



# **Development of the Hazardous and Special Products Supply Data Verification Procedure**

## **Consultation Report**

**September 7, 2022**

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## Executive Summary

This report details the Authority's consultation process, the feedback received and how the Authority incorporated the feedback into developing the Hazardous and Special Products (HSP) Supply Data Verification Procedure. Questions about this report can be emailed to [consultations@rpra.ca](mailto:consultations@rpra.ca).

The consultation was held from June 1, 2022, to July 6, 2022. During this time, the Authority consulted producers, PROs, and potential Verifiers on the principles and methodologies that was used to finalize the procedure. Producers of HSP will reference the procedure when submitting their first Verification Report to the Authority.

The original date for producers to submit their first Verification Report was October 31, 2022. The Authority considered all feedback received during the consultation, and after engaging with stakeholders further, the Registrar decided to postpone the date of submitting the first Verification Report to July 31, 2023, to provide producers with ample time to find a Verifier and prepare for the reporting period. Producers are still required to submit their first Supply Data Report by the October 31, 2022, deadline.

Feedback received during the consultation period is summarized in the [What We Heard](#) section and detailed in [Appendix B](#) of this report. All questions received during the consultation webinar and responses provided by the Authority are detailed in [Appendix C](#) of this report.

The final [Hazardous and Special Products Supply Data Verification Procedure](#) was posted on September 7, 2022, and webinar participants, along with all HSP producers and PROs, were notified the same day.

## Introduction

### About the Authority

The Authority is the regulator created by the Ontario government to enforce the requirements of the *Resource Recover and Circular Economy Act* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WTDA).

The RRCEA establishes a resource management regime where producers are individually responsible and accountable for their products and packaging, recovering resources and reducing waste. The WTDA allows for the continuation of waste diversion programs and sets out provisions to wind up those programs as directed by the Minister of the Environment, Conservation and Parks.

### Principles for public consultation

The Authority's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development:

***Inclusiveness and openness:*** Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible and responsive.

***Timeliness:*** Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.

***Accessible and cost effective:*** Consider a variety of tools and methods to gather feedback that promote efficient and cost-effective consultations.

**Balance:** Provide opportunities for diverse perspectives and opinions to be heard and considered.

**Transparent:** Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.

**Evaluation:** Demonstrate the impact of public consultations on program delivery and policy development.

## Consultation

### Process

RPRA consulted on its draft HSP Supply Data Verification Procedure from Wednesday, June 1 to Wednesday, July 6, 2022. Producers of categories A (oil filters, non-refillable pressurized containers) and B (oil containers, antifreeze, solvents, paints and coatings, pesticides, refillable pressurized containers) will reference the procedure when submitting their first Verification Report to RPRA. After the July 6 consultation closing date, RPRA continued to meet with stakeholders to expand on their feedback.

A [dedicated web page](#) was created on the Authority's website with background information on the consultation, a registration link for the webinar and presentation materials.

Those directly affected by the procedure were invited to submit feedback on the proposed principles and methodologies used in the procedure via email or by attending the webinar hosted on June 15, 2022.

### What we heard

The Authority received feedback through all its consultation channels:

- There were 67 participants in the Authority's webinar on June 15. The webinar presentation and recording can be found [here](#).
- Eight written submissions were received via email during the consultation.

See below for a summary of comments received. For the list of stakeholders that submitted written feedback, please see [Appendix A](#). For the Authority's responses to feedback, please see [Appendix B](#).

### General

- Three stakeholders raised their concerns about having limited time to prepare for the Verification Report, due October 31, 2022, when the procedure is not yet finalized.
- One stakeholder expressed concern that an internal Verifier may feel responsible for any liabilities arising from the Verification Report rather than the employer. This could result in circumstances where an employee may not be willing to prepare the report as part of their employment obligations.
- Two stakeholders expressed the need for RPRA to confirm whether factory fill antifreeze has an audit obligation or not.
- One stakeholder raised concerns about Verification Reporting being a substantial change in policy from the MHSW Program. The substantial change is that the Verification Report requires all individual producers to perform verification audits with a qualified Verifier rather than a small subset of producers verified by the PRO.

- One stakeholder requested that RPRA conduct a cost assessment of the proposed procedure and perform a comparative cost-benefit analysis with the procedure used by Stewardship Ontario.

### **Verifier/Qualified Persons**

- Several stakeholders agreed with the list of proposed Verifiers.
- Four stakeholders requested additional qualifications to be accepted as Verifiers, such as a Chief Executive Officer, Corporate Officer, a producers' PRO and International Standards Organizations.
- One stakeholder commented on how a Verifier sampling supply data may increase the complexity of the reporting process.

### **Combined or material-specific procedure(s)**

- Three stakeholders agreed with having a separate procedure for HSP, rather than combined with other programs.
- Two stakeholders expressed support for combining product categories with similar requirements as it may result in cost savings when submitting one Verification Report.
- One stakeholder proposed giving producers of multiple materials the option to reference one procedure for all RRCEA materials to help reduce complexity and cost.

### **Proposed approaches**

- Two stakeholders agreed with all producers (i.e., small and large) submitting a one-time Verification Report in 2022 in order for the Authority to establish a baseline.
- One of the stakeholders agreed with the Authority's approach of consulting on categories of producers at a later date and the requirement for small producers to be subject to inspections only after the first year of submitting their one-time Verification Report.
- One stakeholder suggested that all producers should be subject to the same verification procedure consisting of an attestation and risk-based compliance framework.
- One stakeholder disagreed with all producers submitting a one-time Verification Report in 2022, stating that if small producers were exempt, it would avoid confusion of whether to submit a Verification Report in future years or not.
- Some stakeholders expressed the need for requirements to be fair, consistent and equally applied to all companies regardless of their size (i.e., large or small producers).
- One stakeholder suggested where a producer is deemed a large producer for one material and a small producer for another material, the producer is given the option to conduct the verification procedure for both materials or only for the material for which they are a large producer of.
- One stakeholder asked RPRA to consider that producers are faced with multiple audit requirements for other producer responsibility requirements across the country and suggested RPRA considers accepting audit reports that cover multiple provinces for the same materials.

### **Weight conversion factors**

- One stakeholder agreed with the proposed existing weight conversion factors (WCF) and for RPRA to consult on new WCF at a later date.

### **Sampling methodology**

- One stakeholder supported the proposed sampling methodology.

## Evaluation

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

Of the 67 webinar attendees, 25, or 37%, completed the survey.

In response to the question, “Overall, how would you rate today’s session?”, 88% of respondents ranked the session “Excellent”, “Good” or “Average” (based on a scale of Excellent, Good, Average, Fair, Poor).

48% of respondents said the information provided by the presenter was “Extremely or Very helpful”, and 44% said it was “Somewhat helpful”. The remaining 8% said it was “Not so helpful”.

Majority of respondents (76%) ranked the presentation slides and question and answer portion of the webinar as “Excellent”, “Good” or “Average”.

## Conclusion

The Authority considered each submission as it finalized the procedure and appreciates the thoughtful feedback provided through the consultation process.

Based on feedback received and information gathered through the consultation period, the Authority made the following decisions:

- Due to substantial concern regarding the timeline of producers finding a Verifier prior to 2022 Supply Data Reporting opening in the fall, the Registrar changed the deadline of the first Verification Report from October 31, 2022, to July 31, 2023. The goal of changing the Verification Report deadline is to provide producers with more time to find a Verifier and prepare for the reporting period. Producers are still required to submit their Supply Data Report by the October 31, 2022, deadline.
- To develop a separate verification procedure for HSP instead of combining with other programs (e.g., tires).
- All producers to be required to submit a one-time Verification Report in 2023.
- To consult on two producer categories (i.e., large and small producers) at a later date. As a result of the decision to defer the first Verification Report submission deadline, the Authority will consult on producer categories in 2024 rather than in 2023.
- Starting in 2024, only large producers will be required to submit a Verification Report and small producers will be subject to inspections.

The Authority posted the final HSP Supply Data Verification Procedure to its website on September 7, 2022, and webinar participants, along with all HSP producers and PROs, were notified the same day.

## Appendix A: Stakeholders that submitted feedback

The eight written submissions were submitted by the following stakeholders:

- Automotive Materials Stewardship
- Benjamin Moore
- Canadian Consumer Speciality Products Association
- Canadian Paint and Coatings Association
- Canadian Vehicle Manufacturers' Association
- Product Care
- Scotts Canada
- United Auto Parts Limited

## Appendix B: Response to stakeholder feedback

The Authority considered all feedback received during the consultation as it finalized the procedure. Feedback not relevant to this consultation has been excluded. Some comments were edited for length, clarity and to keep the stakeholder anonymous. Key comments received and the Authority's response are identified below and categorized into the following themes:

- [General](#)
- [Verifier/Qualified Persons](#)
- [Combined or Material-specific Procedure\(s\)](#)
- [Proposed Approaches](#)
- [Weight Conversation Factors](#)
- [Sampling Methodology](#)

### General

- Three stakeholders raised their concerns about having limited time to prepare for the Verification Report, due October 31, 2022, when the procedure is not yet finalized.
- One stakeholder expressed concern that an internal Verifier may feel responsible for any liabilities arising from the Verification Report rather than the employer. This could result in circumstances where an employee may not be willing to prepare the report as part of their employment obligations.
- Two stakeholders expressed the need for RPRA to confirm whether factory fill antifreeze has an audit obligation or not.
- One stakeholder raised concerns about Verification Reporting being a substantial change in policy from the MHSW Program. The substantial change is that the Verification Report requires all individual producers to perform verification audits with a qualified Verifier rather than a small subset of producers verified by the PRO.
- One stakeholder requested that RPRA conduct a cost assessment of the proposed procedure and perform a comparative cost-benefit analysis with the procedure used by Stewardship Ontario.

### *RPRA's response*

RPRA acknowledges the tight timeline between the posting of the HSP Supply Data Verification Procedure and the Supply Reporting deadline of October 31, 2022. After reviewing feedback received during the consultation period, RPRA's Registrar has changed the deadline of the first Verification Report from October 31, 2022, to July 31, 2023. The rationale for changing the deadline is to give producers ample time to find a Verifier and prepare for the 2023 reporting period. Producers are still required to submit their Supply Data Report by the October 31, 2022, deadline.

As for whether the employer would assume responsibility for any liability (for insurance purpose), RPRA does not get involved in internal business processes. This is out of scope of the HSP Supply Data Verification Procedure.

The definition of antifreeze includes factory-filled antifreeze supplied with a new vehicle and is obligated under the HSP Regulation. Therefore, producers are required to report supply data for factory-filled antifreeze and submit a Verification Report to verify the data they submitted.



Due to substantial differences between the MHSW Program and HSP Regulation, including differences in obligated materials and reporting and audit requirements, a cost-benefit analysis of the HSP Supply Data Verification Procedure and the procedure used by Stewardship Ontario for the MHSW Program would not provide an accurate consensus.

## **Verifier/Qualified Persons**

- Several stakeholders agreed with the list of proposed Verifiers.
- Four stakeholders requested additional qualifications to be accepted as Verifiers, such as a Chief Executive Officer, Corporate Officer, a producers' PRO and International Standards Organizations
- One stakeholder commented on how a Verifier sampling supply data may increase the complexity of the reporting process.

### *RPRA's response*

We engaged with a third-party consulting firm that specializes in this type of verification when creating the list of Verifiers. The purpose of having a designated Verifier to carry out the verification is to ensure the person has enough knowledge and training to carry out the procedures and avoids the risk of misreporting that may result from a self-review.

The accounting and auditing qualifications proposed by RPRA are specifically tailored to identify a Verifier with the necessary knowledge to validate the supply data that HSP producers are submitting. According to the definition of "supply" in the HSP Regulation, HSP producers are most likely to submit the supply data tracked from the product's sale. The third-party consulting firm recommended that an accountant or auditor is in the best position to evaluate that financial information. In comparison, an ISO (International Standards Organization) auditor focuses on validating the effectiveness of the organization's quality management system, which is not the goal of this verification.

A company officer, such as the CFO or controller, who holds one of the designations and is not the same person who prepares the Supply Data Report can be a Verifier.

PROs are allowed to provide supply data verification to their producer customers if the PROs' Verifier meets the requirement set out in the procedure.

## **Combined or Material-specific Procedure(s)**

- Three stakeholders agreed with having a separate procedure for HSP, rather than combined with other programs.
- Two stakeholders expressed support for combining product categories with similar requirements as it may result in cost savings when submitting one Verification Report.
- One stakeholder proposed giving producers of multiple materials the option to reference one procedure for all RRCEA materials to help reduce complexity and cost.

### *RPRA's response*

RPRA appreciates stakeholders support with having a material specific Supply Data Verification Procedure for HSP. The following reasons are why RPRA has decided to have a material specific procedure:

- The percentage of producers in all four programs (i.e., tires, batteries, ITT/AV and HSP) is too small to combine all procedures

- Different reporting requirements for each regulation makes it difficult to align procedures

Producers who supply all four materials can still choose to issue one Verification Report provided that the minimum reporting requirements have been met (i.e., CPA for tires and qualified person for batteries, ITT/AV and HSP). Producers who decide to submit one Verification Report can carry out their reporting requirements by providing one audit report for all materials or submit one CPA audited Supply Data Report for tires, one combined Verification Report for batteries and ITT/AV, and a third HSP Verification Report verified by a qualified person. If producers choose to submit one Verification Report, producers are reminded that the supply data reporting deadlines are different under each regulation. Producers are expected to provide one CPA-audited report meeting the earliest reporting deadline of the materials they supplied.

## Proposed Approaches

- Two stakeholders agreed with all producers (i.e., small and large) submitting a one-time Verification Report in 2022 in order for the Authority to establish a baseline.
- One of the stakeholders agreed with the Authority's approach of consulting on categories of producers at a later date and the requirement for small producers to be subject to inspections only after the first year of submitting their one-time Verification Report.
- One stakeholder disagreed with all producers submitting a one-time Verification Report in 2022, stating that if small producers were exempt, it would avoid confusion of whether to submit a Verification Report in future years or not.
- Some stakeholders expressed the need for requirements to be fair, consistent, and equally applied to all companies regardless of their size (i.e., large or small producers) and that all producers should be subject to the same verification procedure consisting of an attestation and risk-based compliance framework.
- One stakeholder suggested where a producer is deemed a large producer for one material and a small producer for another material, the producer is given the option to conduct the verification procedure for both materials or only for the material for which they are a large producer of.
- One stakeholder raised concerns about the draft HSP Supply Data Verification Procedure being a substantial change in policy regarding the verification of HSP supply data as it requires all individual producers to perform verification audits with a qualified Verifier rather than a small subset of producers verified by the PRO.
- One stakeholder asked RPRA to consider that producers are faced with multiple audit requirements for other producer responsibility requirements across the country and suggested RPRA considers accepting audit reports that cover multiple provinces for the same materials.

### *RPRA's response*

RPRA appreciates stakeholders support with all HSP producers of categories A and B submitting a one-time Verification Report in 2023. The following reasons are why RPRA has decided to have all producers submit a one-time Verification Report:

- To ensure fee setting accuracy
- To ensure producers are paying their fair share (and only their fair share) of regulatory costs

- To be able to accurately track diversion for these materials (and ensure they are performing even though they do not have a minimum management requirement)
- To ensure producers' collection requirements are correct
- RPRA cannot rely on IFO/ISO data due to changes to the definition of what's obligated

The supply reporting requirement for all category A and B HSP producers to submit a one-time verification in 2023 will support RPRA with setting a baseline to reduce the regulatory requirement for supply data reporting in the future. Once all verified HSP baseline data has been received during the 2023 reporting period, RPRA will introduce a small producer process in which no verification of supply data is required. Small and large producer size categories will be consulted on at a future date.

RPRA makes decisions based on facts and circumstances. As the HSP program matures and more verified data is received by RPRA, the frequency of the verification and reduced requirements will be considered through further consultation(s).

Under the HSP Regulation, producers are required to submit accurate supply data to RPRA. The verification process under the previous MHSW Program to sample a small subset of producers by the Industry Funded Organization or Industry Stewardship Organization does not meet the regulatory requirement in the [HSP Regulation](#) where each producer is responsible to submit accurate supply data to RPRA.

There are several different producer responsibility models across the country, and each program is based on the rules and regulations in its individual province. In Ontario, the government adopted the individual producer responsibility model. As an Ontario regulator, RPRA enforces the province's circular economy laws to ensure producers meet their regulatory requirements, including their requirement to submit a Verification Report to verify Ontario supply data, as written in the HSP Supply Data Verification Procedure.

## Weight Conversion Factors

- One stakeholder agreed with the proposed existing weight conversion factors (WCF) and for RPRA to consult on new WCF at a later date.

### *RPRA's response*

RPRA appreciates the support of using the existing WCF for the first year of reporting. RPRA is planning to consult on HSP WCF's with producers at a future date.

## Sampling Methodology

- One stakeholder supported the proposed sampling methodology.

### *RPRA's response*

RPRA appreciates the support of using a statistical sampling methodology and a 95% confidence level. Statistical sampling involves a random selection of sample items and using the probability theory to evaluate the sample result. The confidence level indicates the probability, with which the estimation of the location of a statistical parameter in a sample survey is also true for the population.

## Appendix C: Questions and answers

Below are the questions received during the June 15 webinar and RPRA's responses. Questions not relevant to this consultation have been excluded. Some questions were edited for length and clarity.

Question	Response
If you are an exempt producer of HSP, do you need to submit a Verification Report?	No. If you are an exempt producer under the HSP Regulation, you do not have an obligation to submit a Verification Report.
Is each individual producer expected to use the procedure?	No. Only producers of categories A (oil filters, non-refillable pressurized containers) and B (oil containers, antifreeze, solvents, paints and coatings, pesticides, refillable pressurized containers) are required to submit a Verification Report and reference the HSP Supply Data Verification Procedure.
Does one-time supply data verification mean producers submit in 2022 and then every year after that they do not need to submit the verification?	No. One-time supply data verification for all producers means all producers of category A and B are required to submit a Verification Report in 2023. In 2024, only large producers will be required to submit a Verification Report and small producers will be subject to inspections. RPRA will be consulting on the definition of small and large producers prior to the 2024 reporting period.
What year is the first Verification Report asking supply data for?	Producers of category A and B are required to report their 2022 supply data and submit a report verifying that data to RPRA by July 31, 2023.
Does the Verifier need to be external to the organization, or can it be an employee?	A Verifier can be an individual, either an employee of the business or a hired third-party (including a PRO), who has one of the following designations and is not the same person who prepared the supply report: <ul style="list-style-type: none"> <li>• CPA (Chartered Professional Accountant) in Canada or CPA (Certified Public Accountant) in the US</li> <li>• ACCA (Association of Chartered Certified Accounts) Qualification</li> <li>• CIA (Certified Internal Auditor)</li> <li>• CPB (Certified Professional Bookkeeper) in Canada</li> <li>• RPA (Registered Professional Accountant) in Canada</li> </ul>
Does the CPA designation need to be active or is an inactive designation acceptable?	The CPA designation must be active to be considered a Verifier.
How were the Verifier designations chosen?	According to the definition of supply in the HSP Regulation, HSP producers are most likely to submit the supply data tracked from the product's sale. The accounting and auditing qualifications proposed by RPRA are specifically tailored to identify a Verifier with the necessary knowledge to validate the supply data that HSP producers are required to submit.
What type of Verification Report formatting will RPRA accept?	RPRA will accept the Verification Report in PDF formatting.
Can a PRO submit a Verification Report on behalf of a producer?	The Registry allows producers to grant supply reporting access to their PRO, this will allow a PRO to submit the Verification Report on behalf of the producer. Regardless of if a PRO or producer submitted the report, producers are individually obligated and accountable to ensure the accuracy of the data.

Question	Response
Can an ISO or financial controller be acceptable as a Verifier?	If the individual has one of the credentials listed in the verification procedure, they will be accepted as a Verifier.
Where can we find the draft verification procedure on RPRA website?	The draft procedure was emailed to producers and PROs on June 1 with the webinar invite and is also available in the webinar presentation slides and on the consultation webpage.
What is the difference between the supply data report and the Verification Report?	Producers of category A and B are required to submit a Supply Data Report that provides the total weight of HSP they supplied to consumers in Ontario in the previous calendar year. The supply data reported by category A producers will be used to determine their management requirements for the following year. The Verification Report is to verify the accuracy of the supply data that is submitted to RPRA.
How does RPRA define small and large producers?	RPRA will be consulting on the definition of small and large HSP producers prior to the 2024 reporting period.
Can producers use population stats to determine weight or just units?	The population stats methodology in Appendix E of the HSP Supply Data Verification Procedure is for estimating units only. Producers can use this method to estimate the total units supplied in Ontario and multiply the per unit weight (actual or the Weight Conversion Factors) to calculate the total weight.
Can producers use the proposed weight conversion factors even if they weren't under the old Stewardship program?	Yes. Producers can use the proposed weight conversion factors even if they weren't under the old Stewardship program.