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*This draft regulation is provided solely to facilitate public consultation under section 16 of the Environmental Bill of Rights, 1993. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the draft regulation are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**RESOURCE RECOVERY AND CIRCULAR ECONOMY ACT, 2016**

**HAZARDOUS AND SPECIAL PRODUCTS**

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## **PART I DEFINITIONS**

### **Definitions**

#### **1. In this Regulation,**

“antifreeze” means a product containing ethylene or propylene glycol that is used or intended for use as a vehicle engine coolant, including factory fill initial charge of vehicle antifreeze, but does not include antifreeze that is supplied in a container that has a capacity greater than 30 litres;

“barometer” means a barometer that contains mercury and may contain electronic components;

“Category A Products” means, subject to any exceptions set out in the HSP Verification and Audit Procedure, any of the following hazardous and special products:

1. Non-refillable pressurized containers.
2. Oil filters;

“Category B Products” means, subject to any exceptions set out in the HSP Verification and Audit Procedure, any of the following hazardous and special products:

1. Antifreeze.
2. Paints and coatings.
3. Pesticides.

4. Solvents.
5. Oil containers.
6. Refillable pressurized containers;

“Category C Products” means, subject to any exceptions set out in the HSP Verification and Audit Procedure, any of the following hazardous and special products:

1. Barometers.
2. Thermometers.
3. Thermostats;

“Category D Products” means, subject to any exceptions set out in the HSP Verification and Audit Procedure, any of the following hazardous and special products:

1. Fertilizers;

“fertilizer” means any substance or mixture of substances containing nitrogen, phosphorus, potassium or other plant food, manufactured, sold or represented for use as a plant nutrient and regulated under the *Fertilizers Act* (Canada), but does not include the following:

1. Fertilizer that is used for commercial or agricultural purposes.
2. Fertilizer that is supplied in a container that has a capacity greater than 30 litres or 30 kilograms;

“hazardous and special products” or “HSP” means, subject to any exceptions set out in the HSP Verification and Audit Procedure, any of the following products:

1. Antifreeze.
2. Barometers.
3. Fertilizers.
4. Non-refillable pressurized containers.
5. Oil containers.
6. Oil filters.

7. Paints and coatings.
8. Pesticides.
9. Refillable pressurized containers.
10. Solvents.
11. Thermometers.
12. Thermostats;

“HSP collection event” means an event where HSP used by a consumer in Ontario is collected for the purpose of resource recovery or disposal;

“HSP Collection, Processing and Disposal Procedure” means the document entitled “Hazardous and Special Products Collection, Processing and Disposal Procedure” published by the Authority, as amended from time to time, and available on the Registry;

“HSP collection site” means a site where HSP used by a consumer in Ontario is collected for the purpose of resource recovery or disposal;

“HSP disposal facility” means a facility at which HSP is disposed of;

“HSP hauler” means a person who transports HSP that is used by a consumer in Ontario and is destined for processing or disposal;

“HSP processor” means a person who processes, for the purpose of resource recovery, HSP used by a consumer in Ontario;

“HSP return to retail collection site” means a retail location where HSP that is used by a consumer in Ontario is received for collection at no charge;

“HSP Verification and Audit Procedure” means the document entitled “Hazardous and Special Products Verification and Audit Procedure” published by the Authority, as amended from time to time, and available on the Registry;

“land disposed” has the same meaning as “land disposal” in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*;

“large producer” means a producer to whom section 10 applies;

“lubricating oil” means petroleum-derived or synthetic crankcase oil, engine oil, hydraulic fluid, transmission fluid, gear oil, heat transfer fluid or other oil or fluid used for lubricating machinery or equipment, but does not include lubricating oil that is supplied in a container that has a capacity greater than 30 litres or 30 kilograms;

“management requirement” means the minimum amount of HSP, determined under section 17, that a producer of Category A Products is required to manage;

“non-refillable pressurized container” means a pressurized container that cannot be refilled, but does not include the following:

1. An aerosol container.
2. A fire extinguisher.
3. A pressurized container that has a capacity greater than 30 litres;

“oil container” means a container that is used or intended to be used for the storage of lubricating oil, but does not include a container that has a capacity greater than 30 litres;

“oil filter” means a spin-on filter or element-style filter that is used to filter lubricating oil;

“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;

“performance period” means the applicable time period, set out under section 4, during which a producer is responsible for collecting or managing HSP;

“permanent establishment”,

- (a) has the meaning assigned by subsection 400 (2) of the *Income Tax Regulations* (Canada) in the case of a corporation, and
- (b) has the meaning assigned by subsection 2600 (2) of the *Income Tax Regulations* (Canada) in the case of an individual;

“pesticide” means pesticide, including fungicide, herbicide and insecticide, that is registered under the *Pest Control Products Act* (Canada), but does not include the following:

1. Insect repellents intended for personal use.
2. Sanitizers, disinfectants and antimicrobial products.

3. Pool chemicals.
4. Diatomaceous earth.
5. Pesticide supplied in a container that has a capacity greater than 30 litres or 30 kilograms;

“producer” means a person who is required to carry out responsibilities relating to HSP, as determined in accordance with section 5;

“producer responsibility organization” means a person retained by a producer for the purpose of carrying out one or more of the following producer responsibilities relating to HSP, but does not include an HSP processor retained solely for the purposes of processing HSP:

1. Arranging for the establishment or operation of a collection or management system.
2. Establishing or operating a collection or management system.
3. Arranging for the disposal of HSP.
4. Preparing and submitting reports;

“recycling efficiency rate” means the ratio of the weight of recovered resources from HSP received by an HSP processor to the weight of HSP received by that HSP processor;

“refillable pressurized container” means a pressurized container that can be refilled, but does not include the following:

1. A pressurized container that is used or intended to be used for the storage of propane.
2. A fire extinguisher.
3. A pressurized container that has a capacity greater than 30 litres;

“reserve” means a reserve as defined in the *Indian Act* (Canada);

“resident in Canada” means a person having a permanent establishment in Canada;

“resident in Ontario” means a person having a permanent establishment in Ontario;

“small producer” means a producer to whom section 12 applies;

“solvent” means a liquid that is intended to be used to dissolve or thin a compatible substance, but does not include,

- (a) water, or
- (b) a solvent supplied in a container that has a capacity greater than 30 litres or 30 kilograms;

“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*;

“thermometer” means a thermometer that measures body or air temperature and that,

- (a) contains mercury, and
- (b) may contain electronic components;

“thermostat” means a thermostat that contains mercury and may contain electronic components;

“volunteer organization” means a person who meets the requirements set out in section 7.

## **PART II GENERAL**

### **Designated class**

2. For the purposes of section 60 of the Act, hazardous and special products are a designated class of material.

### **Application**

3. (1) This Regulation applies to the following categories of HSP and a reference to a category of HSP is a reference to one of the following categories:

1. Category A Products.
2. Category B Products.
3. Category C Products.
4. Category D Products.

(2) This Regulation does not apply to the following products, regardless of whether or not they would fall into one or more categories of HSP:

1. Subject to subsection (3), blue box materials, as defined in subsection 2 (1) of the proposed Blue Box regulation (posted on the Environmental Registry of Ontario as ERO number 019-2579) to be made under the Act.
2. Packaging, including but not limited to corrugated boxes, boxboard boxes, plastic film, shrink wrap or printed materials.

(3) 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.

(4) In this Regulation, a reference to Category A Products or Category B Products includes a reference to the containers, including aerosol containers, within which they are supplied or packaged, that have a capacity of 30 litres or less and that are used or intended to be used for their storage, whether they contain HSP or are empty, including but not limited to,

- (a) containers for paints and coatings, including metal or plastic;
- (b) containers for solvents;
- (c) containers for antifreeze; and
- (d) oil containers.

### **Performance periods**

**4.** The following performance periods apply for the purposes of collecting or managing Category A Products or Category B Products under Parts III and IV:

1. July 1, 2021 to December 31, 2022.
2. Every calendar year, starting on January 1, 2023.

### **Producers**

**5.** (1) For the purposes of the definition of “producer” in section 1, with respect to Category A Products or Category B Products marketed to consumers in Ontario, the producer is,

- (a) subject to subsections (2), (3), (4) and (5), if the brand holder of the HSP is resident in Canada, the brand holder;
- (b) if there is no person described in clause (a) and the HSP is imported into Ontario by a person resident in Ontario, the importer;

- (c) if there is no person described in clause (a) or (b) and the HSP is marketed by a person resident in Ontario, the first person who marketed the HSP; or
- (d) if there is no person described in clause (a), (b) or (c) and the HSP is marketed by a person not resident in Ontario, the person who marketed the HSP.

(2) For the purposes of the definition of “producer” in section 1, with respect to Category C Products or Category D Products marketed to consumers in Ontario, if the brand holder of the HSP is resident in Canada, the brand holder is the producer.

(3) For the purposes of clause (1) (a) and subsection (2), if there are two or more brand holders of the HSP marketed to consumers in Ontario who are resident in Canada, the producer is the brand holder most directly connected to the production of the HSP.

(4) For the purposes of subsection (2), a brand holder who markets products that are similar to Category C products, but do not contain mercury, is also a producer for the purposes of sections 21, 22, 23, 25 and 26, subsections 29 (2), (3) and (4), section 30, subsections 31 (1) and (3) and sections 35, 36, 37 and 39.

(5) For the purposes of clause (1) (a) and subsection (2), if more than one item of HSP produced by different brand holders are marketed as a single package, the producer is the brand holder who is more directly connected to the primary product in the package.

(6) For the purposes of clause 61 (6) (c) of the Act, a person referred to in clause (1) (b) of this section is required to carry out the responsibilities of a producer under Part IV of the Act with respect to HSP if they market HSP to a consumer in Ontario or supply the HSP to another person in Ontario who will then market that HSP in Ontario.

### **Producer agreements, etc.**

6. (1) After submitting the information referred to in paragraphs 1, 2, 3 and 4 of subsection 26 (2) to the Authority, a producer may enter into a written agreement with one or more other persons in order to carry out and complete, on behalf of the producer, all or part of the producer’s requirements, responsibilities, activities or obligations under this Regulation, including direct reporting of or submission of information to the Authority.

(2) A producer who enters into an agreement described in subsection (1) is, subject to subsection (3), relieved from having to carry out and complete those requirements, responsibilities, activities or obligations, including, if applicable, submitting the information referred to in paragraphs 5 and 6 of subsection 26 (2) to the Authority, so long as the requirements, responsibilities, activities or obligations are duly carried out and completed on the producer’s behalf in accordance with this Regulation.

(3) An agreement referred to in subsection (1) does not have the effect of removing from a producer the responsibility to fulfil any requirements, responsibilities, activities or obligations

under this Regulation, and the producer shall be required to carry out and complete the requirement, responsibility, activity or obligation if the person with whom the producer has entered into an agreement fails to carry out and complete the requirement, responsibility, activity or obligation, or fails to do so within the time required by this Regulation.

(4) If an agreement referred to in subsection (1) relates to a producer responsibility organization completing any requirements, responsibilities, activities or obligations on behalf of more than one producer, the agreement must include provisions that allocate or that provide for a means of determining or assigning responsibility to each individual producer, including a means for determining or allocating a share of any total number, total value, total volume or total number of obligations completed by the producer responsibility organization on behalf of each producer.

(5) A copy of each agreement referred to in subsection (1) must be submitted to the Authority within 30 days after the date the agreement begins to apply to the producer in respect of the obligations to be carried out under this Regulation.

### **Volunteer organizations**

7. A volunteer organization is a person who,

- (a) is a brand holder who owns a brand that is used in respect of HSP;
- (b) is not resident in Canada;
- (c) has registered in the Registry in accordance with subsection 26 (5); and
- (d) has entered into a written agreement with a producer for the purpose of carrying out one or more producer responsibilities relating to HSP under section 26, 29, 30 or 31.

### **Exemptions**

8. If the weight of the following Category A Products, Category B Products or Category C Products, as the case may be, that is supplied by the producer in Ontario in the previous calendar year is not more than the following, the producer is exempt from the application of Parts III and IV and sections 26, 29, 30, 31 and 38 with respect to that particular product for that performance period:

- 1. Category A Products:
  - i. Non-refillable pressurized containers: 3 tonnes.
  - ii. Oil filters: 3.5 tonnes.
- 2. Category B Products:

- i. Antifreeze: 20 tonnes.
- ii. Paints and coatings: 10 tonnes.
- iii. Pesticides: 1 tonne.
- iv. Solvents: 3 tonnes.
- v. Oil containers: 2 tonnes.
- vi. Refillable pressurized containers: 8 tonnes.

### **PART III COLLECTION OF HSP**

#### **Producer requirements**

#### **Category A Products and Category B Products**

9. (1) Subject to section 8, every producer of Category A Products shall establish and operate a collection system for each applicable hazardous and special product in that category in accordance with the requirements set out in sections 10 to 13.

(2) Subject to section 8, every producer of Category B Products shall establish and operate a collection system for each applicable hazardous and special product in that category in accordance with the requirements set out in sections 10 to 13.

(3) Producers of Category B Products shall, for the purposes of paragraph 2 of subsection 10 (1) and paragraph 2 of subsection 12 (1), determine the average weight of each applicable hazardous and special product supplied in Ontario in a calendar year using the following formula:

$$(Y1 + Y2 + Y3)/3$$

in which,

“Y1” is the calculated weight of the hazardous and special product supplied in Ontario by the producer in the calendar year one year prior to the applicable performance period,

“Y2” is the calculated weight of the hazardous and special product supplied in Ontario by the producer in the calendar year two years prior to the applicable performance period,  
and

“Y3” is the calculated weight of the hazardous and special product supplied in Ontario by the producer in the calendar year three years prior to the applicable performance period.

(4) With respect to the data used to calculate an average weight under subsection (3), every producer referred to in subsection (2) shall use data determined in accordance with the HSP Verification and Audit Procedure and shall,

- (a) submit the data to the Authority at the time or times provided for in the HSP Verification and Audit Procedure; and
- (b) ensure that, before the data is submitted under clause (a), the data is also verified in accordance with the HSP Verification and Audit Procedure, beginning with respect to data relating to the 2018 calendar year and with respect to each subsequent calendar year.

### **Collection, large producers**

**10.** (1) The following producers shall establish and operate a collection system in accordance with this section during each applicable performance period:

1. Producers of Category A Products who are required under section 17 to manage 100 tonnes or more of non-refillable pressurized containers or oil filters, as the case may be.
2. Producers of Category B Products who supply the following average weight, or more, of an applicable hazardous and special product in Ontario in a calendar year, calculated in accordance with subsection 9 (3):
  - i. Antifreeze: 300 tonnes or more.
  - ii. Paints and coatings: 1,000 tonnes or more.
  - iii. Pesticides: 9 tonnes or more.
  - iv. Solvents: 70 tonnes or more.
  - v. Oil containers: 55 tonnes or more.
  - vi. Refillable pressurized containers: 100 tonnes or more.

(2) Producers of oil filters referred to in paragraph 1 of subsection (1) and producers of antifreeze or oil containers referred to in paragraph 2 of subsection (1) shall satisfy the requirements set out under either paragraph 1 or 2 of this subsection and shall satisfy all of the requirements set out under paragraphs 3 and 4 of this subsection:

1. Subject to section 15, the producer shall establish and operate HSP collection sites at which the applicable hazardous and special product is collected as follows:

- i. In local municipalities with one or more retail locations that supplied the applicable hazardous and special product to consumers in the previous calendar year, the producer shall establish and operate as many HSP collection sites in the subsequent calendar year as are equal to or greater than 75 per cent of the number of retail locations in the municipality, rounding up to the nearest whole number, that were operating in the previous calendar year and had supplied more than 500 kilograms of calculated weight in that year.
      - ii. In local municipalities with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, but without a retail location that supplies the applicable HSP to consumers, the producer shall establish and operate at least one HSP collection site.
      - iii. In territorial districts with one or more retail locations that supplied the applicable hazardous and special product to consumers in the previous calendar year, the producer shall establish and operate at least one HSP collection site within 30 kilometres of each retail location.
      - iv. In territorial districts with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, but without a retail location that supplies the applicable hazardous and special product to consumers, the producer shall establish and operate at least one HSP collection site or hold at least one HSP collection event each calendar year.
2. Subject to section 15, the producer shall establish and operate HSP collection sites at which the applicable hazardous and special product is collected as follows:
  - i. In each local municipality with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census,
    - A. if the population is 500,000 or less, the producer shall establish and operate at least one HSP collection site for every 1,000 people or portion thereof, or
    - B. if the population is more than 500,000, the producer shall establish and operate at least 500 HSP collection sites for the first 500,000 people, and at least one HSP collection site for every 2,000 people or portion thereof for the portion that surpasses 500,000.
  - ii. In each territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, at least one HSP collection site.

3. In each local municipality with one or more retail locations, the producer shall establish and operate HSP return to retail collection sites at which the applicable hazardous and special waste is collected as follows:
  - i. In each local municipality with 10 or more retail locations, the producer shall establish and operate the number of HSP return to retail collection sites that is equivalent to 10 per cent of the HSP collection sites, rounding up to the nearest whole number, that are located and operated at retail or automotive service centres located in that municipality.
  - ii. In each local municipality with nine or fewer retail locations, the producer shall establish and operate at least one HSP return to retail collection site to be located within that municipality.
4. 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.

(3) Producers of paints and coatings referred to in paragraph 2 of subsection (1) shall satisfy the following requirements:

1. Subject to section 15, 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 sites 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 site for every 40,000 people or portion thereof.
  - ii. If the population is more than 500,000, the producer shall establish and operate at least 15 HSP collection sites for the first 500,000 people, and at least one HSP collection site for every 150,000 people or portion thereof for the portion that surpasses 500,000.

2. Subject to section 15, 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.
3. 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.

(4) Subject to subsection (5), producers of non-refillable pressurized containers referred to in paragraph 1 of subsection (1) and producers of pesticides, refillable pressurized containers or solvents referred to in paragraph 2 of subsection (1) shall satisfy the following requirements:

1. Subject to section 15, in each local municipality with a population of 10,000 or more, as reported by Statistics Canada in the most recent official census, the producer shall establish and operate HSP collection sites 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 site for every 250,000 people or portion thereof.
  - ii. If the population is more than 500,000, the producer shall establish and operate at least two HSP collection sites for the first 500,000 people, and at least one HSP collection site for every 300,000 people or portion thereof for the portion that surpasses 500,000.
2. Subject to section 15, 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.
3. 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.

(5) Producers of non-refillable pressurized containers referred to in paragraph 1 of subsection (1) shall, in accordance with any conditions or requirements set out in the HSP Collection, Processing and Disposal Procedure, collect non-refillable pressurized containers from parks, campgrounds or other recreational areas that are operated by an organization, authority or entity established by the Government of Canada or the Province of Ontario or by a private campground if a representative or employee who has operational or maintenance responsibilities in respect of the park, campground or recreational area makes a request, in writing or in an electronic form, to the producer or the relevant producer responsibility organization, indicating that collection should be undertaken and the time at which such collection should be undertaken.

(6) For the purposes of subsection (5), the producer shall ensure that appropriately labelled collection containers suitable for visitors and patrons to place spent non-refillable pressurized containers for collection and storage are provided.

### **Call-in collection**

**11.** (1) Every producer who is required to establish or operate one or more collection sites under section 10 in a municipality or territorial district, and every producer who establishes or operates one or more collection sites on a reserve, shall collect, or retain a producer responsibility organization registered under section 27 to collect, if contacted by the municipality, territorial district or reserve, the hazardous and special products from the collection site within three months of the producer having been contacted.

(2) Subsection (1) applies to an HSP collection site that is located on a reserve in the Far North, as defined under the *Far North Act, 2010*.

(3) If a producer of Category C Products is contacted by a municipality, territorial district or reserve that has collected a Category C Product that is similar to the Category C Product supplied by the producer, the producer shall collect the HSP from the municipality, territorial district or reserve within three months of being contacted.

### **Collection, small producers**

**12.** (1) The following producers shall establish and operate a collection system in accordance with this section during each applicable performance period:

1. Producers of Category A Products who are required under section 17 to manage more than three and less than 100 tonnes of non-refillable pressurized containers or more than three and a half and less than 100 tonnes of oil filters, as the case may be.
2. Producers of Category B Products who supply the following average weight, or more, of an applicable hazardous and special product in Ontario in a calendar year, calculated in accordance with subsection 9 (3):
  - i. Antifreeze: more than 20 and less than 300 tonnes.
  - ii. Paints and coatings: more than 10 and less than 1,000 tonnes.
  - iii. Pesticides: more than one and less than 9 tonnes.
  - iv. Solvents: more than three and less than 70 tonnes.
  - v. Oil containers: more than two and less than 55 tonnes.
  - vi. Refillable pressurized containers: more than eight and less than 100 tonnes.

(2) Subject to section 15, producers of oil filters referred to in paragraph 1 of subsection (1) and producers of antifreeze or oil containers referred to in paragraph 2 of subsection (1) shall satisfy one of the following requirements:

1. In each local municipality or territorial district with one or more retail locations that supply the applicable hazardous and special product, the producer shall establish and operate as many HSP collection sites at which the applicable hazardous and special product is collected as are equal to or greater than 75 per cent of the number of retail locations in the municipality or territorial district, rounding up to the nearest whole number, that were operating in the previous calendar year.
2. The producer shall establish and operate HSP collection sites at which the applicable hazardous and special product is collected as follows:
  - i. In each local municipality with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census,
    - A. if the population is 500,000 or less, the producer shall establish and operate at least two HSP collection sites for every 2,500 people or portion thereof, or
    - B. if the population is more than 500,000, the producer shall establish and operate at least 400 HSP collection sites for the first 500,000

people, and at least one HSP collection site for every 5,000 people or portion thereof for the portion that surpasses 500,000.

- ii. In each territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, at least one HSP collection site.

(3) Subject to section 15, producers of paints and coatings referred to in paragraph 2 of subsection (1) shall satisfy one of the following requirements:

1. In each local municipality or territorial district with one or more retail locations that supply the producer's paints and coatings, the producer shall establish and operate as many HSP collection sites at which paints and coatings are collected as are equal to or greater than 75 per cent of the number of retail locations in the municipality or territorial district, rounding up to the nearest whole number, that were operating in the previous calendar year.
2. The producer shall establish and operate HSP collection sites at which paints and coatings are collected as follows:
  - i. In each local municipality with a population of 13,000 or more, as reported by Statistics Canada in the most recent official census,
    - A. if the population is 500,000 or less, the producer shall establish and operate at least one HSP collection site for every 40,000 people or portion thereof, or
    - B. if the population is more than 500,000, the producer shall establish and operate at least 15 HSP collection sites for the first 500,000 people, and at least one HSP collection site for every 150,000 people or portion thereof for the portion that surpasses 500,000.
  - ii. In each territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, at least one HSP collection site.

(4) Subject to section 15, producers of non-refillable pressurized containers referred to in paragraph 1 of subsection (1) and producers of pesticides, refillable pressurized containers or solvents referred to in paragraph 2 of subsection (1) shall satisfy one of the following requirements:

1. In each local municipality or territorial district with one or more retail locations that supply the applicable hazardous and special product, the producer shall establish and operate as many HSP collection sites at which the applicable hazardous and special

product is collected as are equal to or greater than 75 per cent of the number of retail locations in the municipality or territorial district, rounding up to the nearest whole number, that were operating in the previous calendar year.

2. The producer shall establish and operate HSP collection sites at which the applicable hazardous and special product is collected as follows:
  - i. In each local municipality with a population of 15,000 or more, as reported by Statistics Canada in the most recent official census,
    - A. if the population is 500,000 or less, the producer shall establish and operate at least one HSP collection site for every 250,000 people or portion thereof, or
    - B. if the population is more than 500,000, the producer shall establish and operate at least two HSP collection sites for the first 500,000 people, and at least one HSP collection site for every 300,000 people or portion thereof for the portion that surpasses 500,000.
  - ii. In each territorial district with a population of 1,000 or more, as reported by Statistics Canada in the most recent official census, at least one HSP collection site.

### **HSP collection sites**

**13.** (1) Every producer who establishes and operates an HSP collection site shall ensure that, with respect to each HSP collection site that is part of the producer's collection system, the following requirements are satisfied:

1. If the HSP collection site is not part of a retail location, the site must accept all Category A Products or Category B Products, as the case may be.
2. If the HSP collection site is part of a retail location, the site must accept, at a minimum, all Category A Products or Category B Products, as the case may be,
  - i. that are similar in use or application to the hazardous and special products supplied by the producer at that location, and
  - ii. that are returned in the original container in which the HSP was originally supplied.
3. The HSP collection site must accept containers that contained HSP, regardless of whether they are empty or still contain HSP.

4. The HSP collection site must be readily accessible to the public and must be operated to accept the applicable hazardous and special products during normal business hours throughout the performance period.
5. The HSP collection site must accept, at a minimum, up to 25 kilograms of the applicable hazardous and special product per day from any person.
6. If an HSP collection site is not part of a retail location and accepts more than the minimum amount of hazardous and special products set out in paragraph 5 from a person on a single day, the operator of the site shall record the person's name, contact information, any unique identifier assigned by the Registrar and the weight of hazardous and special products accepted.

(2) For greater certainty, an HSP collection site may be operated by or on behalf of one or more producers and may be relied on by one or more producers to satisfy the requirements set out in sections 10 and 12.

(3) Subject to subsection (4), if the operator of one of the following sites collects more than 100 kilograms of Category A Products or Category B Products, as the case may be, and notifies a large producer of HSP that falls into the same category collected at the site, or a producer responsibility organization retained by that producer with respect to that category of HSP, the producer or producer responsibility organization shall collect all of the HSP of which they were notified from the site within three months from the day they were notified:

1. An HSP collection site owned and operated by the Crown in right of Ontario.
2. An HSP collection site owned and operated by a municipality or territorial district with a population of less than 1,000, as reported by Statistics Canada in the most recent official census.
3. An HSP collection site owned and operated by and on a reserve.

(4) Subsection (3) does not apply to an HSP collection site that is located in the Far North, as defined under the *Far North Act, 2010*.

### **HSP collection events**

**14.** Every producer who establishes and operates an HSP collection event shall ensure that, with respect to each HSP collection event that is part of the producer's collection system, the following requirements are satisfied:

1. The HSP collection event must operate for a minimum of four consecutive hours.
2. If the HSP collection event operates consecutively for more than one day, it must be considered a single HSP collection event.

3. 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.
4. The producer must promote the HSP collection event in accordance with the HSP Collection, Processing and Disposal Procedure in the local community within the local municipality, territorial district or reserve where the HSP collection event is being held.
5. At the HSP collection event, the producer must accept containers that have a capacity of less than 30 litres and that contain or contained HSP, regardless of whether they are empty or still contain HSP.
6. The producer shall make reasonable efforts to ensure that the majority of the collection events held by the producer during each applicable performance period are held on a Saturday or Sunday.

#### **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 safe, 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.

(3) For the purposes of subsection (2), the producer shall ensure that consumers are able to communicate with the producer in order to arrange for the provision of any of the services referred to in paragraphs 1 and 2 of that subsection in accordance with the HSP Collection, Processing and Disposal Procedure and by,

- (a) telephone, email or facsimile;
- (b) texting and other electronic instant communications services; and
- (c) any other means provided for in 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. An HSP collection event must be readily accessible to the public, must operate for at least four consecutive hours on the day it is held and must accept all Category A Products or Category B Products, as the case may be.

(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.

## **PART IV MANAGEMENT OF HSP**

### **Producer requirements, Category A Products**

**16.** Subject to section 8, every producer of Category A Products shall establish and operate a system for managing each applicable hazardous and special product in that category by determining and satisfying their management requirement in accordance with sections 17 to 19.

### **Calculation of management requirement, Category A Products**

17. (1) In each performance period, every producer of Category A Products shall manage a minimum amount of materials from each applicable hazardous and special product in that category and shall determine the amount using the formulas set out in subsection (2).

(2) The formula referred to in subsection (1) is the following:

$$(Y1 + Y2 + Y3) / 3 \times MP$$

in which,

“Y1” is the weight of Category A Products, of which the person is a producer, that was supplied in Ontario in the calendar year one year prior to the relevant performance period,

“Y2” is the weight of Category A Products, of which the person is a producer, that was supplied in Ontario in the calendar year two years prior to the relevant performance period,

“Y3” is the weight of Category A Products, of which the person is a producer, that was supplied in Ontario in the calendar year three years prior to the relevant performance period,  
and

“MP” is the management percentage for the relevant performance period, which is,

- i. with respect to oil filters, excluding oil residue contained in the used oil filter as well as any oil which is captured, recaptured, extracted, collected or diverted during processing, 100 per cent for each performance period, and
- ii. with respect to non-refillable pressurized containers, 20 per cent for the July 1, 2021 to December 31, 2022 performance period and for the 2022 calendar year, 25 per cent for the 2023 and 2024 calendar years, 30 per cent for the 2025 calendar year and for every subsequent calendar year.

(3) With respect to the data used to calculate a management requirement under subsection (2), every producer referred to in subsection (1) shall use data determined in accordance with the HSP Verification and Audit Procedure and shall,

- (a) submit the data to the Authority at the time or times provided for in the HSP Verification and Audit Procedure; and
- (b) ensure that, before the data is submitted under clause (a), the data is also verified in accordance with the HSP Verification and Audit Procedure, beginning with respect to data relating to the 2018 calendar year and with respect to each subsequent calendar year.

### **Management of Category A Products**

**18.** Every producer of Category A Products who is required under section 17 to manage Category A Products shall ensure that all Category A Products collected at an HSP collection site by the producer or a producer responsibility organization under Part III is, within three months from the date the HSP is picked up from the collection site, processed in accordance with the HSP Collection, Processing and Disposal Procedure by an HSP processor who is registered under section 28.

### **Managed Category A Products criteria**

**19.** The following conditions apply for the purposes of satisfying a management requirement under section 17:

1. The weight of recovered resources that may be counted toward the management requirement must be from either oil filters or non-refillable pressurized containers, as the case may be, that were used by a consumer in Ontario and that were used to calculate the management requirement under section 17.
2. The oil filters and non-refillable pressurized containers referred to in paragraph 1 must have been, by the end of the management period,
  - i. managed in accordance with the HSP Collection, Processing and Disposal Procedure, and
  - ii. processed in accordance with the HSP Collection, Processing and Disposal Procedure by a processor who is required to register under section 28.
3. The weight of Category A Products, including recovered resources from that HSP, may only be counted once, by one producer, for the purpose of meeting a management requirement.
4. The following must not be counted toward the management requirement:
  - i. The weight of materials that are land disposed.
  - ii. The weight of materials that are incinerated.
  - iii. The weight of materials that are used as a fuel or a fuel supplement.
  - iv. The weight of materials that are stored, stockpiled, used as daily landfill cover or otherwise deposited on land.

### **Management of Category B Products**

**20.** (1) If a producer of Category B Products collects Category B Products, the producer shall ensure that the weight of recovered resources from the collected HSP has been, by the end of the calendar year in which the HSP was collected,

- (a) managed in accordance with the HSP Collection, Processing and Disposal Procedure; and
- (b) processed in accordance with the HSP Collection, Processing and Disposal Procedure by a processor,
  - (i) who is registered under section 28, and
  - (ii) who has an average recycling efficiency rate of at least,
    - (A) 100 per cent, with respect to antifreeze, oil containers and refillable pressurized containers, beginning in the 2023 calendar year,
    - (B) 70 per cent, with respect to paints and coatings, beginning in the 2022 calendar year, and
    - (C) 10 per cent, with respect to solvents, beginning in the 2022 calendar year.

(2) For the purposes of the recycling efficiency rates referred to in subclause (1) (b) (ii), the producer shall ensure that the values are verified in accordance with the HSP Verification and Audit Procedure.

### **Management of Category C Products**

**21.** (1) Subject to subsection (2), if a producer of Category C Products collects Category C Products, the producer shall ensure that the weight of recovered resources from the collected HSP has been, by the end of the calendar year in which the HSP was collected,

- (a) managed in accordance with the HSP Collection, Processing and Disposal Procedure; and
- (b) processed in accordance with the HSP Collection, Processing and Disposal Procedure by a processor,
  - (i) who is registered under section 28, and
  - (ii) who has an average recycling efficiency rate of at least 100 per cent, with respect to mercury from mercury containing barometers, thermometers or thermostats, beginning in the 2023 calendar year.

(2) For the purposes of the recycling efficiency rates referred to in subclause (1) (b) (ii), the producer shall ensure that the values are verified in accordance with the HSP Verification and Audit Procedure.

## **PART V PROMOTION AND EDUCATION**

### **Promotion and education**

#### **Producers of Category A Products and Category B Products**

**22.** (1) On or before July 1, 2021, the following producers shall implement a promotion and education program during each applicable performance period in accordance with subsection (2):

1. Producers of Category A Products who are required under section 9 to establish and operate a collection system for Category A Products and under section 17 to establish and operate a system for managing Category A Products.
2. Producers of Category B Products who are required under section 9 to establish and operate a collection system for Category B Products.

(2) Every producer referred to in subsection (1) shall implement a promotion and education program during each applicable performance period by, at a minimum,

- (a) making reasonable efforts to raise public awareness of the producer's efforts to,
    - (i) collect and recover HSP,
    - (ii) reduce, reuse and recycle HSP, if applicable, and
    - (iii) encourage public participation in those efforts; and
  - (b) publishing and clearly displaying the information set out under subsection (3) on their website on or before July 1, 2021, if the producer marketed HSP in Ontario between January 1, 2018 and December 31, 2020.
- (3) The information referred to in clause (2) (b) is the following:
1. The location of each HSP collection site that is part of the producer's collection system, for each applicable category of HSP, where consumers may return the HSP at no charge.
  2. A description of any collection services provided by the producer that are available other than at an HSP collection site.

3. A description of the resource recovery activities engaged in by the producer for each applicable category of HSP in the course of managing the HSP.

(4) In addition to the requirements set out in subsections (2) and (3), every producer referred to in subsection (1) who markets HSP to consumers at one or more retail locations shall, when implementing a promotion and education program during each applicable performance period,

- (a) produce and make available promotional and educational materials, including signs, posters or brochures, which market, promote or describe the HSP for consumers in retail locations and which describe the producer's collection activities and, if applicable, recycling activities, including,
  - (i) the producer's available collection activities,
  - (ii) any upcoming HSP collection events being offered by the producer or a producer responsibility organization engaged by the producer, and
  - (iii) any other activities or events which are authorized under the Act or this Regulation and which are designed to promote resource recovery or proper disposal, including collection, recycling or disposal;
- (b) make available the location and hours of operation of each of the producer's HSP collection sites;
- (c) provide a description of how consumers should safely store and handle the applicable HSP before bringing it to an HSP collection site; and
- (d) take reasonable steps to ensure that the materials referred to in clause (a) are displayed by retailers in a conspicuous location in close proximity to the HSP being marketed or advertised at the retail location.

(5) Every producer and every person who markets Category A Products or Category B Products to consumers in Ontario through a retail location which is situated within 60 kilometres of a reserve or which is located on a reserve, shall develop, in conjunction with Indigenous communities, specific promotional and education materials that are designed to promote the producer's activities referred to in subsections (2), (3) and (4).

(6) In addition to the requirements set out in section 14, every producer referred to in subsection (1) of this section who holds an HSP collection event shall ensure that,

- (a) each HSP collection event is promoted to the local community where the event is being held for at least one week prior to the event; and

- (b) a combination of two or more forms of media are used to promote the event, including but not limited to,
  - (i) local print publications,
  - (ii) local print media,
  - (iii) local radio,
  - (iv) local signage, or
  - (v) social media.

### **Producers of Category C Products**

**23.** (1) Every producer of Category C Products shall implement a promotion and education program during each performance period, beginning July 1, 2021, by, at a minimum, producing and making available promotional and educational materials, including signs, posters or brochures, which provide consumers with the following information, guidance or instruction:

1. That mercury-containing devices must be provided for collection to the municipality through municipal depots provided by the municipality, as well as at specified HSP collection sites that are not part of a retail location and at specified HSP collection events.
2. The location and hours of operation of each municipal depot, HSP collection site and HSP collection event referred to in paragraph 1.

(2) Every producer referred to in subsection (1) who markets HSP to consumers at one or more retail locations shall, when implementing a promotion and education program during each applicable performance period, take reasonable steps to ensure that the promotional and educational materials referred to in subsection (1) are displayed in a conspicuous location in close proximity to the HSP being marketed or advertised at the retail location.

(3) Every producer who markets Category C Products to consumers in Ontario through a retail location which is situated within 60 kilometres of a reserve or which is located on a reserve, shall develop, in conjunction with Indigenous communities, specific promotional and education materials that are designed to promote the producer's activities referred to in subsection (1).

### **Producers of Category D Products**

**24.** (1) Every producer of Category D Products shall implement a promotion and education program during each performance period, beginning July 1, 2021, by, at a minimum, producing and making available promotion and educational materials, including signs, posters or brochures, which provide consumers with the following guidance and instruction:

1. That consumers are encouraged to use up, share or otherwise dispose of unused fertilizer.
  2. That consumers are encouraged to refrain from dropping off or delivering any fertilizers to municipal depots or to any other events referred to in this Regulation.
- (2) Producers of Category D Products shall take reasonable steps to,
- (a) engage with other industry organizations in order to meet the requirements set out in subsection (1); and
  - (b) assist municipalities with managing fertilizers received from consumers.

### **Resource recovery charges**

**25.** Every producer and every person who markets HSP to consumers in Ontario and who identifies, in an advertisement, invoice, receipt or similar record in connection with the supply of HSP, a separate charge that relates to resource recovery or waste reduction of HSP shall, as part of the producer's promotion and education program, provide the following information at the time the charge is identified and in the same manner in which the charge is communicated:

1. The person responsible for imposing the charge.
2. How the charge will be used to collect, reduce, reuse, recycle and recover HSP.

## **PART VI REGISTRATION**

### **Registration, producers and volunteer organizations**

**26.** (1) Subject to subsection (4), every producer who markets HSP in Ontario shall register with the Authority, through the Registry, by submitting the information set out under subsection (2),

- (a) on or before May 31, 2021, if the producer marketed HSP between January 1, 2018 and May 31, 2021; or
  - (b) within 30 days of marketing HSP, if the producer markets the HSP after May 31, 2021.
- (2) The information referred to in subsection (1) is the following:
1. The producer's name, contact information and any unique identifier assigned by the Registrar.

2. The category or categories to which the HSP referred to in subsection (1) belongs and the type of HSP in each category.
3. The name, contact information and any unique identifier assigned by the Registrar of any producer responsibility organization retained by the producer.
4. The name and contact information of an employee of the producer who has authority to bind the corporation or entity and who is responsible for having the registration complete and up to date.
5. For producers to whom clause (1) (a) applies, the total weight of each applicable hazardous and special product within each applicable category of HSP supplied in Ontario in 2018, 2019 and 2020.
6. For producers to whom clause (1) (b) applies, the date they first marketed the applicable category of HSP in Ontario.

(3) The producer shall submit updated information within 15 days after any change to the information required under subsection (2).

(4) Subsection (1) does not apply to a producer referred to in clause 5 (1) (b), (c) or (d) with respect to a brand of HSP owned by a volunteer organization if,

- (a) the producer has entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of carrying out the producer's responsibilities relating to registration under this section; and
- (b) the volunteer organization has registered under subsection (5),
  - (i) on or before May 31, 2021, with respect to a producer referred to in clause (1) (a), or
  - (ii) within 30 days of the producer marketing HSP, with respect to a producer referred to in clause (1) (b).

(5) The volunteer organization may register with the Authority, through the Registry, by submitting the following information:

1. The volunteer organization's name, contact information and any unique identifier assigned by the Registrar.
2. The name, contact information and any unique identifier assigned by the Registrar of any producer responsibility organization retained by the volunteer organization.

3. The name and contact information of an employee of the volunteer organization who has authority to bind the corporation or entity and who is responsible for ensuring the registration is complete and up to date.
4. The brand and categories of HSP in respect of which the volunteer organization is a brand holder who owns the brand and in respect of which the registration relates.
5. With respect to each producer referred to in clause (1) (a) who has entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of registration and to whom the registration relates,
  - i. the producer's name, contact information and any unique identifier assigned by the Registrar,
  - ii. the total weight of each type of HSP within each applicable category of HSP supplied in Ontario in 2018, 2019 and 2020, and
  - iii. a signed attestation provided by the producer and the volunteer organization stating that an agreement described in clause 7 (d) has been entered into between them.
6. With respect to each producer referred to in clause (1) (b) who entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of registration and to whom the registration relates,
  - i. the producer's name, contact information and any unique identifier assigned by the Registrar,
  - ii. the date each producer first marketed the applicable category of HSP in Ontario, and
  - iii. a signed attestation provided by the producer and the volunteer organization stating that an agreement described in clause 7 (d) has been entered into between them.

(6) The volunteer organization shall submit updated information within 15 days after any change to the information required under subsection (5).

### **Registration, producer responsibility organizations**

**27.** (1) Every producer responsibility organization shall, within 30 days of being retained by a producer, register with the Authority, through the Registry, by submitting the following information:

1. The producer responsibility organization's name, contact information and any unique identifier assigned by the Registrar.
2. The category of HSP in respect of which the producer responsibility organization is retained.
3. With respect to each producer who has retained the producer responsibility organization,
  - i. the name, contact information and any unique identifier assigned by the Registrar, and
  - ii. a description of the producer responsibilities relating to HSP that the producer responsibility organization has been retained to carry out.
4. The name and contact information of an employee of the producer responsibility organization who has authority to bind the corporation or entity and who is responsible for ensuring the registration is complete and up to date.

(2) The producer responsibility organization shall submit updated information within 15 days of any change to the information required under subsection (1).

### **Registration, HSP haulers and processors**

**28.** (1) Every HSP hauler who arranges for the transport of Category A Products, Category B Products or Category C Products and every HSP processor who processes Category A Products, Category B Products or Category C Products shall register with the Authority, through the Registry, by submitting the information set out under subsection (2),

- (a) on or before April 30, 2021, if the HSP hauler or HSP processor arranges for the transport of or processes the HSP on or before April 30, 2021; or
- (b) if the HSP hauler or HSP processor arranges for the transport of or processes the HSP after April 30, 2021, within 30 days of the HSP being transported or processed.

(2) The information referred to in subsection (1) is the following:

1. The name, contact information and any unique identifier assigned by the Registrar of the HSP hauler or HSP processor, as the case may be.
2. The name and contact information of an employee of the HSP hauler or HSP processor, as the case may be, who has authority to bind the corporation or entity and who is responsible for ensuring the registration is complete and up to date.

3. If the person is an HSP hauler, each type of HSP for which the person arranges transport.
4. If the person is an HSP processor, each type of HSP the person processes, the location of each site where the person receives and processes HSP and the types of processed materials that result from the processing.

(3) The HSP hauler or HSP processor, as the case may be, shall submit updated information within 15 days of any change to the information required under subsection (2).

## **PART VII REPORTING, AUDITING AND RECORD KEEPING**

### **Initial report, collection and management**

**29.** (1) Subject to subsection (3), on or before May 31, 2021, every producer of HSP who is required to register under clause 26 (1) (a) shall submit a report to the Authority, through the Registry, that complies with subsection (2).

(2) The report referred to in subsection (1) must contain a description of how the producer is fulfilling or plans to fulfil their responsibilities relating to each applicable category of HSP, including the following:

1. If the producer has a collection system, the location of each HSP collection site that is part of the producer's collection system and the name and contact information of the operator of the site.
2. The name, contact information and any unique identifier assigned by the Registrar of each HSP hauler, each HSP processor and each HSP disposal facility that is part of the producer's collection or management system.
3. A description of any collection services provided by the producer that are available other than at an HSP collection site, including the name and contact information of the person who owns, operates or provides the service.

(3) Subsection (1) does not apply to a producer referred to in clause 5 (1) (b), (c) or (d) if,

- (a) a volunteer organization has submitted a registration with respect to the producer under subsection 26 (5);
- (b) the producer has entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of carrying out the producer's responsibilities relating to reporting under this section; and

- (c) on or before April 1, 2021, the volunteer organization has submitted a report to the Authority, through the Registry, that complies with subsection (4).

(4) The report referred to in clause (3) (c) must contain the following information with respect to the producer:

1. If the producer has a collection system, the location of each HSP collection site that is part of the producer's collection system, for each applicable category of HSP, and the name and contact information of the operator of the site.
2. The name, contact information and any unique identifier assigned by the Registrar of each HSP hauler, each HSP processor and each HSP disposal facility that is part of the producer's collection or management system.
3. A description of any collection services provided by the producer or by the volunteer organization that are available other than at an HSP collection site, including the name and contact information of the person who owns, operates or provides the service.

#### **Initial report, producers and volunteer organizations**

**30.** (1) Subject to subsection (2), on or before May 31, 2021, every producer who supplied HSP in Ontario in 2018, 2019 and 2020 and who is required to register under clause 26 (1) (a) shall submit a report to the Authority, through the Registry, that contains the [total?] weight of each applicable HSP within each applicable category of HSP that the producer supplied in Ontario in 2018, 2019 and 2020.

- (2) Subsection (1) does not apply to a producer referred to in clause 5 (1) (b), (c) or (d) if,
  - (a) a volunteer organization has submitted a registration with respect to the producer under subsection 26 (5);
  - (b) the producer has entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of carrying out the producer's responsibilities relating to reporting under this section; and
  - (c) on or before May 31, 2021, the volunteer organization has provided the total weight of each applicable hazardous and special product within each applicable category of HSP identified by the volunteer organization under paragraph 4 of subsection 26 (5) in their registration that was supplied in Ontario by the producer in 2018, 2019 and 2020.

#### **Annual report, producers and volunteer organizations**

**31.** (1) Subject to subsection (4), on or before April 1, 2023 and on or before January 1 in each subsequent year, every producer of HSP who is required to register under subsection 26 (1) shall submit a report to the Authority, through the Registry, that complies with subsection (2) of this section.

(2) With respect to producers of Category A Products, Category B Products and Category D Products referred to in subsection (1), the report must contain the following information:

1. A description of the actions taken by the producer in the previous performance period or calendar year, as the case may be, to fulfil any responsibilities relating to the requirements set out under Parts III and IV and sections 22 and 24.
2. The following information with respect to the previous performance period, including:
  - i. The total weight of Category A Products or Category B Products collected, as the case may be.
  - ii. The total weight of processed materials that resulted from the processing of the HSP referred to in subparagraph i and a list of the types of products and packaging that were made with the processed materials.
  - iii. The total weight of processed materials from HSP referred to in subparagraph ii that were,
    - A. land disposed,
    - B. incinerated,
    - C. used as a fuel or a fuel supplement, or
    - D. stored, stockpiled, used as daily landfill cover or otherwise deposited on land.
  - iv. Any other information or data requested by the Authority.

(3) With respect to producers of Category C Products referred to in subsection (1), the report must contain the following information:

1. The total weight of mercury-containing barometers collected or received from all collection locations.
2. The total weight of mercury-containing thermometers collected or received from all collection locations.
3. The total weight of mercury-containing thermostats collected or received from all collection locations.

4. The amount of mercury collected from each type of HSP referred to in paragraphs 1, 2 and 3.
5. A description of and information related to how the mercury-containing devices that the producer collected were processed.
6. A description of and information related to how the producer complied with the requirements under subsection 11 (3).
7. A description of and information related to the activities the producer undertook to comply with the requirements under section 23.
8. Any other information or data specified in the HSP Collection, Processing and Disposal Procedure or the HSP Verification and Audit Procedure in respect of the HSP.

(4) Subsection (1) does not apply to a producer referred to in clause 5 (1) (b), (c) or (d) if,

- (a) a volunteer organization has submitted a registration with respect to the producer under subsection 26 (5);
- (b) the producer has entered into an agreement described in clause 7 (d) with the volunteer organization for the purpose of carrying out the producer's responsibilities relating to reporting under this section; and
- (c) on or before April 15 in the year in which the report under subsection (1) is required to be submitted, the volunteer organization has submitted a report to the Authority, through the Registry, that complies with subsection (3).

(5) The report referred to in clause (4) (c) must contain the following information with respect to the producer:

1. A description of the actions taken by the volunteer organization in the previous performance period to carry out the responsibilities of the producer.
2. With respect to satisfying the responsibilities of a producer of Category A Products or Category B Products, a description of any actions taken in the previous performance period by the volunteer organization and any producer responsibility organization retained by the volunteer organization in relation to satisfying the producer's obligations, including the following information:
  - i The total weight of processed materials that resulted from the processing of HSP that was provided to a person for the making of new products or packaging.

- ii. The total weight of each applicable hazardous and special product within each applicable category of HSP and the weight of processed materials from the HSP that were,
  - A. land disposed,
  - B. incinerated,
  - C. used as a fuel or a fuel supplement, or
  - D. stored, stockpiled, used as daily landfill cover or otherwise deposited on land.

### **Annual report, producer responsibility organizations**

**32.** (1) On or before April 30, 2023 and on or before April 30 in each subsequent year, every producer responsibility organization that is retained with respect to Category A Products or Category B Products and is required to register under section 27 shall submit a report to the Authority, through the Registry, that complies with subsection (2) of this section.

(2) The report referred to in subsection (1) must contain the following information with respect to Category A Products or Category B Products, as the case may be, in the previous performance period:

1. The weight of HSP collected by the producer responsibility organization.
2. A list of every HSP processor or HSP disposal facility that the producer responsibility organization retains to process or dispose of HSP, including any unique identifier assigned by the Registrar, and the weight of HSP materials processed, disposed of or otherwise managed by each HSP processor or HSP disposal facility.
3. The weight of processed materials allocated to each producer who retained the producer responsibility organization's services.
4. The number and location of HSP collection sites, HSP return to retail collection sites or HSP collection events, and a description of any collection services, arranged, established or operated on behalf of each producer by the producer responsibility organization.
5. With respect to each producer referred to in paragraph 4, the producer's name, contact information and,
  - i. any unique identifier assigned by the Registrar, and

- ii. any unique identifier assigned by the producer responsibility organization pursuant to subsection 6 (4).

### **Annual report, HSP haulers**

**33.** (1) On or before April 30, 2023 and on or before April 30 in each subsequent year, every HSP hauler who is retained with respect to Category A Products or Category B Products and who is required to register under section 28 shall submit a report to the Authority, through the Registry, that complies with subsection (2) of this section.

(2) The report referred to in subsection (1) must contain the following information with respect to Category A Products or Category B Products, as the case may be, in the previous performance period:

1. The weight of each type of HSP picked up from an HSP collection site or from a person and the name and contact information of the operator of the site or person.
2. For each HSP processor or HSP disposal facility to whom the HSP hauler provided HSP referred to in paragraph 1, the weight of each type of HSP provided and the HSP processor's or the HSP disposal facility's name, contact information and any unique identifier assigned by the Registrar.
3. If the HSP hauler is part of a producer's collection system, the name, contact information and any unique identifier assigned by the Registrar of the producer or of the producer responsibility organization retained by the producer.
4. If any of the HSP referred to in paragraph 1 was collected from outside of Ontario, the weight of each type of HSP.

### **Annual report, HSP processors**

**34.** (1) On or before April 30, 2023 and on or before April 30 in each subsequent year, every HSP processor who is retained with respect to Category A Products or Category B Products and who is required to register under section 28 shall submit a report to the Authority, through the Registry, that complies with subsection (2) of this section.

(2) Subject to subsection (3), the report referred to in subsection (1) must contain the following information with respect to Category A Products or Category B Products, as the case may be, in the previous performance period:

1. The weight of each type of HSP and the weight of processed materials derived from each type of HSP received from an HSP hauler or any other person at each site where the HSP processor receives and processes HSP and the HSP hauler's or the other person's name, contact information and any unique identifier assigned by the Registrar.

2. The weight of each type of HSP referred to in paragraph 1 that the HSP processor sold.
3. A description of the processing activities undertaken by the HSP processor, including the weight of each type of HSP referred to in paragraph 1 that was processed and the weight of the processed materials, by material type.
4. With respect to the processed materials referred to in paragraph 3,
  - i. a list of any types of products that were made by the HSP processor and the weight of any processed materials that were used in the making of such products, and
  - ii. the weight of any processed materials that were sent by the HSP processor to another person for the purpose of making products and any types of products that were made by the other person with the processed materials.
5. The weight of each type of HSP referred to in paragraph 1 and the weight of processed materials referred to in paragraph 3 that were,
  - i. land disposed,
  - ii. incinerated,
  - iii. used as a fuel or a fuel supplement, or
  - iv. stored, stockpiled, used as daily landfill cover or otherwise deposited on land.
6. If the HSP processor is part of a producer's management system, the name, contact information and any unique identifier assigned by the Registrar of the producer or of the producer responsibility organization retained by the producer.
7. The recycling efficiency rate, verified in accordance with the HSP Verification and Audit Procedure, of the HSP processor for each category of HSP processed at the facility and a description of the methodology and information used to calculate and verify the recycling efficiency rate.

(3) The information provided under paragraphs 1 to 5 of subsection (2) must include information with respect to each applicable HSP, and any processed materials derived from HSP, collected in Ontario as well as outside of Ontario.

#### **Report, resource recovery charges**

**35.** On or before April 30, 2023 and on or before April 30 in each subsequent year, every person who implements a promotion and education program under section 25 shall create and

submit a report to the Authority, through the Registry, that contains the following information with respect to the previous calendar year:

1. How the charge imposed with respect to HSP that relates to resource recovery or waste reduction has been used to increase collection, reuse, recycling or disposal, if at all.
2. An audit, conducted by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004*, verifying the charge imposed accurately reflects the costs incurred in relation to any collection, reuse, recycling or disposal of HSP.

### **Records**

**36.** Every producer, producer responsibility organization, HSP hauler, HSP processor and volunteer organization shall keep the following applicable records in a paper or electronic format that can be examined or accessed in Ontario for a period of five years from the date of creation:

1. Records related to arranging for the establishment or operation of a collection or management system for the purpose of fulfilling their responsibilities relating to HSP.
2. Records related to establishing or operating a collection or management system for the purposes of fulfilling their responsibilities relating to HSP.
3. Records related to information required to be submitted to the Authority, through the Registry.
4. Records related to implementing a promotion and education program required under this Regulation.
5. Records related to the weight of each type of HSP within each applicable category of HSP supplied in Ontario, regardless of whether registration is required by the producer.
6. Any agreements that relate to paragraph 1, 2, 3, 4 or 5.

### **Records, HSP collection sites**

**37.** (1) Every operator of an HSP collection site at which Category A Products or Category B Products are collected shall keep the following records with respect to each applicable category of HSP collected at each site, if there is more than one, in a paper or electronic format that can be examined or accessed in Ontario for a period of five years from the date of creation:

1. The weight of each type of HSP within each applicable category of HSP that was collected.

2. The weight of each type of HSP referred to in paragraph 1 that the operator provided for reuse or sent for processing or disposal.
3. For each HSP hauler to whom the operator provided HSP referred to in paragraph 1, the weight of each type of HSP provided and the HSP hauler's name, contact information and any unique identifier assigned by the Registrar.
4. If any of the HSP referred to in paragraph 1 was collected from outside of Ontario, the weight of each type of HSP.

(2) If an HSP processor or the operator of an HSP collection site that is not part of a retail location collects more than 25 kilograms of HSP from a person on a single day, the HSP processor or operator of the HSP collection site, as the case may be, shall keep the following records in a paper or electronic format that can be examined or accessed in Ontario for a period of five years from the date of creation:

1. The person's name, contact information and any unique identifier assigned by the Registrar.
2. The weight of HSP accepted on that day from that person.

## **Audit**

### **Category A Products and Category B Products**

**38.** (1) Every producer of Category A Products and every producer of Category B Products shall cause an audit to be undertaken of the practices and procedures the producer implemented in order to comply with sections 16 to 20,

- (a) on or before April 30, 2023, with respect to the Category A Products or Category B Products that the producer was responsible for from July 1, 2021 to December 31, 2022; and
- (b) on or before April 30, 2026, and on or before April 30 in every third calendar year after that, with respect to each category of HSP referred to in clause (a) that the producer was responsible for in the three immediately preceding calendar years.

(2) On or before April 30 in any year in which an audit is required under subsection (1), the producer shall prepare and submit a copy of a report on the audit to the Authority, through the Registry, that includes the following with respect to Category A Products or Category B Products, as the case may be:

1. The weight of processed materials, by materials type, that resulted from the processing of HSP.

2. The weight of processed materials referred to in paragraph 1 that were provided to a person for the making of new products or packaging and a list of the types of products and packaging that were made with the processed materials.
3. The weight of each type of HSP and the weight of processed materials referred to in paragraph 1 that were,
  - i. land disposed,
  - ii. incinerated,
  - iii. used as a fuel or a fuel supplement, or
  - iv. stored, stockpiled, used as daily landfill cover or otherwise deposited on land.
4. For producers of Category A Products, a statement confirming whether the producer satisfied their management requirement.

(3) The audit referred to in subsection (1) must be conducted by an independent auditor who is licensed or holds a certificate of authorization under the *Public Accounting Act, 2004* and in accordance with the procedures set out in the HSP Verification and Audit Procedure.

## **Audit**

### **Category C Products**

**39.** (1) Every producer of Category C Products shall cause an audit to be undertaken of the practices and procedures the producer implemented in order to comply with subsection 11 (3) and section 21,

- (a) on or before April 30, 2023, with respect to the Category C Products that the producer was responsible for from July 1, 2021 to December 31, 2022; and
- (b) on or before April 30, 2026, and on or before April 30 in every third calendar year after that, with respect to Category C Products that the producer was responsible for in the three immediately preceding calendar years.

(2) On or before April 30 in any year in which an audit is required under subsection (1), the producer shall prepare and submit a copy of a report on the audit to the Authority, through the Registry, that includes the following with respect to Category C Products:

1. The total weight or amount of each type of Category C Products collected by the producer under subsection 11 (3).
2. The total weight or amount of each type of Category C Products that were processed under section 21.

### **Access to information and privacy**

**40.** (1) Subject to subsection (2), information and data submitted under this Regulation to the Authority through the Registry shall not be posted on the Registry, unless it is posted in a manner that is consistent with the “Access and Privacy Code” published by the Authority and dated December 14, 2017, as amended from time to time, and available on the website of the Registry.

- (2) For greater certainty, the Authority shall not post information, including data, that is,
- (a) provided by or on behalf of a producer and that relates to the producer’s supply of, or management of, HSP; or
  - (b) classified as “commercially sensitive information”, “confidential information” or “personal information”, as those terms are defined in the “Access and Privacy Code” referred to in subsection (1), as amended from time to time.

## **PART VIII CONTINUATION OF EXISTING MUNICIPAL HAZARDOUS OR SPECIAL WASTE COLLECTION SITES**

### **Transition, collection sites continued**

**41.** (1) On or before June 30, 2021, every producer of Category A Products and every producer of Category B Products shall, in accordance with subsection (2), provide for the orderly transition to the collection and management of HSP under this Regulation on and after July 1, 2021 from the collection and management of products in the following programs:

1. The collection and management of products by Stewardship Ontario, pursuant to the Consolidated Municipal Hazardous or Special Waste Program, dated July 30, 2009.
2. The collection and management of products in accordance with the Municipal and Hazardous or Special Waste Wind-up Plan, as amended on December 19, 2019 and approved by the Authority on December 31, 2019.
3. The collection and management of products in accordance with Ontario Regulation 387/16 (Municipal Hazardous or Special Waste) made under the *Waste Diversion and Transition Act, 2016*.

(2) The producers referred to in subsection (1) shall take all necessary steps to ensure the continuation of the collection of HSP, including,

- (a) establishing, re-establishing, developing or holding, as the case may be, the number of HSP collection sites and HSP collection events that are equivalent to the number of

sites or events operated by each municipality, territorial district or reserve at which the producer's products were collected prior to July 1, 2021;

- (b) working with one or more other producers or producer responsibility organizations to establish, re-establish, develop or hold, as the case may be, the sites and events referred to in clause (a);
- (c) registering the sites and events referred to in clause (a) in accordance with the HSP Verification and Audit Procedure on or before July 1, 2021; and
- (d) taking any additional steps or engaging in any additional activities in respect of the sites and events referred to in clause (a) outlined in the HSP Collection, Processing and Disposal Procedure or the HSP Verification and Audit Procedure.

### **Revocation**

**42. Part VIII is revoked.**

## **PART IX COMMENCEMENT**

### **Commencement**

**43. [Commencement]**