



2023 RRCEA Program Fees for HSP Categories A & B Consultation Report

June 22, 2023

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Executive Summary

This report details the Resource Productivity and Recovery Authority's (RPRA) consultation process, the feedback received, and how RPRA incorporated the feedback into its decision-making on setting program fees for producers of hazardous and special products (HSP) in categories A & B as defined in the HSP Regulation under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

RPRA's program fees are charges that registrants pay to RPRA to cover its costs for operating compliance and enforcement programs, which includes building and operating the registries and providing service to users. RPRA's [General Fee-Setting Policy](#) guides how fees are set in accordance with a list of principles and objectives.

Producers obligated under RRCEA regulations are required to report their supply data and pay the associated fees to RPRA in 2023.

From September 26 to November 10, 2022, RPRA consulted on 2023 HSP fees and received feedback from producers and producer associations. The subjects of the consultation included the fee model for the HSP program, the inputs to each model (estimates of the number of producers, and the quantity of obligated material supplied), and the proposed fee rates.

From January 26 to March 13, 2023, RPRA sought feedback from producers of HSP materials on a revised proposal for 2023 HSP program fees for material categories A and B.

Between April 28 and May 19, RPRA sought feedback on supplemental revisions to the fee proposal posted in January that would affect producers of automotive materials only.

Final approved HSP fee rates for producers of HSP categories A and B are those derived from the fee model proposed in January, including the supplemental revision that would equally divide the automotive materials cost between the three automotive materials (antifreeze, oil filters and oil containers). A deferral of the fee rate increases for automotive materials was not approved due to mixed reaction from automotive materials producers.

For more information on the final fees, review the [2023 Fee Schedule](#) for HSP materials.

RPRA's 2023 HSP program fees were approved on June 22, 2023. RPRA posted the final fees to its website on June 30, and stakeholders were notified the same day.

RPRA received written submissions (in some cases multiple submissions) from twelve stakeholders in response to the fee proposal and proposed supplemental revisions to the fee model and rates. RPRA also received feedback during meetings with individual or groups of stakeholders. The comments are summarized in the [What We Heard section of this report](#), and RPRA's responses are detailed in [Appendix B](#).

All questions received during the consultation webinars and responses provided by RPRA are detailed in [Appendix C](#).

Questions about this report can be emailed to consultations@rpra.ca.

Introduction

About RPRA

RPRA is the regulator created by the Ontario government to enforce the requirements of the RRCEA and the [Waste Diversion Transition Act, 2016](#) (WDTA).

RPRA has also been directed by the Minister of the Environment, Conservation and Parks to build and operate registries for the Hazardous Waste and Excess Soil programs, governed by the [Environmental Protection Act](#) (EPA).

The RRCEA establishes a resource recovery regime where producers are individually accountable and financially responsible for their products and packaging through their full life cycle, including recovering resources and reducing waste. The WDTA allows for the continuation of legacy waste diversion programs and sets out provisions to wind up those programs as directed by the Minister of the Environment, Conservation and Parks.

RPRA is a non-profit organization that does not receive any government funding. The WDTA and RRCEA allow RPRA to set and collect fees to recover its costs from regulated parties. RPRA revenues come from two sources:

- Charges to industry funding organizations and industry stewardship organizations for RPRA's oversight and wind-up of current waste diversion programs operating under the WDTA and the industry funding organizations that operate those programs.
- Charges to parties required to register and report to RPRA.

Fees are used to cover the costs of developing and operating registry services, registrant support services for all programs, and compliance and enforcement activities.

Before setting fees, RPRA must engage in public consultation for at least 45 days and post the fees on its website for 30 days.

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.

Accessibility and cost effectiveness: 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.

Transparency: 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

RPRA's proposed 2023 HSP program fees were consulted on from September 26 to November 10, 2022. A second consultation on a revised methodology for producers of HSP category A and B materials was held from January 26 to March 13 2023. Supplemental revisions to the proposed revised fees were consulted on from April 28 to May 19, 2023. A [dedicated web page](#) was created on RPRA's website with background information on the consultation, the registration link for the webinar, and presentation materials.

On September 26, 2022, RPRA emailed its general mailing list (approximately 1,900 subscribers) announcing the start of the consultation for 2023 RRCEA program fees including HSP fees, and providing information on how to participate. On September 27, RPRA notified producers, Producer Responsibility Organizations (PROs), and industry associations of affected programs.

On January 26 2023, RPRA emailed all HSP producers announcing the start of the consultation on the revised methodology and provided information on how to participate.

On April 28, RPRA emailed all HSP producers and stakeholders that previously provided feedback announcing the start of the extended consultation on supplemental revisions to the revised methodology and provided information on how to participate.

What we heard

RPRA received feedback through several channels:

- Questions posed at a webinar held on October 21, 2022 for the HSP and Blue Box programs
- Questions posed at a webinar held on February 9, 2023 to explain the fee proposal (webinar presentations and recordings can be found on the [consultation webpage](#)).
- Multiple meetings between RPRA staff and individual stakeholders or groups of stakeholders.
- Written submissions received via email.

The feedback received from all channels is summarized below:

Paints and coatings producers were not supportive of the original proposal presented in fall 2022. Producers of HSP materials in the paints/coatings/solvents/pesticides/pressurized containers/fertilizer group were, however, supportive of the revised HSP fee model and estimated rates consulted on in January 2023.

Automotive stakeholders expressed concerns that the consultation on the revised methodology in January 2023 was rushed, and that changes to the methodology should be put off until there is a broader review of the entire fee model. Stakeholders also felt that the year-over-year increase in the fee rate for automotive materials producers was extreme and unplanned for.

Some automotive stakeholders felt that the estimated fee rate for 2023 derived from the proposed revised fee model would affect the consumer price of antifreeze and would be too high in relation to the total management cost to antifreeze producers under the program.

Feedback that was not relevant to this consultation has been excluded from the summary.

For a list of stakeholders that submitted written see [Appendix A](#) of this report.

[Appendix B](#) outlines RPRA's responses to comments provided during the consultation.

For a list of all questions received during the webinar and RPRA's responses, see [Appendix C](#).

Evaluation

To help RPRA improve future consultations and communications, participants were invited to complete a short survey following the consultation webinars.

October 21, 2022 – Webinar on 2023 Blue Box and HSP fees

- 73 attendees
- 29 survey participants (40% of attendees)

Questions and aggregated responses:

1. Overall, how would you rate the consultation? Based on a scale of Excellent, Good, Average, Fair, and Poor:
 - 72% of respondents chose "Excellent" or "Good"
2. How helpful was the information provided by the presenters? Based on a scale of Extremely helpful, Very helpful, Somewhat helpful, Not so helpful and Not at all helpful:
 - 59% of respondents chose "Extremely or Very helpful"
3. How would you rate the presentation slides? Based on a scale of Excellent, Good, Average, Fair, Poor:
 - 76% chose "Excellent" or "Good"
4. How would you rate the question and answer portion? Based on a scale of Excellent, Good, Average, Fair, Poor:
 - 66% of respondents chose "Excellent" or "Good"

February 9, 2023 – Webinar on revised proposal for HSP fees for producers of A and B materials

- 41 attendees
- 21 survey participants (51% of attendees)

Questions and aggregated responses:

1. Overall, how would you rate the consultation? Based on a scale of Excellent, Good, Average, Fair, and Poor:
 - 38% chose "Excellent" or "Good"
 - 43% chose "Average"
 - 14% chose "Fair"
 - 5% chose "Poor"
2. How helpful was the information provided by the presenters? Based on a scale of Extremely helpful, Very helpful, Somewhat helpful, Not so helpful and Not at all helpful:
 - 43% chose "Extremely or Very helpful"

- 52% chose “Somewhat helpful”
 - 0% chose “Not so helpful”
 - 4.7% chose “Not at all helpful”
3. How would you rate the presentation slides? Based on a scale of Excellent, Good, Average, Fair, Poor:
 - 57% chose “Excellent” or “Good”
 4. How would you rate the question and answer portion? Based on a scale of Excellent, Good, Average, Fair, Poor:
 - 52% chose “Excellent” or “Good”

Conclusion

The 2023 fees for producers of HSP category A&B materials were approved on June 22, 2023. RPRA posted the final fees to its website on June 30, and stakeholders were notified the same day.

RPRA appreciates the thoughtful feedback provided through the consultation process and considered each submission in setting the fees.

In response to stakeholder concerns about the proposed fee increase on the consumer price of antifreeze, the approved HSP fee model divides the cost recovery target for automotive material producers equally between the three sub-material categories. This approach better reflects the relative number of producers in each sub-material category and protects antifreeze producers from bearing a disproportionate percentage of the total cost of RPRA fees to automotive producers.

RPRA did not defer the fee increase to automotive producers in response to the mixed feedback received from stakeholders.

RPRA recognizes the importance of fee predictability to its registrants. The substantial one-time adjustment for automotive materials producers primarily reflects cost increases related to the transition from the WDTA legacy program to the new regulatory framework outlined in the RRCEA, which is not expected to be repeated.

Appendix A: Stakeholders that submitted feedback

Written submissions were submitted by the following stakeholders:

- Automotive Materials Stewardship
- Canadian Consumer Specialty Products Association
- Canadian Paint and Coatings Association
- Canadian Vehicle Manufacturers' Association
- Cummins Filtration
- Global Automakers of Canada
- Kleenoil Filtration Canada Ltd.
- Petro Canada Lubricants
- Quality Liquid Packaging
- Recochem
- Verco International Inc.
- Wakefield Canada Inc.

Appendix B: Response to stakeholder comments

RPRRA considered all feedback received during the consultation period. Key comments received and RPRRA's responses are included below:

- Producers of paints and coatings were supportive of the revised HSP fee model and estimated rates because it decreased the proportion of the overall HSP program costs they pay for.
- Automotive producers expressed concern that the consultation on both the revised fee proposal in January and the supplemental revisions in April was rushed.
- Automotive producers expressed concern about the magnitude of the proposed year-over-year fee increase and suggested that the revised fee model should be delayed or phased in over multiple years.
- Some stakeholders suggested that the HSP fee model should not be altered unless it is accompanied by a comprehensive review of RPRRA fee models.
- Some stakeholders expressed the view that the revised fee rate for 2023 would affect the consumer price of antifreeze because it would represent a significant increase in the overall cost to comply for antifreeze producers.
- Some stakeholders were concerned that the revised fee model was complex and therefore inconsistent with RPRRA's fee-setting principles.
- A stakeholder expressed the view that changing the HSP fee model now contradicted the recommendations from a third-party review of RPRRA's fee model that was completed in early 2022.
- In response to RPRRA's supplemental proposal to defer the fee increase for automotive producers (but not delay or phase in the changes to the fee model):
 - Two associations, representing a small number of the producers most affected by the increases, were in favour of a fee increase deferral.
 - Seven individual major producers facing fee increases did not support the deferral, in part because it would mean higher fees in 2024.
- Some stakeholders requested more time to review the proposed fee model and estimated rates.
- Paints producers suggested that they should be reimbursed for payments they made under the previous fee model in 2021 and 2022.

RPRRA's response to stakeholder concerns

The revised model supports fee-setting principles of equity and continuous improvement.

During the initial consultation on 2023 HSP fees in fall 2022, RPRRA heard concerns from paint producers that the total share of the HSP fee burden they bear compared to the other material

groups in the HSP program was too high. This concern repeats similar complaints heard during the 2021 and 2022 fee setting processes.

RPRAs staff conducted further analysis of producer supply data obtained through two years of HSP supply reporting, considered how the program was operating two years in, and reviewed historical program cost data for HSP material groups. Findings from this work included the following:

- Paints, coating and solvent producers were estimated to pay more than 85% of the HSP program fee in 2023..
- Automotive materials producers required a substantial amount of support from RPRAs compliance and registry staff. The program also required its own separate Registry portal, which was built in fall 2022.
- Automotive materials had roughly the same number of producers as the rest of the category A and B HSP materials put together.

These findings led RPRAs to propose a revised fee model for producers of HSP category A and B materials in January 2023. The revised fee model uses the number of producers to balance the fee burden among major material groups in the HSP program. The number of producers is a reasonable indicator of effort expended by RPRAs to support the program, in part because producer registration, reporting, verification and performance is at the heart of the producer responsibility regulatory framework under the RRCEA. This principle is already recognized in RPRAs current cost allocation methodology, which uses the total number of registrants in a program to allocate costs among the different RRCEA programs.

Setting different fee rates for automotive materials producers also reflects how the HSP program is administered by RPRAs. Automotive materials producers have different regulatory requirements, and their collection and management systems operate differently from the other material groups. These operational differences form the basis for requiring automotive materials producers to report into a separate registry portal.

The re-balanced fee burden is also more consistent with the share of fees paid by automotive and paints producers under the legacy WDTA program, where each group paid similar amounts to RPRAs.

Balancing the fee burden in this way supports RPRAs general fee-setting principle of recognizing equity considerations when setting fees. The revised fee model also reflects RPRAs commitment to promoting continuous improvement.

A third-party review of RPRAs fee model completed in early 2022 explained why, at that time, the HSP fee model was not revised to re-balance fees between paints and automotive producers. At that point, the HSP program had only been in operation for less than a year. The third-party review also recommended an explicit commitment to continuous improvement as one of RPRAs fee setting principles. The analysis conducted by staff in late 2022, which was based on better information about program tonnage, the number of producers, the support from RPRAs staff required by automotive materials producers, and the registry portal structure, spurred development of the revised proposal in early 2023.

The year-over-year fee increase is not out of proportion, and a delay or phase-in of the revised approach is not justified.

RPRAs is committed to achieving fee predictability over time. The substantial one-time adjustment for automotive materials producers reflects cost increases related to the transition

from the legacy program under the WDTA to the new regulatory framework under the RRCEA, which is not expected to be repeated again.

The overall increase proposed for automotive producers as a group is consistent with increases that other producer groups have faced in transitioning from the WDTA to the RRCEA. While overall program costs have increased under the RRCEA compared to costs under the WDTA, automotive materials producers as a group have been allocated fewer costs under the RRCEA than under the WDTA. In 2020, the last full year of operation of the legacy MHSW program, automotive materials stewards paid approximately \$350,000 in fees to RPRA. For 2021, the first full year of the HSP program under the RRCEA, the RRCEA fee model allocated about \$325K to automotive producers.

The share of fees proposed for automotive producers is consistent with the share of fees they historically paid to RPRA under the legacy WDTA program. Finally, the RPRA fees paid by automotive and paints producers under the revised methodology reflect a similar percentage of overall resource recovery program costs (approx. 5-6% based on historical estimates). Given this historical context, and the fees paid to date by automotive materials producers, delaying this one-time adjustment is not justified.

The revised model is simple and consistent with other programs

The new HSP fee model remains consistent with RPRA's overall fee model by setting fees for producers of each sub-material based on weight. To ensure equity among producers of the different material sub-materials, the number of producers of each is used to fairly distribute total costs among the different producer groups. This additional step in setting HSP fees is straightforward to apply, is fully transparent to stakeholders, and requires no new registry procedures or enhancements to implement. The revised methodology also leverages the different registry portals that have already been built for automotive materials and paints, coatings and other materials.

The weight-based approach to HSP fee rates also supports our fee-setting principles of equity and simplicity. Weight-based fees for HSP producers will continue to ensure that producers of the same products face the same costs on a per-product basis, so that the fee has no competitive impact on the consumer markets producers operate in and will continue to protect small producers from undue burden.

There was substantial consultation, and another comprehensive fee review is not currently being planned.

The initial consultation in fall 2022 on 2023 HSP fees was 45 days long. The feedback period on the revised proposal that began in January 2023 was also 45 days. The extension of the consultation to receive feedback on supplementary proposals responding to specific stakeholder feedback was 22 days. The consultation period for 2023 HSP fees totalled 122 days from the end of September 2022 to mid-May 2023. Substantial opportunity has been given to HSP producers and their associations to provide feedback. One-on-one meetings were held with all major automotive producer associations, some multiple times. When requested, extensions have been given to accept feedback after deadlines had passed.

In 2021, RPRA engaged an external consultant to do a comprehensive review of its approach to fees. The consultant found RPRA's approach to cost allocation and fee-setting to be

reasonable. An executive summary of the findings is available on RPRA's website. RPRA is not currently planning another comprehensive review of its fees.

RPRA decided to make a one-time adjustment to the HSP fee methodology now, rather than put it off for another unplanned future review, for the following reasons:

- Data to support a deeper analysis of the operational requirements of the HSP Program was available after 2 years of program operations
- The updated methodology better reflects the operational reality of the HSP Program and how RPRA resources are applied to the program.
- It supports the principles of equity and continuous improvement
- It is simple to implement and administer and does not require changes to technology or procedures.

Splitting the automotive materials allocation between the three groups reduces outside impact on antifreeze.

In response to concerns expressed about the outsized impact of the revised HSP methodology on antifreeze producers, RPRA requested feedback on splitting the fee equally among the three automotive material categories. Splitting the fee substantially reduces fee pressure on antifreeze so that the RPRA fee, as a proportion of total program cost and product cost, is more in line with other materials. It also reflects the relatively equal number of producers in each program, and the relatively equal amounts of support and resources each requires from RPRA. It is consistent with the revised HSP methodology by helping to balance fee burden among disparate materials, is consistent with RPRA's fee setting principle of equity, and brings RPRA's antifreeze fee as a proportion of both total program cost and retail product cost more in line with other materials.

Few stakeholders supported deferring the fee increase to 2024.

In response to concerns expressed by stakeholders about the year-over-year increase being abrupt and difficult to manage, RPRA proposed to defer the fee increase by spreading it over multiple years. RPRA explained that because we set fees on a cost recovery basis, if fee increases are deferred, the HSP program will carry a deficit that must be recovered from automotive materials producers in subsequent years. This means that any deferral would need to be added to the fee rate for automotive producers in later years, making those future fee rates higher than they otherwise would be. The financing cost for this deficit would also be borne by automotive materials producers.

Two producer associations supported deferral, stating that it could help producers manage the increase. However, these two associations represent only a small number of automotive producers likely to be significantly affected by the increase. Seven major producers who would face fee increases did not support deferral, in part because the overall cost would be higher in subsequent years. RPRA did not approve the deferral because it had mixed stakeholder support, added financing costs to future fees, and would take additional effort to administer.

Paint producers will not be reimbursed for previous years.

RPRA is committed to continuous improvement in its approach to fee setting. The HSP fee model used in 2021 and 2022 was reasonable, consistent with fee setting principles, and

aligned with the other resource recovery programs at that time. The revised model for 2023 better balances the fee burden among the major material groups in the program. RPRA is not considering reimbursement for previous years as a result of this revision.

Appendix C: Questions and answers

Below are the questions received during the consultation webinar on February 9, 2023, and RPRA’s responses. No HSP-specific questions were received at the webinar on October 21, 2022 for HSP and Blue Box producers. Questions not relevant to this consultation have been excluded. Some questions were edited for length and clarity.

Question	Response
<p>Why is the proposed fee so much higher than what we paid last year, and also higher than your original proposal?</p>	<p>The proposed fees have changed because RPRA is balancing the fee burden between paints and coatings producers and automotive materials producers.</p> <p>The proposed revised fee model balances the fee burden between the two largest groups of HSP producers by allocating separate cost recovery targets to each group based on the number of producers. Subsequently per-Kg rates are applied to each group based on the predicted supply from each group on which 2023 fees will be charged.</p> <p>Because RPRA uses a weight-based approach to set fee rates, producers of paints and coatings materials have historically paid most of the HSP program fees to date. The HSP fee model used to set fees in 2021 and 2022 resulted in little or no fee increases for automotive materials in the aggregate during the transition from the WDTA to RRCEA, unlike fees for other HSP materials. This means that automotive materials producers have paid a much smaller share of RPRA’s total program fees than they did under the WDTA.</p>
<p>The original proposal was determined to be fair and suitable when proposed on October 6, 2022. What has changed or what new information has been received since October 6, 2022 to support the Revised Proposal?</p>	<p>RPRA revised the proposed 2023 fees for producers of HSP categories A&B based on feedback received during the consultation in fall 2022. Paints and coatings producers continued to express concerns that they were bearing a disproportionately high share of the total HSP program cost. Further analysis by RPRA staff using two years of HSP Program data confirmed that paints and coatings producers were estimated to pay more than 85% of the total estimated cost of the 2023 HSP program, while producers of automotive materials were estimated pay less than 15%. RPRA also had two years of experience implementing the program, and new Registry portals were launched in fall 2022 with separate portals for paints coatings and solvents producers on the one hand, and automotive producers on the other.</p>

	<p>The revised proposal is meant to better reflect the amount of relative effort expended by RPRA to administer the HSP program.</p>
<p>The revised proposal includes a large year-over-year increase in fees for automotive materials. Does this meet RPRA's General Fee Setting Policy? Can this type of increase be expected for other materials or programs?</p>	<p>RPRA's General Fee Setting Policy states that fee models and rates are be set according to the following principles:</p> <ul style="list-style-type: none"> - Clear legal authority - Transparency and consultation - Determine and fairly allocate full costs - Commitment to continuous improvement - Recognize equity considerations - Simplicity and predictability - Sustainability and agility <p>RPRA has upheld these principles by consulting extensively and responding to stakeholder feedback by using available data to better balance the fee burden between the major material groups in the program.</p> <p>The substantial one-time adjustment for automotive materials producers reflects cost increases related to the transition from the WDTA legacy program to the RRCEA, which is not expected to be repeated again.</p>
<p>Were any other fee models considered? For example, other fee models which have been declined in the past, such as a three-tiered model?</p>	<p>RPRA considered transitioning to flat fees – tiered within or across RRCEA programs – as part of the review of RPRA's Cost Allocation and Fee Model by a third-party consultant in 2021 and the beginning of 2022.</p> <p>The consultant and RPRA determined that moving to a model that eliminates weight-based fees in favour of flat fees would significantly shift the burden of costs from producers supplying large amounts of regulated material annually to producers supplying medium and smaller amounts of obligated material annually.</p> <p>Charging weight-based fees is also aligned with the objectives of the government's producer responsibility regulatory framework to hold producers individually accountable and financially responsible for the products and packaging they supply into the market and avoids any competitive impacts for producers selling the same products.</p> <p>The summary of findings from the consultant's report on RPRA's Cost Allocation Methodology and Fee Setting Model is available on our website.</p>
<p>You mentioned price stability, but this does not seem to be aligned</p>	<p>RPRA will consider phasing in fee increases as part of our decision making during this consultation and</p>

with such a significant increase proposed for automotive material producers. Was a phased approach considered that would see this shift occur over a couple of years?	encourages submissions that indicate whether stakeholders would prefer to spread a fee increase over more than one year.
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