



Defining small and large battery and ITT/AV producer categories for supply data verification

Consultation Report

February 28, 2023

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Executive Summary

This report details RPRA's consultation process, the feedback received and how RPRA incorporated the feedback into its decision making on choosing the method for determining the cut-off thresholds for small and large categories for producers of batteries and information technology, telecommunication, and audio visual (ITT/AV) equipment. Questions about this report can be emailed to consultations@rpra.ca.

Producers will reference these cut-off thresholds in the Batteries and ITT/AV Supply Data Verification Procedure when submitting their Supply Data Verification Report to RPRA in 2023 and onwards.

The consultation period took place from December 16, 2022, to January 16, 2023. RPRA consulted producers of batteries and ITT/AV to provide feedback to the proposed methodologies to calculate the cut-off thresholds. Feedback received during the consultation period is summarized in the [What we heard](#) section. The list of stakeholders that submitted written feedback are in [Appendix A](#).

The amended [Batteries and ITT/AV Supply Data Verification Procedure](#) was posted on February 28, 2023, and all battery and ITT/AV producers were notified the same day.

Introduction

About RPRA

RPRA is the regulator created by the Ontario government to enforce the requirements of the *Resource Recover and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WTDA).

The RRCEA establishes a resource management regime where producers are individually responsible and accountable for their products and packaging, recovering resources and reducing waste. The WTDA allows for the continuation of waste diversion programs and sets out provisions to wind up those programs as directed by the Minister of the Environment, Conservation and Parks.

Principles for public consultation

RPRA's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development:

Inclusiveness and openness: *Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible and responsive.*

Timeliness: Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.

Accessible and cost effective: Consider a variety of tools and methods to gather feedback that promote efficient and cost-effective consultations.

Balance: Provide opportunities for diverse perspectives and opinions to be heard and considered.

Transparent: Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.

Evaluation: Demonstrate the impact of public consultations on program delivery and policy development.

Consultation

Process

From December 16, 2022, to January 16, 2023, RPRA held a consultation to define small and large battery and ITT/AV producer categories for supply data verification.

A dedicated [consultation webpage](#) was created on RPRA's website with background information on the consultation, the [consultation proposal](#) that outlined the proposed methodologies to calculate the producer cut-off thresholds, and information on how to provide feedback.

RPRA did not host a webinar, however, producers of batteries and ITT/AV were notified of the consultation when it launched on December 16, 2022, and were sent a reminder email on January 12, 2023, to provide feedback on the proposal before the consultation period closed. When announcing the consultation, RPRA provided the following questions to receive feedback on:

1. Which method do you support to define the single-use batteries, rechargeable batteries, and ITT/AV cut-off thresholds:
 - Option 1: minimum management requirements
 - Option 2: supply weight before management reductions
2. Are there additional methods that RPRA should consider? If so, what are the advantages and disadvantages?
3. For producers who mainly supply single-use batteries, is there any additional burden to complete a Supply Data Verification Report for the rechargeable batteries that you also supply? If so, what is the additional burden?

What we heard

RPRA received six written submissions during the consultation period. Feedback is summarized by key themes below. Not captured below is one question received via email to define minimum management requirements, as RPRA responded to the stakeholder directly. For the list of stakeholders that submitted written feedback, see [Appendix A](#). For RPRA's responses to feedback, see [Appendix B](#).

Method to define the battery and ITT/AV producer cut-off thresholds

- Five stakeholders preferred using supply data over minimum management requirements.
 - One stakeholder said it would be easier using supply data because producers would determine or forecast their supply levels based on orders from retail buyers. The stakeholder believes that this could stabilize the category they would fall in, as well as reduce the burden to submit verification reports to RPRA.
 - One respondent stated that using supply data would be fairer.
 - The remaining stakeholders did not provide reasons as to why supply data would reduce burden or why it would be fairer.
- One respondent preferred minimum management requirements but did not provide a rationale as to why.

Additional methods RPRA should consider

- None of the respondents provided additional methods RPRA should consider when determining the small and large producer cut-off thresholds.
- One stakeholder questioned why RPRA would solicit examples or additional methods from stakeholders when RPRA is the regulator responsible for enforcing the regulations.

Consideration of additional burden for single-use battery producers to submit a Supply Data Verification Report for the rechargeable batteries they also supply

- None of the respondents cited additional burden to complete a Supply Data Verification Report for single-use batteries or rechargeable batteries.

Conclusion

RPRA appreciates the thoughtful feedback provided throughout the consultation period and considered each submission when finalizing the method for determining small and large battery and ITT/AV producer cut-off thresholds.

RPRA made the decision to use minimum management requirements to define small and large battery and ITT/AV producer cut-off thresholds based on the following reasons:

- Using minimum management requirements instead of supply data before reductions will help stabilize producer categories because minimum management requirements are calculated based on the historical average of supply data, which means a producer can average out three years of supply data, whereas supply can vary year-to-year.
- Using minimum management requirements as the method to determine producer cut-off thresholds is also consistent with the small producer definition RPRA uses for other materials, such as tires. This may make it more straightforward for producers who supply multiple materials to understand if they are considered a small or large battery or ITT/AV producer.

Producers will first use these cut-off thresholds when submitting their Supply Data Verification Report to RPRA in 2023 and onwards.

RPRA posted the amended [Batteries and ITT/AV Supply Data Verification Procedure](#) to include the small and large producer cut-off thresholds on February 28, 2023. All battery and ITT/AV producers were notified the same day.

Appendix A: Stakeholders that submitted feedback

The six written submissions were received from the following stakeholders:

- DBA Homedics Group Canada and The House of Marley LLC
- Dynabook Canada Inc.
- Electronics Product Stewardship Canada
- Oracle
- StarTech.com
- Teqtronix International Inc.

Appendix B: Response to stakeholder feedback

RPRA considered all feedback received during the consultation period as it finalized the method to define small and large battery and ITT/AV producer cut-off thresholds. Some of the comments were edited for length and clarity.

Method to define the battery and ITT/AV producer cut-off thresholds

- Five stakeholders preferred using supply data over minimum management requirements.
 - One stakeholder said it would be easier using supply data because producers would determine or forecast their supply levels based on orders from retail buyers. The stakeholder believes that this could stabilize the category they would fall in, as well as reduce the burden to submit verification reports to RPRA.
 - One respondent stated that using supply data would be fairer.
 - The remaining stakeholders did not provide reasons as to why supply data would reduce burden or why it would be fairer.
- One respondent preferred minimum management requirements but did not provide a rationale as to why.

Additional methods RPRA should consider

- None of the respondents provided additional methods RPRA should consider when determining the small and large producer cut-off thresholds.
- One stakeholder questioned why RPRA would solicit examples or additional methods from stakeholders when RPRA is the regulator responsible for enforcing the regulations.

Consideration of additional burden for single-use battery producers to submit a Supply Data Verification Report for the rechargeable batteries they also supply

- None of the respondents cited additional burden to complete a Supply Data Verification Report for single-use batteries or rechargeable batteries.

RPRA's response:

One respondent's understanding is that using supply data would be easier to determine producer categories as they can reference and/or forecast their supply levels based on orders from retail buyers. However, using minimum management requirements instead of supply data before reductions will help stabilize producer categories because minimum management requirements are calculated based on the historical average of supply data, which means a producer can average out three years of supply data, whereas supply can vary over time.

Additionally, using minimum management requirements is also consistent with the small producer definition RPRA uses for other materials, such as tires. This may make it more

straightforward for producers who supply multiple materials to understand if they are considered a small or large battery or ITT/AV producer.

In response to why RPRA would ask for alternative or additional methods to consider, RPRA publicly consults with a wide range of stakeholders, including producers, industry associations, researchers, auditors, and policy analysts, and we encourage them to submit feedback and provide suggestions. RPRA is open to all feedback, including alternative methods or approaches, to ensure we are considering viable and practical options that we may have not considered.