



February 26, 2021

Submitted via online and email

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Dear Madam:

Re: request for clarifications regarding draft HSP regulation, ERO# 019-2836

We have reviewed the draft Hazardous and Special Waste Regulation which has been posted on the Environmental Registry of Ontario. In order to prepare a submission regarding the draft regulation, in the context of the principles set out in the ERO proposal, we request clarifications with respect to the wording and intent of the HSP regulation as follows:

1. Apparent Expansion in Product Definition of Paint and Coatings (section 1)

The Stewardship Ontario (SO) MHSW steward rules define "paints and coatings" as:

"Paints and Coatings means latex, oil and solvent-based architectural coatings including paint and stains whether tinted or untinted" in a container size of up to 30L. (emphasis added)

The approved Product Care Industry Stewardship Plan (ISP) used the same definition for paint and coatings as well as:

- adding all aerosol paints, not limited to architectural
- adding Non-pesticide marine coatings
- setting a maximum container size of 25 L

Also, it is noted that the Ontario paint and coatings definition was interpreted to include bitumen based foundation, roof and driveway coatings, which are not included in other provinces except Alberta.

The paint and coatings definition as proposed in the HSP regulation in section 1 is

"paints and coatings" means latex, oil or solvent-based coatings, including paints and stains, whether tinted or untinted, but does not include paints and coatings supplied in containers that have a capacity greater than 30 litres;

Clarifications requested:

- a) did the Ministry intentionally remove the descriptor "architectural", the result of which would result in a substantial expansion of the existing definition and include a broad range of industrial and highly specialized paints and coatings, unlike any other paint EPR program in the world.
- b) In the case that the definition is intended to be limited by the descriptor "architectural" please advise if bitumen-based coatings are intended to be excluded (as in all other provinces of Canada except Alberta.)

2. Empty HSP Paint Containers in the Blue box (section 3)

Section 3 (3) states

“Despite subsection (2), empty containers that no longer contain Category B Products and that are also blue box materials, as defined in subsection 2 (1) of the proposed Blue Box regulation, except for empty oil containers and refillable pressurized containers, may be collected and managed under either this Regulation or the proposed Blue Box regulation.”

The proposed Blue Box regulation, <https://ero.ontario.ca/notice/019-2579> under “Blue Box Materials” 2. (2) 3. states *Blue box material* “does not include the following materials:

- a. *A material included in the Municipal Hazardous or Special Waste Program, if that program is in operation under the Waste Diversion Transition Act, 2016.”*

Clarification Requested

Will the Blue Box program be required to accept empty paint containers or does the use of the wording in the HSP regulation of “may be required” allow either an HSP program or a blue box program the discretion to accept or refuse an empty paint container?

3. Types of Generators served by the Program (no section reference)

The Stewardship Ontario MHSW program and the Product Care ISP paint programs both are limited to waste paints and coatings generated by residential consumers, and small quantity industrial, commercial and institutional (ICI) Generators, as specified in the Minister’s Program Request Letter to SO dated December 12, 2006. Currently the Product Care paint ISP program excludes generators who are HWIN (Hazardous Waste Information Network) registered generators, who are required to manage their own waste paint. HWIN is defined in R.R.O. 1990, Reg. 347: General – Waste Management under Environmental Protection Act, R.S.O. 1990, c. E.19.

The proposed HSP regulation contains no limitation as to the type of generator the program is required to service. This is consistent with the paint stewardship regulations in all other Canadian provinces.

Clarification Requested.

Is it the Ministry’s intent that the HSP regulation applies to all generators of paint and coatings, including IC&I HWIN registered generators?

4. Meaning of “Territorial districts” with respect to establishing collection sites (section 10(3)2)

In Section 1:

“territorial district” means a geographic area, other than a municipality, named and described in Schedule 2 to Ontario Regulation 180/03 (Division of Ontario into Geographic Areas) made under the Territorial Division Act, 2002;



Section 10(3)2 states:

“2. In each territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, the producer shall establish and operate at least one HSP collection site at which the applicable hazardous and special product is collected.”

The following is an excerpt from Schedule 2 to Ontario Regulation 180/03 which appears to designate “ALGOMA” as one “territorial district” in column 1, with a description in column 2 of the geographic areas included in the Territorial District. Also added are the populations of the Single Tier municipalities listed in Schedule 2 which are 1000 or more.

SCHEDULE 2

GEOGRAPHIC AREAS (TERRITORIAL DISTRICTS)

Column 1	Column 2	
Name of Geographic Area	Description of Geographic Area	Population
ALGOMA	Consisting of the geographic area of the Territorial District of Algoma which consists of,	
	(a) the single-tier municipalities of,	
	Blind River,	3,472
	Bruce Mines,	
	Dubreuilville,	
	Elliot Lake,	10,741
	Hilton,	
	Hilton Beach,	
	Hornepayne,	
	Huron Shores,	1,664
	Jocelyn,	
	Johnson,	
	Laird,	1,047
	Macdonald, Meredith and Aberdeen Additional,	1,609
	Michipicoten,	
	Plummer Additional,	
	Prince,	1,010
	Sault Ste. Marie,	73,368
	Shedden,	
	St. Joseph,	1,240
	Tarbutt and Tarbutt Additional,	
	The North Shore,	
	Thessalon,	
	White River; and	
	(b) the geographic townships and the remaining territory set out in clause (e) of paragraph 42 of the Schedule to the <i>Territorial Division Act</i> , as that clause read on December 31, 2002, excluding the geographic township of Tennyson.	

Clarification Requested

Using Algoma Territorial District as an example, is a "Territorial District" the one geographic location in Column 1, being Algoma Territorial District, or the 8 geographic locations in Column 2 which have a population of more than 1000.

5. Event Requirement (s. 10 and s. 14)

Section 10(3)3 states:

In each local municipality with a population of 5,000 or more, as reported by Statistics Canada in the most recent official census, the producer shall establish and operate HSP collection events at which the applicable hazardous and special product is collected, as follows:

- i. If the population is 500,000 or less, the producer shall establish and operate at least one HSP collection event for every 75,000 people or portion thereof.*
- ii. If the population is more than 500,000, the producer shall establish and operate at least seven HSP collection events for the first 500,000 people, and at least one HSP collection event for every 150,000 people or portion thereof for the portion that surpasses 500,000.*

"If the HSP collection event is held in respect of a hazardous and special product in a municipality, it must be held at least 30 days after the last day of the previous HSP collection event that was held in that municipality in respect of that hazardous and special product."

Clarification Requested

According to s. 10(3)3 a city of 1.5 million population would be required to hold 14 collection events and according to s. 14(3) the events must be at least 30 days apart which would require more than one year.

6. Offsetting collection sites (Section 15)

Section 15 provides (in part):

Reduction in HSP collection sites

15(1) Subject to subsection (5), a producer of Category A Products or Category B Products may reduce the number of HSP collection sites the producer is required to establish and operate in a local municipality or territorial district under section 10 or 12, as the case may be, by the percentage of residences in the municipality or territorial district, including residences in multi-unit residential buildings,

- a) from which the producer collects that category of HSP, at least four times during the applicable performance period; and*
 - b) to which the producer distributes adequate containers, where appropriate, for the collection of the HSP, at no charge.*
- (2) Subject to subsections (3) and (5), a producer may reduce the number of HSP collection sites they are required to establish and operate in a local municipality or territorial district under section 10 or 12, as the case may be, by no more than 50 per cent if one or more of the following services are provided by the producer:*
- 1. The producer provides an accessible call-in service for consumers to schedule a pick-up of 10 to 50 litres or 10 to 50 kilograms of Category A Products or Category B Products,*

as the case may be, from residences in the municipality or territorial district, including residences in multi-unit residential buildings, in order to arrange for the curbside pickup of the products from consumers.

2. The producer arranges for and provides curbside pickup of Category A Products or Category B Products, as the case may be, from consumers referred to in paragraph 1 in accordance with the HSP Collection, Processing and Disposal Procedure.

[...]

(4) Subject to subsection (5), a producer of Category A Products or Category B Products may replace up to 25 per cent of the total number of HSP collection sites the producer is required to establish and operate in a local municipality or territorial district under section 10 or 12, as the case may be, with HSP collection events in accordance with the following rules:

1. At least one HSP collection event must be provided in place of each HSP collection site.

2. [...]

(5) Despite subsections (1), (2) and (4), the number of HSP collection sites the producer is required to establish and operate shall not be reduced below one HSP collection site or one HSP collection event in a local municipality or territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, in which the producer supplied HSP at a retail location in the previous calendar year.

Clarification Requested

- 1) Is the difference between 15(1) and 15(2) that in 15(1) it must be a scheduled pickup service and in 15(2) it must be "call in"?
- 2) In s. 15(2) it refers to "one or more of the following services", however the following paragraphs 1 and 2 appear to be interrelated.
- 3) In s. 15(3) please confirm if the number of event(s) required to off-set collection site(s) is included in the total number of events established under section 14?
- 4) In s. 15(5) please confirm the "offset options" are not available in any municipality of 40,000 or less (for which 1 collection site is required) unless the product is not sold at retail in that municipality
- 5) Will the HSP Collection, Processing and Disposal Procedures be finalized before the HSP consultation closes on March 28, 2021?

Thank you for the opportunity to submit the points above for clarification. Product Care is hoping to receive a quick reply from the Ministry as the responses will impact Product Care's HSP consultation submission which is due on or before March 28, 2021.

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