

Global Automakers of Canada's Comments on Ontario's Draft Hazardous and Special Products Regulation

March 2021

As Ontario continues its shift towards a full producer responsibility framework for reduction, reuse and recycling of resources, our association and its members want to provide the following comments on the draft Hazardous and Special Products (HSP) regulation currently under consideration.

Automotive stewards make up one of the sectors of Ontario's economy that participates in multiple stewardship programs in the province. Having participated in the transition of the tires program and the batteries program to the individual producer responsibility (IPR) model, we have gained some insight that we hope will aid the Ministry of Environment, Conservation and Parks (MECP) as the HSP program is also transitioned.

Our comments are as follows:

1. Alignment of HSP regulation with other Ontario waste regulations

While our comments will focus on the draft HSP regulation, we also wanted to re-iterate our broader view that MECP should continue to work to align Ontario's waste regulations to reduce burden for businesses in the province. MECP has recently proposed opportunities to reduce administrative burden and increase alignment between the Tires, Batteries, and EEE regulations to which we provided comment on March 5th. As such, we believe that the HSP regulation must be considered in this process as well.

We believe the alignment opportunities below would follow suit with our previous comments:

- In reference to section 5, the “**producer**” **hierarchy** should match the current rule on Tires where the brand holder referred to in section 5(1)(a) is resident in Ontario. This would align with our suggestions in our previous March 5th comment.
- MECP suggested that **general P&E requirements** could be reduced in the Tires regulation for improved alignment with Batteries/EEE regulation. In our previous comment, we expressed our support for this change and now request that Part V of the HSP regulation also align with the Batteries/EEE regulation.
- Sections 25 and 35: MECP suggested that the reduction of **visible fee requirements and related verification audit requirements** in the Tires regulation could be an opportunity for burden reduction. In our previous comment, we expressed our support for this and suggested alignment of the Tires regulation with the Batteries/EEE regulation. We believe this should also apply to the HSP regulation.
- MECP suggested that the reduction of **supply data auditing requirements** in the Tires regulation could be an opportunity for burden reduction. In our previous comment, we expressed our support for this and suggested alignment of the Tires regulation with the Batteries/EEE regulation. We believe the HSP regulation should align with the Batteries regulation as well by removing the auditing requirements for supply data.

- Should the Ministry decide to keep the auditing requirements, we would recommend that the audit reports' due dates be aligned for all waste regulations to **June 30th**.
- Sections 29 and 31: We believe regular **annual supply data reporting requirements** should fall on the same date for all designated waste products. In our most recent comments to MECP, we mentioned that April is a critical time for financial auditing and aligning reporting due dates for all waste regulations to **May 31st** would reduce burden.
 - On timing proposed in the HSP regulation for **initial reporting, registration, and PRO selection**, please see comment #2 below.
- On proposed **data requirements for registration and reporting**, please see comment #3 below.
- On proposed **targets for management and recycling**, please see comment #4 below.

2. The initial registration date for producers and the accompanying historical data reporting requirement should be delayed to August 31st, 2021

We are concerned that this deadline, only two months after the consultation on the draft regulation, leaves little room for producers to evaluate the impacts of the final regulation, understand its final requirements, select a PRO to meet their needs, register, and finally provide the historical data report. We are concerned that this will essentially create a monopoly in the market with the current service providers under the MHSW program as they are the only ones who would be capable of demonstrating capacity to meet producer needs in such a short window.

Section 26 of the draft regulation requires that producers of HSP in Ontario initially register with the Resource Productivity and Recovery Authority (RPRA) on May 31st, 2021. At this time, producers are also required to present to RPRA an initial report including historical data on products supplied to market in 2018, 2019, and 2020. Further, this initial report is required to include the identification, if the producer has chosen to do so, of any producer responsibility organization (PRO) that has been engaged to handle producer obligations under the regulations.

We are requesting that MECP delay the initial reporting and registration requirements to **August 31st, 2021** to provide reasonable time for producers to receive and understand the final regulations, set up with a PRO, register, and report to RPRA.

3. MECP must accept data in its current form from producers and require RPRA to create a weight conversion tool for the purposes of meeting regulatory requirements

The proposed HSP regulation requires producers to report materials provided to market in units of weight when the metric typically used by industry is volume (e.g., antifreeze, antifreeze/oil containers) and number of units (e.g., oil filters). We recognize that this weight-based approach is in line with other Ontario waste regulations. However, we are concerned, especially considering that the proposed initial report is due May 31st of this year, that adequate consideration has not been taken to assess how this change of metric will impact producers.

We are requesting that, from a practical perspective, MECP accept data from producers in their current form and that a conversion tool should be developed by RPRA and approved (similar to the current Tires program) for initial and future reporting purposes.

4. 100% management targets for oil filters and 100% recycling efficiency rates for antifreeze, oil containers, and refillable pressurized containers are unrealistic

Section 17 and Section 20 of the draft regulation detail the management percentages required for producers of Category A and Category B products. For oil filters, under Category A, the management percentage is proposed at 100% for each performance period. For antifreeze, oil containers, and refillable pressurized containers, the regulation stipulates that they must be managed by a processor who can achieve a 100% average recycling efficiency rate.

We are concerned with any targets, whether they are management percentages or recycling efficiency rates, that are set at 100%. No other waste programs in Ontario currently stipulate 100% targets. Given that the new regulation moves responsibility fully to the producers, we would now be liable if a processor or collector fails to meet this high threshold.

We recommend that MECP reduce these requirements and consider implementing a gradual increase in stringency.

We appreciate this opportunity and hope our comments will be given proper consideration. We look forward to continuing the dialogue with the Ministry.

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Association Background:

Global Automakers of Canada (GAC) is the national trade association representing the Canadian interests of 15 of the world's most respected automakers. Our members include: BMW Group Canada Inc, Honda Canada Inc., Hyundai Auto Canada Corp., Jaguar Land Rover Canada ULC, Kia Canada Inc., Maserati Canada Inc., Mazda Canada Inc., Mercedes-Benz Canada Inc., Mitsubishi Motor Sales of Canada, Inc., Nissan Canada Inc., Porsche Cars Canada Ltd., Subaru Canada, Inc., Toyota Canada Inc., Volkswagen Group Canada Inc. and Volvo Car Canada Ltd. Together our members represent more than 25 brands in the Canadian automotive market.

The GAC advocates for sound public policy to support a competitive and sustainable automotive market in Canada. Our members are committed to meeting the mobility needs of Canadians by providing greater consumer choice, offering leading edge safety and environmental technologies and eliminating unnecessary regulatory and trade barriers – consistent with the principles outlined in the *Made-in-Ontario Environment Plan*.

In 2020, the member companies of the GAC sold 367 466 vehicles in Ontario representing 58% of the Ontario market. Further our members produced 57% of the vehicles built in Canada at Ontario plants in Alliston, Cambridge and Woodstock, and fully 58% of the vehicles sold by member companies in Canada were built in the NAFTA region, demonstrating a commitment to « building where they sell ». In 2020, Toyota assembled the most vehicles of any manufacturer in Canada and Honda was the third largest producer out of the five Canadian vehicle manufacturers.

Our members have been at the vanguard of the introduction of advanced technology vehicles, whether the technologies be environmental, such as conventional hybrid vehicles, plug-in battery electric vehicles, pure battery electric vehicles or hydrogen fuel cell electric vehicles; or vehicles incorporated the latest Advanced Driver Assistance Systems (ADAS) and increasingly high levels of automation.