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## Report of the Commissioner of Public Works

### **Update on the Province's Hazardous and Special Products Regulation (O. Reg 449/21) and Implications to the Region**

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#### **1. Recommendation**

1. The Regional Chair send a letter to the Minister of the Environment, Conservation and Parks and local Members of Provincial Parliament to request amendments to the Hazardous and Special Products regulation (O. Reg 449/21) as outlined in this report.
2. The Regional Clerk circulate this report to the Ministry of Environment, Conservation and Parks, the Association of Municipalities of Ontario (AMO), local Members of Provincial Parliament and the local municipalities.

#### **2. Purpose**

This report provides an update on challenges York Region faces following new regulatory requirements under the Hazardous and Special Products regulation ([O. Reg 449/21](#)) that took effect on July 1, 2021,. The Region's hazardous waste program currently includes arrangements with producers that do not fully cover municipal costs to manage designated materials on their behalf. To address these challenges, staff seek council endorsement of a letter to the Province advocating for amendments to the Hazardous and Special Products regulation.

#### **Key Points:**

- On June 8, 2021, the Province filed the new Hazardous and Special Products producer responsibility regulation (O. Reg 449/21) with an effective date of July 1, 2021, with full regulatory requirements in effect by January 1, 2023 under the *Resource Recovery and Circular Economy Act, 2016*
- The Hazardous and Special Products regulation does not align with the principles of full producer responsibility and does not make the producers fully responsible for end-of-life management of their products and packaging, resulting in most of the program costs covered by the Region

- In 2023, 50% of the total tonnes of hazardous materials collected at the Region's depots were not designated under the Household and Special Products regulation resulting in taxpayers having to fund over \$1 million annually of the almost \$1.8M total program cost. Designated materials (e.g. paints, oils, propane tanks) are products where producers are obligated to fully cover the cost for end-of-life management under the regulation. In addition, the regulation lacks performance targets for producers other than mandated accessibility targets that are challenging to interpret and difficult to enforce

### 3. Background

#### **Municipal governments have advocated for a full producer-led Hazardous and Special Products Program**

Hazardous waste diversion programs initially operated under the Municipal Hazardous or Special Waste program through a shared funding model. The Municipal Hazardous or Special Waste program was operated on behalf of producers by Industry Funding Organizations such as Stewardship Ontario, Automotive Materials Stewardship, Product Care Association and SodaStream.

As reported to Council in [June 2021](#), the Hazardous and Special Products regulation took effect on July 1, 2021 with producers being required to maintain the existing collection systems, primarily municipal depots and events. The hazardous waste program fully transitioned on January 1, 2023, where producers were required to fully conform with regulatory requirements. The intent of this producer responsibility regulation is to shift the financing and operation of managing these materials to producers to achieve better environmental and economic outcomes.

Since July 2020, staff have provided input in the development of the regulation by working collaboratively with other municipal governments through the Association of Municipalities of Ontario (AMO), attending Ministry of Environment, Conservation and Parks workshops and providing feedback to other industry associations. In the June 2021 memo, staff identified the regulation did not address several key advocacy concerns from municipal governments, including a more inclusive list of designated materials, inclusion of performance and management targets, and more clarity on accessibility targets to enable enforcement. Despite these items not being addressed in the regulation, the Region continues to provide hazardous and special products diversion programs at Regional depots to keep dangerous materials out of other waste streams and the environment. The full regulatory requirements came into effect January 1, 2023. Staff have now had the opportunity to evaluate and quantify the impacts to the Region.

#### **Municipal waste depots have become a trusted collection point for residents to safely dispose of their hazardous and special products**

The Region delivers a leading hazardous and special products waste diversion program that residents trust and rely upon to safely dispose of their household hazardous materials. Although there is a wide variety of return-to-retail and other collection programs for many materials, York

Region's diversion program manages over one thousand tonnes of hazardous materials annually by offering convenient drop-off services at all five [public waste depots](#).

Through specialized contract services, these materials are recycled or treated and disposed of in an environmentally responsible manner. Additionally, this program diverts hard-to-manage material at the curb from other waste streams, reduces health and safety risks to residents and infrastructure, while contributing to regulatory accessibility targets which stipulate the number of collection sites required in each local municipality.

The Hazardous and Special Products regulation requires producers to establish and operate a robust, convenient collection network, including a mix of both collection sites and events, for consumers to return their hazardous and special products at end of life, free of charge.

### **Producers can meet their obligations through Producer Responsibility Organizations**

A producer is an entity that supplies, markets or is the brand holder of hazardous and special products and are required to carry out responsibilities relating to the regulation (e.g., producers of paints such as Benjamin Moore and Behr). To facilitate an efficient delivery model and allow for economies of scale, producers have the flexibility to meet their obligations individually or collaboratively with other producers by choosing to retain a service provider such as a producer responsibility organization. A producer responsibility organization provides collection, management, and administrative services on behalf of the producers they represent.

Product Care Association and Automotive Material Stewardship are producer responsibility organizations, responsible for 47% and 3% respectively of the total weight of hazardous material collected by the Region. Collection agreements with Product Care Association and Automotive Material Stewardship were signed on an interim basis in 2021 for the program's first year under the new regulation and do not fully cover the costs to collect the designated materials on the producer's behalf. The cost to collect, consolidate, transport, process or safely dispose of non-designated materials are borne by the Region. Appendix A provides a list of designated materials managed by producer organizations as well as non-designated materials.

## **4. Analysis**

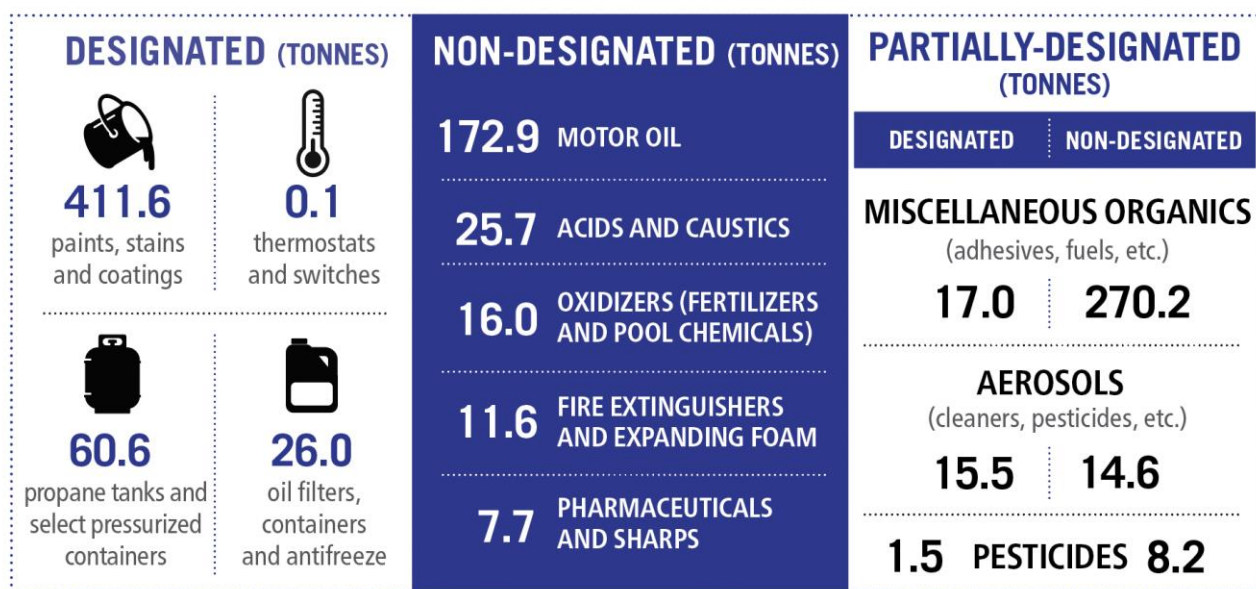
### **In 2023, 50% of the total tonnes of hazardous materials collected at the Region's depots are not designated under the regulation**

In 2023, approximately 50% of the 1,059 tonnes (1.06 million kilograms) of materials collected at the Region's depots were not designated under the regulation as shown in Appendix A. The Province committed to have additional materials incorporated into the designations since 2008 however, there was significant public reaction due to retailers charging "eco-fees" in 2010 and the expansion plans were cancelled. Since then, no new materials have been designated. Figure 1 provides examples of some of the designated, non-designated and partially designated materials under the regulations managed at the Region's waste depots.

The cost to collect, transport and process non-designated materials continues to be included in the Public Works operating budget. Items include pharmaceuticals, needles and syringes, motor oil, oxidizers, acids, caustics and fertilizers as shown in Appendix A. These materials are deemed hazardous and, in many instances, are designated under producer responsibility legislation in other provinces. Alberta, British Columbia, and Manitoba have significantly more materials designated under their regulations.

**Figure 1**

**Designated, Non-Designated and Partially Designated Hazardous and Special Products (HSP) collected at York Region Waste Depots in 2023 (in tonnes)**



**Designating fulsome list of materials would ensure producers are taking full responsibility for end-of-life management of hazardous products**

Although there is currently limited designation of material, municipalities have chosen to continue accepting non-designated materials at collection sites and events to protect the environment and residents. Providing a collection service for both designated and non-designated materials also provides convenience for residents instead of travelling to multiple sites to dispose of materials. As a result, municipalities cannot easily opt out of service provision for designated materials.

Negotiations with producer responsibility organizations for collection services have never fully covered the Region’s cost to provide these services. A driver of this has been the inability for municipalities to discontinue providing collection services, which would compel producers to establish their own collection, transportation, processing, and disposal system.

Broadening the regulation and including a more fulsome list of designated materials would ensure that municipalities could exit the business if mutually agreeable commercial terms for collection could not be reached and be assured these hazardous materials would be properly and safely managed by producers.

## **Regulation does not result in full producer responsibility**

The sole performance requirement in the regulation is based on accessibility and establishes a minimum number of collection sites producers are required to operate. Relying solely on accessibility targets to meet environmental and fiscal objectives of full producer responsibility has resulted in several challenges:

- The number of accessibility sites is determined for each municipality through a complex calculation that considers population size, material type and relative size of the producer
- Producers can alter the number of sites to substitute 25% of the required collection sites with a one-day event. This would be a significant reduction of service if an existing depot was replaced with a one-day event
- Collection sites are a combination of municipal sites, return to retail locations and other collection sites as determined by the producers. This poses several challenges:
  - Communication of these sites is not provided centrally. A web-based tool is being created by The Resource Productivity and Recovery Authority which is mandated by the Province to oversee the transition of producer responsibility programs. However, early testing has shown numerous errors due to the complexity of compiling accurate and updated site locations from producers
  - Determining if producers comply with the target is difficult given the types of sites and events producers can use
- Blue box, electronics and used tires producer responsibility regulations have management targets to incent producers to capture designated materials. The Hazardous and Special Products regulation only has management targets for oil filters and non-refillable pressurized containers. For all other designated materials, the only requirement is to establish a collection site or event. Management targets encourage producers to ensure consumer participation in the program for greater recovery of material so that targets can be achieved
- There are no public reporting requirements for producer compliance with accessibility targets making it difficult to assess the collection network across the Province

## **Depot collection of hazardous waste and special products through a full producer responsibility model supports Sustainable Environment toward the Strategic Plan**

The [Strategic Plan](#) includes the priority to drive environmental stewardship with an objective to deliver and promote environmentally sustainable services. Providing depot collection of hazardous and special products to ensure safe and proper disposal supports this priority and objective. The

management of hazardous and special products may be costly but, without providing these services, they would presumably end up in the environment.

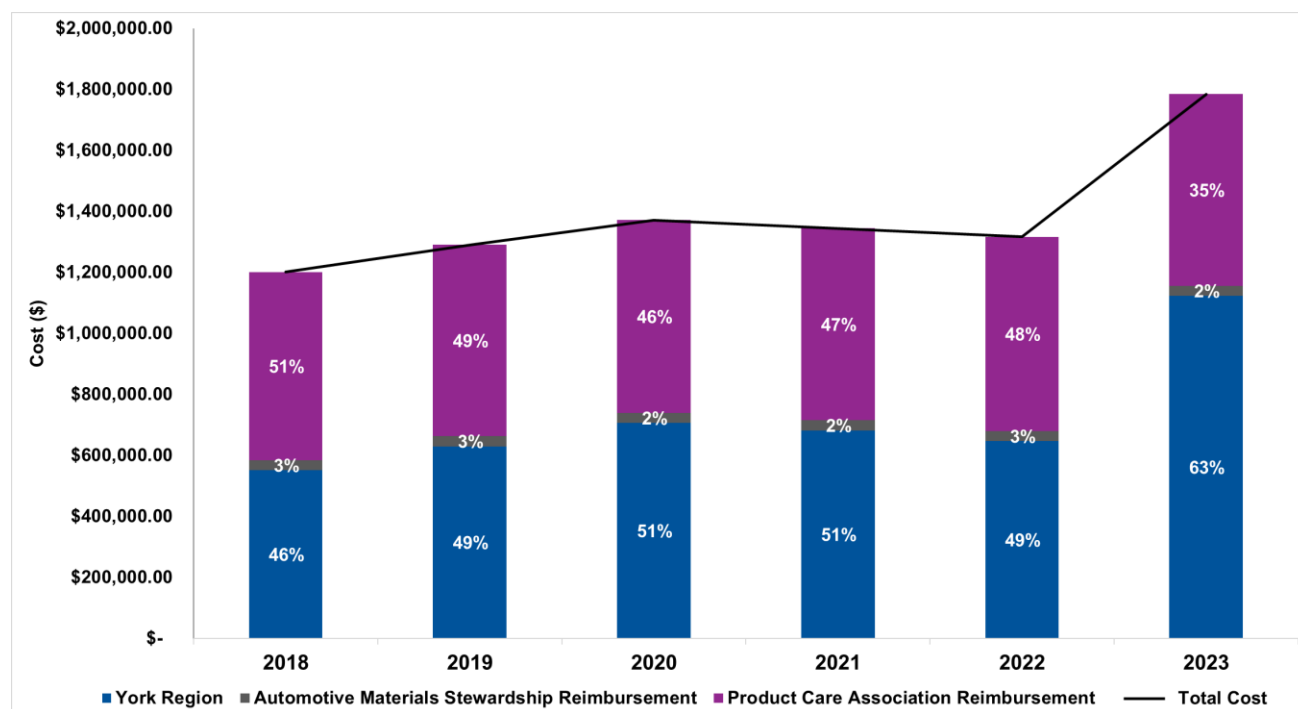
## 5. Financial Considerations

### York Region funded 63% of the total cost for the Hazardous Waste Program in 2023

Since the inception of Ontario’s policy framework to move to producer responsibility for hazardous and special products in 2008, compensation from producers has not covered municipal servicing costs for collecting their materials. Annual inflationary and other required cost adjustments have not been included in compensation offers by producers resulting in the Region’s cost to deliver services not being covered.

Figure 2 illustrates how the Region’s cost to manage this program increased significantly since the new regulations were released while producer reimbursements have remained stagnant. The Region covered 63% of the cost to manage the hazardous waste program in 2023 as half of all materials collected are not designated under the regulations in addition to other operational costs.

**Figure 2**  
**2018 – 2023 Region Costs and Producer Reimbursements for collected hazardous and special products**



## **Escalating servicing delivery cost widens gap between producer payments and Regional costs to operate the program**

Significant increases in service provider contracts have further impacted the cost to operate household hazardous waste collection sites. This can be seen with the sharp increase in total program costs, from \$1.3M in 2022 to \$1.8M in 2023, and a growing share of the costs being borne by the Region, from 49% or \$0.6M in 2022 to 63% \$1.1M. These increases are driven by consolidation in the marketplace with fewer service providers bidding on contracts and significant inflationary pressures due to labour shortages, commodity price increases and supply chain issues.

Increases in contract costs at the depots led to a decision to increase weight-based depot fees as presented in a [June 2023](#) report to Council. These servicing cost pressures will increase the gap between producer payments and Regional costs to operate the program. The current two-year contract was included in the 2023 and 2024 budget.

## **Service contract costs have increased by up to 300% in other Ontario municipalities**

The current service contract expires in November 2024 and staff anticipate further cost increases in new contracts. Financial implications of this contract will be reflected in the upcoming 2025 budget. Similar experiences are being observed across the Province. In a [letter](#) to the Ministry of Environment, Conservation and Parks in December 2023, Association of Municipalities of Ontario noted competitive procurements for these services in the last year have resulted in cost increases of between 44% and 300%. Some municipalities are considering reducing the number of events or the hours of operation to mitigate exponential cost increases. At a presentation to Niagara Region's Council on April 4, 2023, staff highlighted similar concerns and discussed potential service level reductions and reduced operating hours to collect household special products.

## **6. Local Impact**


Staff will continue to engage local municipal partners on outcomes of the Hazardous and Special Products regulation and advocacy position through collaborative discussions at the quarterly meetings. Region and local municipal staff continue to partner on educating residents on the proper disposal of hazardous products and collaborate on enforcement of these hard-to-manage products getting into other waste streams at the curb.


## **7. Conclusion**


Staff are advocating for amendment to the Hazardous and Special Products regulation to expand the list of designated materials, establish management targets and more clearly define collection site requirements for producers. Formal communication through the Regional Chair to the Ministry would strengthen the Region's advocacy position on this regulation to ensure the Region's hazardous waste diversion program remains effective. A strengthened regulation would be more inclusive and align with existing programs in other provinces such as British Columbia, Quebec and Manitoba.

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For more information on this report, please contact Lindsay Milne, Director, Waste Management and Forestry, Operations and Services, Public Works Department at 1-877-464-9675 ext. 75714. Accessible formats or communication supports are available upon request.

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May 24, 2024  
#16028460

Appendix A – Materials under Hazardous and Special Products Regulation



### Designated and Non-Designated Materials under the Hazardous and Special Products Regulation

Waste Type	Examples	Designated Under Regulation	Producer Responsibility Organization	Total Materials Collected (KG)	Designated Amount of Material Collected (KG)	Non-Designated Amount of Material Collected
Oil Containers	Empty Motor Oil and Antifreeze Containers	Yes	Automotive Materials Stewardship	13,584 (14 tonnes)	13,584 (14 tonnes)	N/A
Antifreeze	Antifreeze	Yes	Automotive Materials Stewardship	7,638 (8 tonnes)	7,638 (8 tonnes)	N/A
Oil Filters	Oil Filters	Yes	Automotive Materials Stewardship	4,791 (5 tonnes)	4,791 (5 tonnes)	N/A
Paints and Coatings	Paints, Stains Driveway Sealers	Yes	Product Care Association	411,597 (412 tonnes)	411,597 (412 tonnes)	N/A
Propane Tanks	Propane Tanks larger than 5lbs	Yes	Product Care Association	36,298 (36 tonnes)	36,298 (36 tonnes)	N/A
Refillable Pressurized Containers	Oxygen Tanks, CO2 Tanks, Acetylene, Tanks, Nitrogen Tanks	Yes	Product Care Association	14,418 (14 tonnes)	14,418 (14 tonnes)	N/A

Waste Type	Examples	Designated Under Regulation	Producer Responsibility Organization	Total Materials Collected (KG)	Designated Amount of Material Collected (KG)	Non-Designated Amount of Material Collected
Non-Refillable Pressurized Containers	Helium Cylinders, CO2, Cartridges, Propane Cylinders	Yes	Product Care Association	9,915 (10 tonnes)	9,915 (10 tonnes)	N/A
Thermometers and Switches	Thermostats Barometers Thermometers	Yes	Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI)	52 (0 tonnes)	52 (0 tonnes)	N/A
Miscellaneous Organics	Fuels, Thinners, Adhesives, Drywall, Compound/ Putty, Paint Stripper	Partially	Product Care Association	287,224 (287 tonnes)	17,032 (17 tonnes)	270,192 (270 tonnes)
Aerosols	Pesticides, Cleaners, Polish	Partially	Product Care Association	30,091 (30 tonnes)	15,455 (15 tonnes)	14,636 (15 tonnes)
Pesticides	Herbicides Insecticides	Partially	Product Care Association	9,653 (10 tonnes)	1,463 (2 tonnes)	8,190 (8 tonnes)
Motor Oil	Motor Oil	No	N/A	172,898 (173 tonnes)	N/A	172,898 (173 tonnes)

Waste Type	Examples	Designated Under Regulation	Producer Responsibility Organization	Total Materials Collected (KG)	Designated Amount of Material Collected (KG)	Non-Designated Amount of Material Collected
Caustics	Sodium Hydroxide Cement	No	N/A	21,975 (22 tonnes)	N/A	21,975 (22 tonnes)
Fire Extinguishers	Fire Extinguisher (all sizes)	No	N/A	9,235 (9 tonnes)	N/A	9,235 (9 tonnes)
Oxidizer-Fertilizers	Fertilizer/Plant Food	No	N/A	8,419 (8 tonnes)	N/A	8,419 (8 tonnes)
Oxidizer- Pool Chemicals	Chlorine Bromine	No	N/A	7,560 (8 tonnes)	N/A	7,560 (8 tonnes)
Pharmaceuticals	Pills Cough Syrups Cosmetics	No	N/A	5,666 (6 tonnes)	N/A	5,666 (6 tonnes)
Acids	Sulphuric Acid Muriatic Acid	No	N/A	3,705 (4 tonnes)	N/A	3,705 (4 tonnes)
Needles and Syringes	Insulin EpiPens	No	N/A	2,057 (2 tonnes)	N/A	2,057 (2 tonnes)
Expanding Foam	Insulating Spray Foam	No	N/A	2,383 (2 tonnes)	N/A	2,383 (2 tonnes)
<b>TOTAL:</b>				1,059,159 (1,058 tonnes)	532,243 (533 tonnes)	526,916 (527 tonnes)
					<b>50%</b>	<b>50%</b>