



Defining large and small HSP producer categories for supply data verification

Consultation Report

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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 average weight of supply, as outlined in the Hazardous and Special Products (HSP) Regulation, to define the cut-off thresholds for producers of **categories A** (oil filters, non-refillable pressurized containers) and **B** (oil containers, antifreeze, solvents, paints and coatings, pesticides, refillable pressurized containers) supply data verification reporting.

The consultation period took place from March 7 to April 5, 2024, and RPRA consulted with HSP producers who are required to submit a supply data verification report. This report gathered feedback on the method to define cut-off thresholds used to determine if a producer is large and required to submit a verification report, or small and only subject to compliance inspections. Feedback received during the consultation period is summarized in the [What we heard](#) section and our responses are in [Appendix B](#). The list of stakeholders that submitted written feedback are in [Appendix A](#).

The revised [HSP Supply Data Verification Procedure](#) with the supply data verification cut-off thresholds was posted to RPRA's website on May 30, 2024, and all HSP category A and B producers were notified the same day.

Questions about this report or the consultation 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 *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

Background

Under the [HSP Regulation](#), producers of categories A and B are required to report supply data to RPRA each year. Supply data must be reported in accordance with the HSP Verification and Audit Procedure.

In 2022, RPRA [consulted on the principles and methodologies](#) outlined in the HSP Verification and Audit Procedure. In addition to determining that only large producers will be required to submit a verification report beginning in 2024, RPRA made the following decisions based on feedback received:

- All category A and B producers were required to submit a one-time supply data verification report to RPRA in 2023 (the first verification reporting year), and
- To consult on two producer categories (i.e., large and small) after receiving 2023 verified supply data from HSP producers*.

*The defining large and small HSP producer categories for supply data verification reporting consultation is a result of this decision.

Process

From March 7 to April 5, 2024, RPRA held a consultation to determine the cut-off thresholds to define large and small HSP producer categories for supply data

verification reporting. RPRA’s proposed methodology was to use the average weight of supply from the previous calendar year that determines a producers’ collection system requirements, as outlined in the HSP Regulation and in the following chart:

Type of HSP	Large producer’s average weight of supply (tonnes)
Antifreeze	300 or more
Non-refillable pressurized containers	100 or more
Oil Containers	55 or more
Oil filters	100 or more
Paints and coatings	1,000 or more
Pesticides	9 or more
Refillable pressurized containers	100 or more
Solvents	70 or more

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

Category A and B producers received an email on March 7 notifying them of the consultation, the proposal and how to submit feedback. The proposal asked producers to submit feedback on the following questions:

1. Are there additional methods that RPRA should consider? If so, what are the advantages and disadvantages?
2. The proposed cut-off thresholds for some types of HSP capture a lower percentage of aggregate market supply weights. Is this acceptable or do we need to establish cut-offs that encompass a greater and similar percentage for each type of HSP?

What we heard

RPRA received five written submissions during the consultation period. Feedback related to what we were consulting on is summarized by key themes below. Any feedback received that was unrelated to this consultation was not included in this report.

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 producer cut-off thresholds:

- One stakeholder agreed with RPRA's proposed method to define the producer cut-off thresholds by using the average weight of supply outlined in the HSP Regulation.

Additional methods RPRA should consider:

- One stakeholder advised RPRA conducts a risk-based analysis that considers both impact and likelihood instead of a producer's size within a particular HSP material.
- One stakeholder proposed RPRA considers a tiered categorization system that introduces intermediate levels between large and small producers with the goal of tailoring compliance requirements more closely to the producer's operational scale. They also noted that this approach may introduce complexities in administration and defining boundaries between categories.
- Another stakeholder recommended RPRA adopts a single threshold, based on aggregate HSP supply, which would capture 80% of aggregate supply over a three-year period, and starting with 1000 tonnes of HSP for 2024. This suggestion is based off the approach that another provincial environmental regulatory body follows.
- The other two stakeholders who provided feedback did not provide additional methods RPRA should consider.

Percentage of aggregate market supply weights:

- One respondent suggested RPRA should use different cut-off thresholds than the large and small producer categories in the HSP Regulation. This suggestion is so they more evenly capture the market share across all materials, ensuring that a similar percentage of aggregate market supply weight is incorporated for each type of HSP.

Reducing administrative burden:

- One respondent acknowledged that the proposed methodology reduces administrative burden for small producers but not large producers.
- One stakeholder expressed their concern with the additional administrative burden supply data verification may have on producers.

Other:

One stakeholder provided the following feedback about the consultation process:

- A longer consultation period would have provided producers with more time to submit feedback.
- A webinar to engage with producers would have been valuable.

Conclusion

RPRA appreciates the thoughtful feedback provided throughout the consultation period and considered each submission when revising the HSP Supply Data Verification Procedure with the cut-off thresholds for large and small producers.

RPRA made the decision to use the average weight of supply from the previous calendar year, as outlined in the HSP Regulation, to define the cut-off thresholds based on the following reasons:

- Some material categories have fewer producers than others and this method evenly captures the market share in each category,
- To be consistent with the regulation, which has the following advantages:
 - Reduces administrative burden (e.g., approximately 50 HSP producers are considered large out of a total of 216), and
 - Minimizes confusion of who is defined as a large and small producer.
- Note: In future years, RPRA will review the average weight of supply for each type of HSP to ensure that large and small producer categorization accurately reflects the HSP supply in Ontario for future reporting years.

Producers will first use these cut-off thresholds when submitting their supply data verification report to RPRA in 2024 and onwards.

The revised [HSP Supply Data Verification Procedure](#) was posted to RPRA's website on May 30, 2024, and all HSP category A and B producers were notified the same day.

Appendix A: Stakeholders that submitted feedback

The five submissions were received from the following stakeholders:

- Automotive Materials Stewardship
- Canadian Consumer Specialty Products Association
- Canadian Vehicle Manufacturers' Association
- HDCPA Professional Corporation
- Scotts Canada Limited

Appendix B: Response to stakeholder feedback

RPRA considered all feedback related to the consultation as it finalized large and small HSP producer categories for supply data verification. Below are RPRA's response to the feedback from the ['What we heard'](#) section of the consultation report.

Additional methods RPRA should consider:

One respondent advised that RPRA conducts a risk-based analysis that considers both impact and likelihood instead of a producer's size within a particular HSP material. The reason RPRA chose to use set thresholds based on producer's average supply volume is because we wanted a consistent and predictable methodology that producers can reference to prepare for their verification requirements well in advance of reporting deadlines.

One stakeholder proposed RPRA considers a tiered categorization system that introduces intermediate levels between large and small producers with the goal of tailoring compliance requirements more closely to the producer's operational scale. However, as the respondent noted, this may convolute the compliance requirements for producers and create additional administrative burden. Moreover, the materials covered by the HSP Regulation are diverse, creating complexity in defining boundaries and introducing additional cut-offs for each material.

Another stakeholder recommended RPRA adopts a single threshold, based on aggregate HSP supply, which would capture 80% of aggregate supply over a three-year period, and starting with 1000 tonnes of HSP for 2024. This suggestion is based off the approach that another provincial environmental regulatory body follows. RPRA conducted an analysis to consider this feedback. Based on the analysis, the proposed alternative method of a single threshold was not considered because:

1. Certain materials (such as paints and coatings) would be overrepresented, while others (such as refillable pressurized containers) would not be captured at all,
2. It would not provide a consistent compliance requirement across materials due to how much they vary in terms of weight and how each are processed and reused, and
3. The other provincial regulators' procedures have the following variances from the HSP Regulation:
 - Their procedures are based on a revenue threshold for reporting exemptions whereas the HSP Regulation exemption is based on weight, and
 - At the time of our analysis, we could not find a producer categorization cut-off like there is in the HSP Regulation.

In addition, the approach that another provincial environmental regulator follows may not be applicable to the Ontario market or the desired compliance outcomes of the

regulations RPRA oversees. However, RPRA does take into consideration alternative approaches from other regulatory bodies as we seek to harmonize with other jurisdictions, where possible.

Percentage of aggregate supply weights:

One respondent suggested RPRA should use different cut-off thresholds than the large and small producer categories in the HSP Regulation. This suggestion is so they more evenly capture the market share across all materials, ensuring that a similar percentage of aggregate market supply weight is incorporated for each type of HSP. Some material categories have fewer producers than others and RPRA believes that this method evenly captures the market share in each category. As mentioned in the consultation proposal, RPRA will review the average weight of supply for each type of HSP to ensure that large and small producer categorization accurately reflects the HSP supply in Ontario for future reporting years.

Reducing administrative burden:

Two respondents expressed concern with the additional administrative burden supply data verification may have on large producers. RPRA is committed to reducing administrative burden while supporting compliance and the government's regulatory outcomes. Approximately 50 HSP producers out of a total of 216 are required to submit a supply data verification report. RPRA is requiring verification of supply data for large producers as they have a bigger impact on regulatory outcomes and their reports will provide credibility and confidence on the data reported to us. As outlined in the procedure, large producers have the option to use either external auditors or internal qualified verifiers to perform the verification. RPRA provided these two options to help reduce administrative burden.

Other:

RPRA received the following feedback about the consultation process:

- A longer consultation period would have provided producers with more time to submit feedback.
- A webinar to engage with producers would have been valuable.

We appreciate this feedback and will take it into consideration to improve future consultations.

RPRA received additional feedback on topics outside of the scope of the consultation and will respond to the stakeholders directly.