



October 15, 2024

Hon. Andrea Khanjin, Minister of the Environment, Conservation and Parks
c/o
Krista Friesen, Manager, Resource Recovery Policy Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Avenue West, 8th floor
Toronto, Ontario M4V 1M2

RE: Feedback on Proposed Amendments to the HSP Regulation (O. Reg 449/21)

Dear Minister Khanjin,

Automotive Materials Stewardship Inc. (AMS) is pleased to provide comments on the proposed amendments to the Hazardous and Special Products (HSP) Regulation (O. Reg 449/21) under the *Resource Recovery and Circular Economy Act, 2026*. We welcome changes that will provide producers and producer responsibility organizations (PROs) with additional flexibility to establish collection and management systems while also implementing burden reduction measures. AMS has been advocating for many of these proposed amendments for several years as the regulation, in its current form, presents some significant and unnecessary challenges.

We support changes that provide producers and PROs with options while ensuring recycling performance is not compromised. We see in the proposed amendments a careful balance of these important objectives, all the while protecting consumer access to recycling services.

AMS operates a collection and management system for producers of used antifreeze, oil containers and oil filters (automotive HSP). We operate a province-wide collection system of more than 17,000 collection sites using the population-based collection system methodology. We work with many haulers and processors, both large multinational organizations and smaller yet regionally important local operators. We are supporters of municipal collection programs throughout the province, partnering with communities and providing funding to deliver public collection services through depot and event collection. AMS is a member of Waste to Resource Ontario and the Municipal Waste Association.

AMS is an industry-led and industry-funded not-for-profit organization that is proud to contribute to a circular economy in Ontario. Our customers will contribute over \$23 million towards collection and management activities for automotive HSP in 2024.

We support many of the proposed changes as presented and described in the plain language document. We sought feedback from our direct stakeholders, comprised of producers, haulers and processors, to incorporate in our submission. As described below, we and our stakeholders believe a few minor tweaks are necessary to ensure the objectives of the amendments are realized, and that producers have a clear path to regulatory compliance without undue burden. Where these tweaks are required, we have provided concise recommendations that we believe are consistent with the regulatory intent and public interest.



Achieving clarity with the final regulatory language is critical to ensure its interpretation is consistent with the drafting intent. Having said that, we encourage the Ministry to provide additional documentation that describes the intent of changes being made, as was included in the plain language draft proposals. Further, while we do not wish to introduce a step that would delay implementation of these amendments, AMS would be pleased to provide feedback on the final proposed regulatory language.

We encourage you to move forward with the implementation of the amendments to the HSP Regulation on an expedited basis, before the end of 2024. We understand you are working to implement changes to multiple EPR regulations at the same time. In the event that some regulations require more time, we urge you to move forward with the HSP Regulation without delay.

On behalf of the AMS Board of Directors and our stakeholders, we wish to thank and congratulate you and your team for developing these important and beneficial proposals. We are available to meet to discuss our feedback or other topics to which you believe we can provide a meaningful contribution.

Sincerely,

David Pearce
Executive Director



The topics below are those that are pertinent to Automotive HSP. Our feedback is summarized in the following table and described in detail on the pages that follow.

Item	Feedback
Collection Item #1: Add Geographic Offsetting	Generally supportive – see recommendation.
Collection Item #2: Add or Increase Collection Events	Support
Collection Item #3: Allow All Municipal Collection Sites to Count as Permanent Sites	Support
Collection Item #4: Adjust Timeline for New Census Data	Support
Collection Item #6: Align “Take-Back” Provisions	Support
Collection Item #7: Give New Option for HSP Producers to Meet Public Collection Site Requirements	Support. Minor clarification required.
Collection Item #8: Add New Performance Requirements for Large Producers of Automotive HSP When Creating Alternative Collection Networks	Support. Suggestion for implementation provided.
Burden Reduction Item #1: Remove Recycling Efficiency Rate (RER) Requirements	Support removing RER requirement for oil filters (material with a management requirement). Do not support removing RER requirement for antifreeze and oil containers (materials without a management requirement). Support reducing frequency of RER verification and focusing on primary processors. Clarity required for the point of measurement for oil filter recovery. Suggestion provided.
Burden Reduction Item #3: Revise Collection Site Record Keeping	Support
HSP Specific Item #1: Revise producer hierarchy for antifreeze and oil filters	Support. AMS can facilitate changes for 2026 or earlier.
Missing Item: Revise Definition of Oil Containers to Remove Aerosols	Request resolution. Suggestion provided.



Collection Item #1: Add Geographic Offsetting

Current: [Section 20 of the HSP Regulation](#) allows producers to establish and operate a specified number of collection sites in alternative locations within the upper-tier municipality in which they are required.

Proposed for 2025: The MECP will replace the allowance for geographic offsetting within upper-tier municipalities with the ability to allow 10 per cent of the total required collection sites across Ontario to be established and operated in adjacent local municipalities. The MECP is seeking feedback on whether the current upper/lower-tier offsetting provisions should remain in the HSP Regulation.

AMS Feedback: While this proposed change is helpful in some communities, it removes the flexibility AMS has relied upon to establish its collection system for the past three years while introducing greater administrative burden to track compliance, which could no longer be automated. Collection system compliance is best achieved with a combination of upper/lower-tier offsetting plus adjacency to enable flexibility for single-tier municipalities. There are instances where communities with insufficient collection sites that are located within Territorial Districts do not have any options to offset their requirements using adjacency. To address this, we request expanding the upper/lower tier allowance to include territorial districts.

In summary, we support adding an adjacency offset while expanding the existing upper/lower-tier offsetting provisions to include territorial districts. The proposed limit of 10 per cent of required collection sites is sufficient as a combined amount across both type of offsetting.

All stakeholders responding to our survey except for one support our feedback. One stakeholder said they were not sure. None opposed.

Collection Item #2: Add or Increase Collection Events

Current: [Subsections 19\(3-5\) of the HSP Regulation](#) state that producers of hazardous and special products (HSP) may replace up to 25 per cent of required collection sites with public collection events. However, the HSP Regulation does not currently allow public-facing collection sites for automotive types of HSP to be replaced with events.

Proposed for 2025: The MECP will allow all producers to replace up to 35 per cent of required collection sites with public collection events.

AMS Feedback: We support this change as we believe collection events provide a public service and contribute to satisfying the objectives of the HSP Regulation.

All stakeholders responding to our survey support our feedback.

Collection Item #3: Allow All Municipal Collection Sites to Count as Permanent Sites

Current: [Subsection 22\(1\) of the HSP Regulation](#) requires collection sites to be open during business hours year-round. As a result, seasonal, part-time and mobile municipal collection sites cannot be considered as collection sites.



Proposed for 2025: The MECP will consider all municipal collection sites and mobile depots, including those that are open for a limited number of days per week or on a seasonal basis, to be considered as collection sites.

AMS Feedback: We support this change as we believe all municipal collection depots provide a public service and contribute to satisfying the objectives of the HSP Regulation.

All stakeholders responding to our survey support our feedback.

Collection Item #4: Adjust Timeline for New Census Data

Current: [Section 12 of the HSP Regulation](#) requires producers to establish and operate collection systems based on population data as reported in the most recent official census published by Statistics Canada prior to the calendar year in which the collection obligation applies.

Proposed for 2025: The MECP will add a grace period after population data is reported by Statistics Canada (for example, one or two years) for producers to adjust the number of collection sites they are required to establish and operate in order to align with the updated population of municipalities or territorial districts.

AMS Feedback: We support this change as we believe that additional time will be helpful to make changes to collection systems to ensure regulatory compliance.

All stakeholders responding to our survey support our feedback.

Collection Item #6: Align “Take-Back” Provisions

Current: [Part IV of the HSP Regulation](#) sets out requirements for the distribution of HSP collection sites. This Part does not currently include any flexibility for “take-back” or “closed loop” collection networks.

Proposed for 2025: A “take-back” or consumer return option would allow consumers to return HSP at no charge and in a manner equivalent to how they were supplied. Producers would be required to provide consumers with packaging or shipping materials to return their HSP free of charge, where appropriate.

Establishing a take-back/closed loop system for their HSP materials would reduce the required number of collection sites using the population-based formula for producers by the percent of materials managed through this system.

Producers would be required to demonstrate that their “take-back” system is operating at least as efficiently as the prior population-based collection network. If this condition is not satisfied, then HSP producers could not utilize the take-back option.

AMS Feedback: We support increased flexibility for producers to meet their obligations. We also support the requirement that alternate collection models must perform as well or better than the current collection site network to ensure all producers contribute their fair share. See comment on Item #8 regarding timing.



All stakeholders responding to our survey support our feedback. One producer commented that clarity is required on how producers will be made aware of the current performance of the collection system for comparison purposes.

Collection Item #7: Give New Option for HSP Producers to Meet Public Collection Site Requirements

Current: [Part IV of the HSP Regulation](#) sets out the total number of collection sites required to be calculated using population-based formulas. Producers of automotive HSP (antifreeze, oil containers and oil filters) are required to establish and operate a number of public collection sites equal to four per cent of the number of sites required in each municipality, based on population.

Proposed for 2025: Provide producers of automotive HSP with flexibility to comply with their collection site requirements by allowing them to choose between:

- Establishing and operating a number of collection sites based on the size of municipal populations; or
- Establishing and operating the same number of collection sites and events that were operated by all municipalities across Ontario in the prior year.

The producer would work with municipalities to meet the number of municipal sites and events across Ontario in the previous year, potentially establishing new collection sites.

AMS Feedback: We support this change as it ensures widespread public access to collection sites without placing a burden on private businesses to operate as hazardous waste depots. These businesses have repeatedly raised health and safety concerns related to their potential role as collectors. Our analysis shows public access to recycling will not be negatively impacted by this change. However, we believe a minor clarification to the proposal is required, enabling producers to establish alternative public depots/events in communities where reasonable commercial terms cannot be reached with the municipality. We understand from discussions with the Resource Recovery Policy Branch that this is the intended approach.

All stakeholders responding to our survey support our feedback.

Collection Item #8: Add New Performance Requirements for Large Producers of Automotive HSP When Creating Alternative Collection Networks

Current: [Part IV of the HSP Regulation](#) provides large producers of automotive HSP with two options to determine their required number of collection sites, as described below:

- Use a population-based formula that is principally based on the size of municipal or territorial district populations to calculate the total number of collection sites required; or
- Establish the required number of collection sites based on the number of retail locations that supply their HSP. The number of collection sites established must be equal to or greater than 75 per cent of the number of retail locations that supply the producer's product.



Proposed for 2025: Large producers of automotive HSP would need to demonstrate that a collection network based on the number of retail locations that supply their HSP collects the same or better proportions of that producer's supplied HSP as is currently collected via the population-based collection network. If this condition is not satisfied, then HSP producers could not utilize the collection network option which bases the number of collection sites on the number of retail locations that supply their HSP.

AMS Feedback: We support the requirement that producers using a retail-location based collection network must perform as well or better than the current collection site system to ensure all producers contribute their fair share.

There are at least two options for determining the performance requirements that producers using the retail location or take-back options are required to meet, which are summarized below. We recognize there may be other options and considerations that cannot be contemplated in the regulation. Therefore, we recommend the regulation require RPRA develop a procedure to ensure flexibility in the process to address operational needs that may not yet have been considered.

1. Prior year performance: Producers could be required to meet the prior year performance as reported by RPRA. Annual reports are due to RPRA by July 31, and RPRA would be able to calculate and provide the performance requirement to producers/PROs utilizing the retail-location or take-back option by August 31. RPRA would calculate the requirement in tonnes using the producer reported supply quantity, also reported by July 31. This would provide the producer/PRO with certainty on the amount of material it must collect and recover, or the amount of performance credits it must purchase. The downside of this approach is the one or two-year lag between the performance of producers using the population-based collection system and producers using other methods.
2. Current year performance: Producers/PROs could be required to work together to buy and sell performance credits to meet the new requirement. This would be done using current year collection and recovered performance and current year supply, creating a better alignment of costs and a more level playing field in year. The challenge with this method is that producers will not have reported their current year supply to RPRA, leaving RPRA unable to validate the performance requirements until after the annual report is submitted, at which time it may be too late to trade performance credits. Changing producer reporting timelines has not been consulted on and should not be relied upon in the solution.

As noted above, AMS supports this change and recommends the Regulation require RPRA to develop a procedure for implementation.

All stakeholders responding to our survey except one support our feedback. One stakeholder said they were not sure. None opposed. One producer commented that clarity is required on how producers will be made aware of the current performance of the collection system for comparison purposes.



Burden Reduction Item #1: Remove Recycling Efficiency Rate (RER) Requirements

Current: [Section 30 of the HSP Regulation](#) requires that producers who use processing activities to meet their management requirements must use processors that meet specified recycling efficiency rate (RER) requirements.

The Regulation requires data to be verified in accordance with the Resource Productivity and Recovery Authority (RPRA) Verification and Audit Procedures.

Proposed 2025 & 2026: Remove the requirements for individual processors to report on and verify their RERs and for producers to use processors that meet prescribed RERs.

For materials with management targets (oil filters), the MECP would rely on targets to ensure producers and their service providers are recycling collected materials at an efficient rate.

For materials without management targets (e.g. antifreeze and oil containers), the MECP would require producers or producer responsibility organizations (PROs) manage all of the material they collect at a rate equivalent to the existing RER for each regulated material. This proposed change would shift the obligation for achieving recycling efficiencies from individual processors to producers and PROs. In other words, the recycling efficiency calculation would be applied across all materials collected for recycling, not against each processor of the collected materials.

The MECP has proposed removing RER requirements as outlined above to reduce the burden on reporting while maintaining strong environmental outcomes. However, there may be some benefit in maintaining RER requirements to ensure a level playing field among processors with a simplified verification procedure. As such, they are also seeking feedback on an alternative approach to maintain a numeric RER requirement for each processor in the Regulation with a simplified verification process.

This could include:

- verification of only the initial processor and/or potentially their immediate downstream partner processors, but no verification needed further down the processing chain, or
- reducing the frequency of required verification. If this path were pursued, the MECP would also want feedback on whether this simplified verification process should be codified in the Regulation or specified in RPRA's Verification Procedures as well as an appropriate RER number for different materials.

These changes would come into effect in 2025 for oil filters and in 2026 for antifreeze and oil containers.

AMS Feedback: For automotive HSP without management requirements, shifting the requirement to achieve the RER will increase burden, not reduce it. **Therefore, we support maintaining current RER verification to qualify primary processors and eliminating the requirement to measure downstream processors for oil containers and used antifreeze.** We also support removing the requirement for annual verification and replacing it with an attestation that no changes to equipment or processes have been implemented.



It has been suggested that RER verification today is incorrectly placing a burden on processors instead of producers. We want to assure the MECP that Producers are bearing the burden both for the cost of these verifications which are passed on in fees to Producers and PROs and by driving specific behaviour that requires PRO and Producers to only work with processors that have completed an RER and have been approved. The burden reduction measure being requested is to reduce the frequency of the RER verification audits, saving service providers time and reducing costs for producers.

The ministry asked for feedback on an appropriate RER number for different materials

We recommend an RER of 85% for oil containers sent to advanced / chemical recycling facilities. This emerging technology has a lower yield than mechanical recycling, but has the distinct advantage of removing odours and impurities that enable greater circularity and the creation of new packaging.

Contamination of the inbound stream creates complications that must be considered in the regulatory requirements, especially where there are operational and financial challenges to separating the contamination. Unlike some material streams, for example tires and pressurized containers, many collected loads of automotive HSP have non-targeted materials. For this reason, a measurement of recovered resources as a proportion of collected quantities could not yield results that meet the RER requirements. Instead, rigorous studies would be required by each processor to determine their unique contamination rate to be deducted from the collected quantity. This would add, not reduce, the overall burden.

Examples:

1. The weight of collected oil and antifreeze containers includes the weight of the containers, residual oil, garbage, the weight of non-designated containers, and the weight of the collection bag. This collected weight is not a suitable denominator for calculating whether the RER requirements have been met. The weight of materials disposed by these processors includes the weight of removed labels as well as other garbage. Residual oil is removed through a wash, creating an oily water that requires treatment.
2. Antifreeze is often collected in bulk tanks and consolidated in larger holding tanks while building up sufficient volume to send a tanker to the processor. On occasion, loads of antifreeze become contaminated and the processor determines that it cannot be sent through the distillation process. These loads must be sent to disposal. Meeting the RER requirement would not be possible if the collected quantity sent to disposal is included in the denominator.
3. Antifreeze is distilled to recover glycol and water leaving behind chemical additives and contaminants that were absorbed into the antifreeze during use. The contaminants add weight to the collected quantities; however, they are not designated materials. The contaminants are commingled with the additives in the resulting slurry and cannot be quantified. Further, during distillation, water is added at certain stages and evaporates during other stages. With water representing between 50 per cent and 70 per cent of the collected weight, the quantity of water added or lost during distillation has a material impact on the recovery rate.



Section 30 of the HSP Regulation requires that collected HSP be delivered to a processor at a facility that meets the RER requirements. As stated above, we support the continuance of this requirement for antifreeze and oil containers. However, as noted above, there are instances where loads of antifreeze are contaminated and cannot be processed. To minimize double handling of material and reduce costs, haulers should be permitted to deliver contaminated loads directly to a disposal facility. We suggest a new subsection in Section 30, similar to subsection (2) for pesticides, that provides RPRA with the ability to develop a new procedure describing the conditions for when collected antifreeze may be sent directly to disposal rather than through a processor. The section should also remove the “no later than three months” requirement for antifreeze to reflect the widespread practice of consolidating collected material until full tankers can be shipped, so as to avoid imposing additional costs into the system. The new subsection could read as follows:

Every producer of antifreeze shall ensure that the antifreeze collected by the producer under Part IV are processed by an HSP Processor or disposed of at an HSP disposal facility registered under section 42 in accordance with the [Procedure Name].

For oil filters, we support the removal of the RER verification on processors as the management requirement is sufficient to demonstrate effective resource recovery.

It’s critical that clarity be added to the regulation about where the point of measurement is for recovered resources from oil filters. RPRA previously released a draft measurement protocol that would have required recovered resources be measured at the final stage of processing before the resource is used to create new products and packaging. For oil filters, this would be the output from a smelting process in which the filter media and other non-metal components are burned off. Quantification of recovered resources at this stage is difficult because oil filters are blended with other scrap metal that have varying recovery rates. We estimate a maximum theoretical recovery rate of 35% if measured at this stage of the reverse supply chain, making achievement of the 85% management requirement impossible.

Recovery of metal from oil filters is beneficial, but it not the primary benefit of including oil filters in the HSP regulation. The most important outcome is recovering the residual oil, ensuring it does not contaminate landfills and the environment. A high management requirement of 85% serves as a proxy for a high collection rate, allowing the residual oil to be recovered. In this sense, the requirement is both useful and appropriate. Specifying the point of measurement in the regulation will make the requirement achievable. We recommend the measurement approach used by other used oil material programs across Canada, which provides the benefit of enabling the development of a national reporting metric for use by producers. This approach is to count as recovered resources the weight of the oil filters once residual oil has been drained from the filter. Below are two possible methods of achieving this outcome.



1. Amend section 29.2.3 to read:

The weight of recovered resources that may be counted must be from recovered resources that are,

- i. Used or destined to be used by a person for the making of new products or packaging,*
- ii. Reused by a person, or*
- iii. With respect to oil filters, the weight of the oil filters after residual oil have been captured, recaptured, extracted or diverted during processing.*

2. Rewrite section 29.2.7, which already addresses oil filter specifics, to read:

With respect to the weight of recovered resources from oil filters, the weight that may be counted as recovered resources for oil filters may include the weight of the oil filters following the capture, recapture, extraction, collection or diversion of oil during processing. The weight of any oil which is captured, extracted, collected or diverted during processing must not be counted.

All stakeholders responding to our survey support our feedback. We did not ask our stakeholders to comment on a proposed RER for oil containers, nor did we specifically ask them about our proposed change to enable disposal of contaminated loads directly by haulers.

Burden Reduction Item #3: Revise Collection Site Record Keeping

Current: [Subsections 22\(1\)](#) and [55\(1\)](#) of the HSP Regulation require collection sites that accept large amounts of materials to keep records related to the weight of the materials and the person dropping the materials off.

Proposed for 2025: Implement a two-tier requirement for collectors to keep records related to large amounts of materials dropped off:

- Remove requirement for collection sites where PROs are paying a flat fee or for municipal sites.
- Keep the requirement where PROs pay the collection sites on a per unit or weight basis.

AMS Feedback: We support the proposal as it will reduce burden on collection sites.

All stakeholders responding to our survey except for one support our feedback. One stakeholder said they were not sure. None opposed.

HSP Specific Item #3: Revise producer hierarchy for antifreeze and oil filters

Current: [Section 4](#) of the HSP Regulation sets out which brand holders, importers or marketers of antifreeze and oil filters must collect and manage (e.g. reuse, recycle) these products. These collection and management responsibilities include responsibility for collecting and managing antifreeze and oil filters supplied in new vehicles.



Proposed for 2025: Specify that brand holders, importers or marketers of new vehicles would become the obligated producer of the antifreeze and oil filters included in their vehicles. **Producers would be required to report on supply data in 2025, with their collection and management obligations starting on January 1, 2026.**

AMS Feedback: We support the proposal as it brings much needed clarity to who the obligated producers is for antifreeze and oil filters supplied with new vehicles. Vehicle manufacturers have told us they support the proposal because it harmonizes the requirements with other provinces. AMS is prepared to implement the necessary changes to support vehicle manufacturers for 2026 or earlier.

We did not survey stakeholders on this item.

Missing Item: Revise Definition of Oil Containers to Remove Aerosols

Remove aerosols from the definition of oil containers to match the definition of oil containers in the previous MHSW Program under the Waste Diversion Transition Act.

Aerosol containers are not collected or managed with empty HDPE oil and antifreeze containers because they require special handling and management. They must be stored in UN rated drums that must be recertified before reuse. Aerosols must be managed as waste class 331.

Most aerosol containers generated at sites where automotive HSP is collected are not for lubricating oil, rather they are cleaners, solvents, paint, and in some cases, penetrating oil. Penetrating oil is used to free stuck bolts, nuts, and other parts that are fused due to rust or corrosion. Lubricating oil, on the other hand, is designed to prevent those parts from becoming stuck and to reduce friction.

Studies by a used oil materials program in another province found approximately 25% or less of aerosols at automotive service centres are for lubricating oil. Requiring the few producers of lubricating oil supplied in aerosol format to manage a collection and management system that primarily collects non-designated material imposes millions of dollars of financial burden on those producers. Instead, aerosols could be treated as their own product category and added at a later date with public consultation.

The definition of oil container should be amended to read:

“oil container” means a container that is used for the supply of new lubricating oil and that has a capacity of 30 litres or less and that is not an aerosol container;

In the alternative, if aerosols are to remain in the definition of lubricating oil containers, the collection of these containers must be limited to collection sites and events operated by municipalities. Producers ought to work with municipalities to determine what portion of their aerosol containers are for lubricating oil and to provide appropriate compensation provided the municipality can provide resource recovery data from a processor that meets the RER requirements. For added clarity, producers should not be required to collect aerosols from non-municipally operated collection sites or events.