</sup>** and stakeholders will be notified when they have been posted.
- For more information on the consultation process, visit our [website](#).

# Approach to fee setting

RPRA's proposed fees are guided by its [General Fee Setting Policy](#), which is posted on RPRA's website.

There are four main inputs into RPRA's fee proposal development process:

1. The **annual budget**, which is set out in the annual business plan and consulted on with the Industry Advisory Council and Service Provider Advisory Council. Details of the annual budget will be published this fall when the 2023 Business Plan is released.
2. RPRA's **Cost Allocation Methodology**, which guides the allocation of RPRA's costs to the different programs RPRA operates.
3. The **fee model** that determines how and what fee payers within each program are charged.
4. Estimates of **number of fee payers and the amount of material supplied or generated** for each program



# 2023 Program Cost Recoveries and Allocations

# RPRA's strategic priorities

RPRA's cost recovery target is driven by its strategic priorities:

**1. Providing registrants with accessible and easy-to-use registry services**

Every program RPRA operates relies on an online registry to facilitate mandatory reporting by registrants.

**2. Delivering an effective compliance program to help achieve resource recovery and waste reduction outcomes for the province**

The waste diversion outcomes embedded in the extended producer responsibility (EPR) framework and accompanying regulations depend on an effective and efficient compliance program to hold the regulated community accountable; this includes services to registrants to support efficient and informed compliance.

**3. Providing Ontario with reliable and useful resource recovery and waste information**

RPRA is mandated to report publicly on registry data, and registrants and the public expect RPRA to publish reliable and useful information about all eight programs.

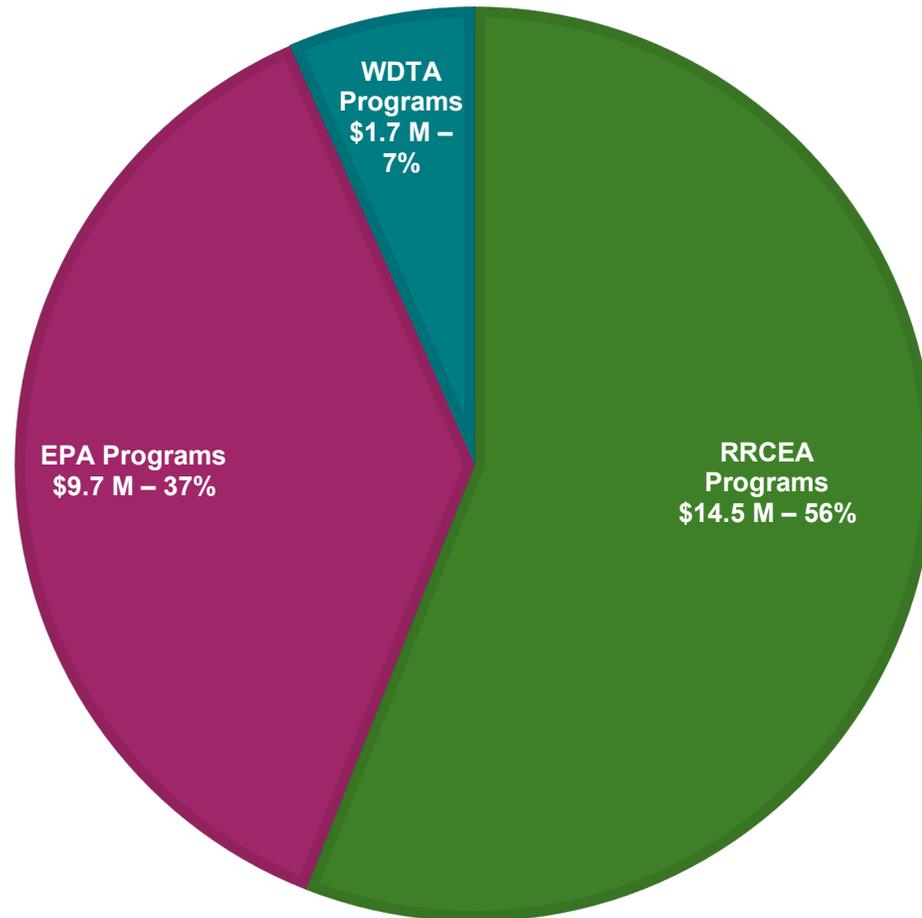
**4. Building an accountable, transparent and sustainable organization that achieves value for money**

The government and stakeholders expect that RPRA will operate in a transparent and fiscally responsible manner and continue to invest in organizational improvements to achieve regulatory and service delivery outcomes.

# New investments in front-line services and registry support

- RPRA's 2023 budget includes new and necessary investments focused on:
  - **Front-line staff:** RPRA is planning for nine additional front-line staff compared to last year's forecast to meet registrant expectations for assistance in understanding their regulatory requirements and achieving compliance.
  - **IT support:** RPRA is planning substantial additional investment in licensing and software, security improvements, and an enlarged managed services team to help ensure the security, reliability and useability of all registry portals.
- The investments are necessary because:
  - The volume of interactions with registrants across all RRCEA programs is higher than expected and increasing.
  - RPRA's mandate and size have grown over the last five years, with growth accelerating over the past year as we began implementing four new programs: Hazardous and Special Products (HSP) and Blue Box extended producer responsibility programs, and digital reporting services for the Excess Soil and the Hazardous Waste programs.
- These new investments will help ensure that RPRA provides the support its registrants need to fulfill their regulatory requirements without undue burden and achieve the regulatory and service delivery outcomes for both the RRCEA programs and the Excess Soil and Hazardous Waste registries.
- More information about RPRA's budget will be publicly posted when the 2023 Business Plan is published to our website after October 1st.

# 2023 RPRA cost recovery target



- RPRA's 2023 cost recovery target is approx. \$25.9 M
- A detailed budget will be publicly posted in the 2023 Business Plan when it's published to our website after October 1<sup>st</sup>
- Cost recoveries assigned to WDTA program oversight continue to decline year-over-year as waste diversion programs transition to the producer responsibility framework under the RRCEA, resulting in commensurate increases to recoveries assigned to RRCEA programs
- Cost recoveries from EPA programs have increased over 2022, with HWP launching in January 2023 and assuming Excess Soil registrants will be required to file notices to the registry starting in January 2023.

# 2023 RPRA cost recovery targets (millions)

Program	2022	2023	Notes
<b>Targets for RRCEA and EPA programs:</b>			
RRCEA programs (Tires, Batteries, ITT/AV, Lighting, HSP, BB)	\$12.5 M	\$14.5 M	Year-over-year increase reflects increase in investments, full amortization of HSP, and BB portals, impacts of interest rate increases, among other things. Increase in recovery target for RRCEA programs is partially offset by decrease in recovery target for legacy WDTA programs for many of these materials.
EPA programs (Excess Soil and Hazardous Waste registries)	\$3.3 M	\$9.7 M	2023 will be the first year the Excess Soil and Hazardous Waste registries will be fully operational and incurring the full costs of that operation. 2023 target reflects the IT and registry support needs of Excess Soil and Hazardous Waste programs and includes start-up costs carried over from 2022.
<b>Total RRCEA and EPA programs target:</b>	<b>\$15.8 M</b>	<b>\$24.2 M</b>	
WDTA programs target:	\$2.7 M	\$1.7 M	Cost recovery target for WDTA programs will eventually reach zero in future years once all programs are wound-up.
<b>Total RPRA cost recovery target:</b>	<b>\$18.5 M</b>	<b>\$25.9 M</b>	The increase in RPRA's total cost recovery target from 2022 to 2023 is due to new investments in front-line staff and IT support necessary to handle new programs and demands of existing programs, increased interest and amortization due to inflation, and an increased contribution to the operating reserve to reduce risk (including cash flow risk) and ensure continuity of service.

# RPRA's Cost Allocation Methodology

RPRA's current cost allocation methodology was adopted in 2022 after reviewing the previous cost allocation methodology, along with the fee model, with an external party. The [summary](#) of that review is available on our website. The methodology comprises four main steps:

1. Assign forecasted direct costs to each program, including registry amortization and interest, registry foundational costs and interest, professional fees, and certain IT and registry-related expenses.
  - Over their lifetimes all programs are expected to incur an equal amount of the registry foundation common costs
2. Assign indirect and shared costs across all programs using key cost drivers. For example:
  - Indirect costs such as insurance, board remuneration, website, non-registry amortization and office supplies are shared equally across programs
  - Shared service costs such as staff salaries and benefits, IT services and supports, and software licenses are allocated to each program using cost drivers such as the number of registrants, or are shared equally across programs, or are shared using an average of various cost drivers.
3. Contributions to the operating reserve are allocated to each program based on the program's proportionate share of total expenses to be recovered for the year.
4. Contributions to RRCEA program start-up cost recovery are allocated equally to each active RRCEA program.

# 2023 RPRA cost recovery targets by program

Program	2023 RRCEA/EPA targets
Tires	\$2.3 M
Lighting	\$1.3 M
ITT/AV and Batteries	\$3.2 M
HSP	\$2.5 M
Blue Box	\$5.2 M
Excess Soil (2023 includes \$0.2M to partially recover 2021 start-up costs)	\$2.3 M
HWP (2023 includes \$0.9M to partially recover prior year start-up costs)	\$7.5 M
<b>Total RRCEA and EPA programs</b>	<b>\$24.2 M</b>

# Proposed 2023 Fee Model for RRCEA Programs



# Overview of proposed 2023 fee model for RRCEA programs

- RPRA is proposing to use the same fee model in 2023 that was used in 2022 and previous years: producers are assessed variable fees tied to material supply (units for tire producers, kgs for other RRCEA regulated producers), or flat fees under a material-specific quantity threshold. Registrants who are not required to report material supply are also assessed a flat fee.
- RPRA is proposing to increase the flat fee for small producers in RRCEA programs from \$75 to \$85 to reflect RPRA's budget growth. The flat fee has been set at \$75 since it was first established in 2018.
- The proposed fee model is aligned with the government objective of holding producers responsible for the end-of-life of products and packaging they supply into the market.
- The proposed fee model is aligned with RPRA's General Fee-Setting Principles, found in the [General Fee Setting Policy](#), including:
  - **Equity:** Protects small producers from excessive burden, ensures large producers pay fees that reflect the relative quantity of material they supply into the Ontario marketplace, and ensures that no producers have a competitive advantage on a per product basis.
  - **Simplicity and Predictability:** Per kg/unit variable fees are aligned with regulatory requirements for producers to report by weight/unit and enable revenue estimates based on estimates of future supply volumes.

# Overview of proposed fee model for RRCEA programs (cont'd)

- As in previous years, fees for RRCEA programs are charged to RRCEA regulated producers. There are no fees for service providers or producer responsibility organizations (PROs).
- De minimis thresholds for all RRCEA programs for determining whether producers pay a flat fee or a variable fee remain the same as 2022.
- Variable fees for the Tires Program are based on number of tires supplied (aligned with the Tires Regulation, which requires producers to report the number of tires)
- Variable fees for HSP, Blue Box, ITT/AV, Batteries, and Lighting programs are based on the kilograms of material supplied (aligned with the regulations, which require material supply reporting in kilograms)
- Adjustments for 2022 surplus or deficit in each program will be assessed at year-end and carried through and applied to 2024 fee rates.
- As in 2020, 2021, and 2022, ITT/AV and Batteries program cost allocations are merged and assigned a single variable fee rate.
- As in 2021 and 2022, HSP categories A and B are grouped together because they have similar requirements under the regulation.
- As in 2021 and 2022, HSP categories C, D, and E are assigned a flat fees only, reflecting their unique program requirements. The small producer revenue threshold for these HSP producers remains the same as 2021 and 2022 (\$2 Million)



# **Proposed 2023 RRCEA Program Fees**

# Proposed 2023 vs 2022 Variable Fee Rates

Program	2022 Base rate \$/Kg	2022 Adjusted rate (considering surplus or deficit)	2023 Proposed base rate \$/Kg	% Change in base rate 2022 – 2023	% Change adjusted rate to base rate 2022-2023	Notes
<b>Tires</b>	0.153 (per Tire)	0.141	0.176	15%	25%	2022 actual rate included a reduction due to a prior-year surplus
<b>Batteries and ITT/AV</b>	0.05	0.06	0.051	2%	-15%	2022 actual rate included an increase to recover a prior-year deficit
<b>Lighting</b>	0.22	N/A	0.250	14%	N/A	Fees charged for the first time in 2022; 2023 is the first full year of operations
<b>HSP (Category A&amp;B)</b>	0.015	N/A	0.020	36%	N/A	2023 is first year of amortization and interest related to HSP portal costs, representing 21% of increase
<b>Blue Box</b>	0.0044	N/A	0.0056	27%	N/A	2023 is first year of amortization and interest related to BB portal costs, representing 7% of increase

# Tires fees proposed for consultation

Material Group	Registrant	Proposed 2023 Fee
Tires	Producer: 0 to 999 tires supplied	\$85 flat fee
	Producer: 1,000+ tires supplied	\$0.176 per tire

- Fee structure is unchanged from 2022
- Tires 2022 base fee was \$0.153 per tire, a 2021 surplus resulted in a lower actual fee in 2022
- The number of tires supplied is a rolling average of 2019, 2020 and 2021
- Rolling average supply volume estimated to remain consistent with 2021 reported supply, may change as 2022 reported supply is analyzed:
  - 225 small producers (<1,000 tires): 27,800 tires
  - 168 large producers ( >= 1,000 tires): 12,900,000 tires

# ITT/AV and Batteries fees proposed for consultation

Material Group	Registrant	Proposed 2023 fee
ITT/AV	Producer: 6360 Kg or less	\$85 flat fee
	Producer: > 6360 Kg	\$0.051 per Kg
Batteries	Producer: 6250 Kg or less	\$85 flat fee
	Producers: >6250 Kg	\$0.051 per Kg

- As in 2020, 2021 and 2022, cost recovery targets for ITT/AV and Batteries are combined
  - Fee structure is unchanged from 2022
  - 2022 base rate was \$0.05 per kg – deficit from 2021 caused an increase to the actual fee charged in 2022
  - The volume of Batteries and ITT/AV supplied are rolling averages of 2019, 2020 and 2021, net of the number of kg that the producer is permitted to count toward a reduction in the management requirement under the regulation
  - Rolling average supply volume predicted in 2023 to remain consistent with 2021 reported supply, may change as 2022 reported supply is analyzed:
- Batteries:**
- 115 small producers (up to 6250 Kg): 97,800 Kg
  - 45 large producers (>6250 Kg): 8,000,000 Kg
- ITT/AV:**
- 7 small producers (up to 6360 Kg): 17,900 Kg
  - 160 large producers (>6360 Kg): 55,000,000 Kg

# HSP fees proposed for consultation

Material Group	Registrant	Proposed 2023 Fee
HSP Category A&B (non-refillable pressurized containers, oil filters; antifreeze, oil containers, paints and coatings, pesticides, solvents, refillable pressurized containers excluding propane)	Producer: up to 10,000 Kg	\$85 flat fee
	Producer: > 10,000 Kg	\$0.020 per Kg
HSP Category C (mercury-containing products)	Producer	\$7,500 flat fee
HSP Category D (Fertilizer)	Producer	\$1,000 flat fee
HSP Category E (Refillable Propane Containers)	Producer	\$1,000 flat fee
Category C, D and E	Producer with annual revenue in Ontario < \$ 2 Million	\$85 flat fee

- Fee structure is unchanged from 2022
- Flat fee rates for producers of categories C, D and E (mercury-containing devices, fertilizers, and refillable propane containers) are proposed to remain stable at 2022 rates. These material groups are treated differently because they have substantially fewer obligations than other RRCEA programs: no management, no or very limited collection system requirements, and no or very limited annual reporting requirements. There is still considerable uncertainty regarding the number of producers for these programs and how they will be operated on an ongoing basis. Given this uncertainty, and that these programs are still being implemented and producers registered, staff are not proposing a change to fee rates at this time.
- The number of Kg supplied reported in 2023 will be the average of 2020, 2021 and 2022 Kgs supplied.
- The supply data used to validate the estimated proposed 2023 fee was the average of 2018, 2019 and 2020 Kgs reported;
- Rolling average supply volume of A&B in 2023 predicted to remain consistent with 2022 predictions, but this may change as 2022 reporting is completed during the consultation period.
  - 50 small producers (up to 10,000 Kg): 427K Kg
  - 130 large producers (> 10,000 Kg): 120 M Kg
- The supply data used to calculate the proposed 2023 fee is the supply reported into the sectors identified for that material type in the 2021 rules for stewards under the Municipal Hazardous or Special Waste (MHSW) programs (consistent with 2022 fee structure)

# Blue Box fees proposed for consultation

Material Group	Registrant	Proposed 2023 Fee
Blue Box Materials	Producer: 50,000 Kg or less	\$85 flat fee
	Producer: > 50,000 Kg	\$0.0056 per Kg

- Fee structure is unchanged from 2022
- As of today, supply volume predicted to remain consistent with what was reported in 2021 (2020 supply was reported in 2021); prediction may change as 2022 reporting is completed during the consultation period
  - 800 small producers (up to 50,000 Kg): 9,000,000 Kg
  - 550 large producers (> 50,000 Kg): 913,449,590 Kg

# Lighting fees proposed for consultation

Material Group	Registrant	Proposed 2023 Fee
Lighting	Producer: 1166 Kg or less	\$85 flat fee
	Producer: >1166 Kg	\$0.250 per Kg

- Threshold of 1166 Kg separating small and large producers aligned with regulation
- Estimated rate translates to approx. 1 to 4 cents per bulb
- The volume of lighting supplied is the average of volume supplied in 2019, 2020 & 2021
- Lighting is a new program in 2022 – producers will register and report later this fall
- Supply volume predicted based on supply volume into the BC market, as reported by Product Care under the BC producer responsibility regulation and is unchanged from volume used to set 2022 fees.
  - 100 small producers (1166 Kg or less): 15,000 Kg
  - 95 large producers (> 1166 Kg): 5,000,000 Kg

# Proposed 2023 Fee Model and Fee Rates for Excess Soil Registry users



# Proposed fees for Excess Soil

- The proposed fee model for the Excess Soil Registry is unchanged from 2022
- In developing the proposed fee model and rates, RPRA is assuming registrants will be required to file notices to the registry as per the Excess Soil Regulation beginning on January 1, 2023
- The Excess Soil Regulation requires notices to be filed for the following activities:
  - Movement of excess soil (project area notices)
  - Operation of a soil reuse site (reuse site notices)
  - Operation of a Residential Development Soil Depot (RDSD)
- The fee structure assigns fees to each notice type
- Fees are either variable and tied to soil volume, or flat;
  - Variable rates increase from a de minimis up to a ceiling.
  - RPRA is proposing to increase the flat fee for small producers in RRCEA programs and fee-paying registrants to the Excess Soil Registry from \$75 to \$85 to acknowledge RPRA's budget growth and inflationary impacts on the budget. The flat fee has been set at \$75 since it was first established in 2018.
- Registrants pay a fee for each initial notice filed, and may pay a fee on project close-out and final filing, depending on whether the final soil volume associated with the project or reuse site has increased from the amount initially reported

# Proposed fees for Excess Soil cont'd

- RPRA estimates approximately 30 million m<sup>3</sup> of soil to be reported annually, representing on average a total of 1,000 notices annually.
- The Ontario government paused the requirement to use the Excess Soil Registry in spring 2022. The registry has been kept open by RPRA for voluntary filings. This fee proposal assumes the pause will be lifted and that all mandatory filings will resume starting January 1, 2023.
- In 2023, RPRA estimates a higher number of notices and a higher volume of soil to be filed in 2023, compared to the estimated annual average. 2023 filings are expected to include:
  - Notices filed by project owners for excess soil generated in 2023
  - Notices filed for excess soil generated in 2022, which projects owners are also required to report when the program fully re-launches on January 1, 2023
- A portion of the Excess Soil Registry program revenue target for 2022 that was not recovered due to the regulatory pause will be recovered in 2023. This delayed recovery, plus an overall increase in RPRA's total budget including investments to support the program, means that proposed rates for some projects, excluding small soil-removal projects, have increased by 20%.
- In addition, the maximum soil volume that would be charged at a variable rate has increased from 250,000 m<sup>3</sup> to 500,000 m<sup>3</sup>, protecting smaller projects from bearing the brunt of the variable rate increase.

# Proposed fees for Project Area notices

- Proponents of projects that generate at least 100 m<sup>3</sup> of excess soil that needs to be moved off-site are required to register their project, unless the project qualifies as exempt according to the conditions set out in the Excess Soil Regulation.

## Proposed Project Area Fees:

Description	Associated Soil Volume	2022 Fee	Proposed 2023 Fee
Very small projects (e.g., a backyard pool, small-scale natural rehabilitation)	100 -1999 m <sup>3</sup>	\$0	\$0
Small to medium scale projects (e.g., regrading a backyard, installing an ornamental pond, other large-scale landscaping, building a single home)	2000 < 10,000 m <sup>3</sup>	Flat - \$75	Flat - \$85
Small infill development, linear infrastructure	>10,000 m <sup>3</sup> to 50,000	Variable - \$0.025/m <sup>3</sup>	Variable - \$0.025/m <sup>3</sup>
Condo and townhome condo developments, smaller commercial and industrial projects	>50,000 m <sup>3</sup> to 100,000 m <sup>3</sup>	Variable - \$0.040/m <sup>3</sup>	Variable - \$0.048/m <sup>3</sup>
New subdivisions, large-scale industrial and commercial development, subway line)	>100,000 to 500,000 m <sup>3</sup>	Variable - \$0.050/m <sup>3</sup>	Variable - \$0.060/m <sup>3</sup>
	>500,000 m <sup>3</sup>	Flat - \$12,500	Flat - \$30,000

# Proposed fees for Reuse Site notices

- Owners of soil reuse sites receiving 10,000 m<sup>3</sup> of soil or more are required to register their site
- Staff do not anticipate any registrations for reuse sites accepting more than 5 million m<sup>3</sup> of soil, because only known sites of this size in Ontario already registered in 2022

## Proposed Reuse Site Fees

Description	Associated Soil Volume	2022 Fee	Proposed 2023 Fee
Small development sites; parks; small aggregate extractions ties	10,000 to 50,000 m <sup>3</sup>	\$750	Flat - \$900
	50,000 > 1 Million m <sup>3</sup>	\$3,000	Flat - \$3,600
Medium aggregate extraction sites, large development sites	1 > 5 Million m <sup>3</sup>	\$7,000	Flat - \$8,400
Very large commercial fill sites (former quarries)	>5 Million m <sup>3</sup>	\$10,000	Flat - \$12,000

# Proposed fee for RDSD notices

- Owners of Residential Development Soil Depot sites are required to register their depot

## Proposed RDSD Site Fees:

Description	Associated Soil Volume	2022 Fee	Proposed 2023 Fee
Residential Development Soil Depot	<10,000 m3	Flat - \$250	Flat - \$300

# Feedback

- If you have questions about the proposal or would like to discuss it in more detail, email us at [consultations@rpra.ca](mailto:consultations@rpra.ca)
- Register for one of our webinars:
  - [Session 1: Proposed fees for Batteries, ITT/AV, Lighting and Tires producers](#)
    - Wednesday, October 19, 9:00a.m. to 11:00a.m.
  - [Session 2: Proposed fees for Excess Soil Registry users](#)
    - Thursday, October 20, 1:30p.m. to 3:30p.m.
  - [Session 3: Proposed fees for Blue Box and HSP producers](#)
    - Friday, October 21, 1:00p.m. to 3:00p.m.
- **Email your feedback to [consultations@rpra.ca](mailto:consultations@rpra.ca) on or before November 10, 2022**