



**Extended Producer  
Responsibility  
Discussion paper**

**October 25, 2022**

## Introduction

The Government of Yukon committed to develop an extended producer responsibility (EPR) regulation by 2025 in [Our Clean Future: A Yukon strategy for climate change, energy and a green economy](#).

The EPR regulation will enable a new framework for end-of-life management of materials in the territory. Nine out of ten provinces already have EPR regulatory frameworks and Alberta is currently working to establish one as well.

The main goals for bringing EPR to the Yukon are to provide financial stability for recycling, increase amount of waste kept out of landfills, and help reach the waste diversion and greenhouse gas reduction targets under *Our Clean Future*.

By their nature, EPR regulations are outcome based. They set specific outcomes for the producers to achieve with respect to the end-of-life management of their products and provide rules on roles and responsibilities, program plan requirements, and reporting. The producers are then free to achieve the prescribed outcomes taking advantage of the flexibility and adaptability of the private sector. The evaluation of the producers' performance against the targets is supported by robust data collection and reporting by the producers.

The three priority categories to be managed under for EPR in the Yukon are:

- printed paper and packaging (PPP),
- household hazardous waste (HHW), and
- automotive wastes such as waste oil and waste antifreeze and their containers.

Key considerations and principles that shaped this proposal are:

- The Yukon will establish an outcomes-based regulation that will leave room for private industry to determine how best to manage EPR programs;
- All communities in a jurisdiction should have access to waste diversion services, but the level of services may differ;
- The Yukon will make best efforts to harmonize regulations to BC to reduce administrative burden on the producers and improve environmental outcomes;
- Small PPP retailers will be considered for exemption.

## Engagement process

Government of Yukon wants to hear your input on the proposed regulatory framework. This discussion paper provides an overview of the elements of the proposed EPR regulation for comment and poses questions to gather feedback. You can answer some or all questions as they relate to your experience and you or your organization.

Written responses can be submitted by email at [envprot@yukon.ca](mailto:envprot@yukon.ca) until Friday, January 27, 2023.

A separate online survey is also available to gather feedback from potential users of the EPR system and focuses on those aspects of EPR that a consumer (resident or a business) is likely to interact with. You can access the survey at [engageyukon.ca](http://engageyukon.ca) It is also available until Friday, January 27, 2023.

Further details on engagement sessions can be found at [Yukon.ca/extended-producer-responsibility](http://Yukon.ca/extended-producer-responsibility).

## 1. Producer considerations

### 1.1 Definition of a producer

In an EPR framework, producers become legally obligated to collect and manage products and packaging they put on the market. They are the responsible party to achieve set targets and outcomes. The producer is usually defined through a hierarchy of potential responsible parties to reflect the principle of assigning responsibility to the party with the greatest control over the product design. For example, brand owner or manufacturer has a greater input on the design than the retailer.

Environment Act already provides definitions of “a producer” and “a steward” that would be assigned responsibility for “the collection and recovery” of the material. The definitions capture Yukon-based and non-Yukon-based producers.

Yukon proposes to provide additional clarity to the definition of a producer for the following situations:

- A person who supplies designated material in the Yukon should be hierarchically considered to be brand owner or manufacturer, then first importer, then distributor, and, only then, a retailer.
- First importer is a person who imports the material for sale, offers for sale or distribution and includes own commercial use.
- Franchisee/franchisor relationships - if a franchisor and a franchisee operating under a franchise agreement are stewards in relation to the same product, the obligations shall be carried out by the franchisor.

#### **Discussion Questions:**

1. What comments, concerns or recommendations do you have on the proposed clarifications of obligated producers?
2. Are there other situations and clarifications that need to be addressed?

## 1.2 Producer exemptions for PPP

For the PPP, many jurisdictions exempt small businesses that meet a defined criteria from being obligated producers. The products and packaging that those small businesses place on the market are part of the EPR program for PPP and, thus, do get collected. However, the exempted producers do not pay into the program.

Small businesses typically have reduced capacity for administrative requirements, such as tracking and reporting. They generally place small amounts of PPP on the market and are, therefore, not expected to provide significant financial contributions into the EPR programs.

The criteria used to exempt small businesses usually include a threshold for amount of waste generated, annual revenue, charitable status and number of points of sale. All jurisdictions that provide an exemption use one tonne of PPP placed on the market annually. The annual revenue threshold is usually between \$1 million and \$2 million dollars.

For example, Saskatchewan exempts businesses that generate less than \$2 million gross revenue; however, they are proposing to lower the revenue threshold to \$1 million. British Columbia has a similar exemption criteria, but with a \$1 million gross revenue cut-off.

Manitoba does not set a revenue based exemption in the regulation but the EPR program operator does not charge any fees to producers with annual revenue below \$750,000.

Yukon is proposing to exempt small businesses from producer obligations if they meet one of the following criteria:

- Annual revenue threshold,
- Annual amount of PPP placed on the market – 1 tonne, or
- Organization is a registered charity.

Yukon is not considering a single point of sale as a criterion since most retail outlets in the territory have only one point of sale.

It is proposed that exempt producers will be required to keep proof of condition for exemption on record for a set of period of time to be available upon request.

Newspapers are highly recyclable and are included in the PPP product list. Newspaper producers may, however, have financial constraints preventing them from participating in the Canadian EPR programs in a traditional fashion. In BC, newspapers came to an agreement with the provincial government that the government would pay their producer fees for in-kind services such as newspaper advertisement space. This is an

arrangement outside of the regulation. In Ontario, majority of newspaper producers were exempted from producer requirements, however, the newspaper materials remain an obligated product. The Yukon is considering what, if any, accommodations should be made for newspaper producers.

**Discussion Questions:**

1. In your understanding of the Yukon's business landscape, what annual revenue threshold would be appropriate to reduce the burden on small businesses but obligate enough businesses to sufficiently fund EPR program for PPP?
2. Do you have any comments on the proposed exemption for producers that supply less than 1 tonne of PPP to the market on an annual basis?
3. Do you have any comments on the proposed exemption for registered charitable organizations?
4. What comments do you have about the participation of newspaper producers in the EPR programs?
5. What other comments do you have on the proposed exemption criteria and maintaining proof of exemption?

### 1.3 Fulfilling producer responsibilities

The producers typically join a producer responsibility organization (PRO) that operates an EPR program for a specific product category on behalf of all producers it represents. The PRO becomes the organization responsible for things such as:

- data collection and reporting;
- establishing and collecting fees from individual producer to fund the collective program;
- collection of the obligated waste products and packaging; and
- arrangements for end-of-life processing such as reuse, repair, recycling, etc.

It is recognized that the small size of the Yukon best lends itself to a single PRO model; however, it is the intention to provide flexibility in the regulation. In BC, for example, more than one PRO is allowed for each products; however, the government has to review and approve a stewardship plan for each PRO. It is also possible that multiple PROs may want to collect the same select and overlapping items. For example, a single-use battery in an electronic toy may be theoretically collected both by the battery EPR program (currently proposed) and by a future electronics EPR program.

It is also, possible, though unlikely in the Yukon, that a producer may want to operate its own EPR program. It is important to set rules for how individual producers and PROs design and operate programs.

Majority of the PROs operating in Western Canada are structured as non-profits; however, there are some for-profit PROs in Canada. BC allows both for- and non-profit PROs to operate; however, all current PROs in BC are non-profit.

The rules proposed below would apply to the current proposed product categories (PPP, HHW, and automotive wastes) and to the product categories added in the future.

**It is proposed that the regulation:**

- allows producers to operate their own EPR program or engage an agency (PRO) to operate an EPR program on their behalf.
- allows multiple PROs to operate EPR programs for the same product category.
- sets out the same program requirements for an individual producer vs. a PRO.
- allow both for- and non-profit PROs.

**Discussion Questions:**

1. What are opportunities and challenges with providing flexibility to enable multiple PROs to operate in the Yukon while recognizing that only one PRO for each obligated product category is likely.
2. What comments do you have about allowing both for- and non-profit PROs to operate in the Yukon?
3. Do you have any other comments?

## 2. Product categories

Defining what products are included in each product category have been identified as one of the most important aspects of EPR programs to harmonize to allow producers to operate in a similar fashion across multiple jurisdictions.

### 2.1 Printed paper and packaging (PPP)

PPP is sometimes referred to in the Yukon as non-refundables. Raven Recycling and P&M Recycling operate as drop-off depots in Whitehorse and they also act as recycling processors for all PPP waste that is collected across the Yukon. Currently, they are supported by territorial and some municipal governments through diversion credits to continue processing of Yukon's non-refundables. However, both Raven Recycling and P&M Recycling indicated that they have no desire to continue with the diversion credit system past 2023 without a path to EPR. Diversion credits are also increasing every year and are becoming more expensive for the taxpayers. This is why PPP is the first priority category proposed to be included under the proposed EPR framework.

Yukon is proposing to harmonize definition of printed paper and packaging with BC and include the following:

- Packaging,
- Paper products,
- Packaging-like products, and
- Single-use products.

The following products are proposed to be exempted:

- Paper products, packaging-like products, and single-use products that can become unsafe or unsanitary to recycle (e.g., paper towels);
- Containers obligated under a different regulated program, such as beverage containers (managed under *Beverage Container Regulations*), hazardous material containers, and waste oil and antifreeze containers; and
- Bound reference books, literary books and text books.

Yukon is considering whether glass and expanded polystyrene (Styrofoam) should be exempted as well. Glass is heavy and expensive to transport and is currently not being collected for recycling in the Yukon. Expanded polystyrene is bulky and has low resale value. It is also not currently collected for recycling in the Yukon. It is likely that including one or both of these products in the EPR program would significantly increase the program costs.

Currently, in BC and other Canadian jurisdictions, EPR programs are only obligated to collect PPP from residential sources. Producers are only expected to pay for management of products they supply to the residential sector.

Some jurisdictions include very few institutional sources, such as schools (ON, NB) or long-term care homes (ON). BC is exploring policy options for industrial, commercial and institutional (ICI) PPP waste, starting with data collection and research to better understand PPP management in the ICI sector.

Some ICI sources, such as schools, long-term care facilities, offices, small businesses, etc. generate waste very similar in composition to the residential PPP waste.

Additionally, in smaller communities there might not be enough total PPP waste to justify separate management of waste from residential and ICI generators. On the other hand, some ICI PPP wastes can be very different from residential (such as secondary and tertiary packaging from transportation of goods in large volumes) and they may be already well managed through existing business-to-business contracts.

In the Yukon, some of these ICI materials are currently recycled through the existing recycling system. Some small businesses drop off their waste at the public depots and other businesses manage collection privately. Processing of waste from the ICI sector is

currently subsidized by the government alongside residential waste through the diversion credits. A large portion of the subsidized ICI recycling is cardboard. Approximately 50 to 60% of all PPP waste currently recycled in the Yukon is commercial cardboard. It is important to note that City of Whitehorse's Solid Waste Management Bylaw lists cardboard as a controlled waste, meaning it can not be landfilled. Producers must find a way to recycle cardboard or face paying high unsorted load tipping fees at the landfill. As such, the ICI sector is both avoiding higher landfill fees and receiving subsidized recycling via the diversion credits.

Yukon is considering whether to include some or all ICI sources of waste in the EPR programs.

### **Discussion Questions:**

1. What comments do you have about proposed definition of PPP and corresponding exemptions?
2. How important is it to include or exclude glass and/or Styrofoam for the success of Yukon's program for PPP?
3. Should some or all ICI sources of waste be included in the EPR programs for PPP? What opportunities or barriers would the inclusion of some or all ICI sources bring to you?
4. If yes, which sources should be included and why? Examples of ICI sources are schools, long-term care homes, other institutional (congregate living) accommodations (e.g., correctional facilities, student boarding residences, hospitals, hospices), visitor (short-term) accommodations (e.g., hotels, motels, campgrounds, resorts), offices, small commercial operations, large commercial operations, and industrial operations (e.g., mine camps).

## 2.2 Household hazardous waste

Household hazardous wastes (HHW) are currently collected from residents in the Yukon either at collection events (HHW days) or through year-round drop off at select local transfer stations. Territorial and some municipal governments fund these collection programs. Businesses that use household type products and generate HHW make their own arrangements for collection, transportation and disposal.

Unlike PPP, other product categories managed under EPR regulations across Canada do not differentiate between residential and ICI sources of waste. However, the products included in the category are those that are likely to be found in households.

Many hazardous products are intended to be used up, like paint, fuels, or solvent. However, when it comes time to dispose of these products as HHW, a consumer may

have full, partially full or empty containers. EPR programs in other Canadian jurisdictions typically impose a maximum limit for the container size. In BC, for example, containers of up to 30L are accepted in the program. Others hazardous products have a useful lifespan and then have to be disposed, like batteries or alarms.

If disposed at the landfill, hazardous wastes can pose significant environmental and human health risks and are, therefore, banned. However, if there are no easy ways for a consumer to dispose of their HHW, the risk goes up that some waste will end up in the landfills, as litter, or become orphaned at places like recycling depots.

HHW is the second product category proposed to be managed under the new EPR framework. Below are the details on which products are being considered for inclusion. The HHW product category includes many different products, therefore, it is expected that 2 or 3 EPR programs will be required to manage all proposed products.

Because hazardous waste cannot be buried in the Yukon landfills, management of products not included in the EPR programs for HHW will continue to be paid by territorial and municipal taxpayers.

It is proposed that the household hazardous waste (HHW) product category includes the following products and associated containers:

- Solvent and flammable liquids, including fuels;
- Household (domestic) pesticides;
- Paint; and
- Rechargeable and single-use (household) batteries.

Additional HHW products identified for consideration include:

- Lights and light fixtures, including mercury containing lights;
- Non-refillable compressed gas cylinders (including bear spray and, possibly, fire extinguishers);
- Alarms (smoke and CO)
- Mercury containing devices including thermostats, thermometers, etc.

**Discussion Questions:**

1. Do you have any comments on the proposed HHW products?
2. Which HHW products from the additional list do you consider as high priority to include in the HHW category at this time? Tell us about opportunities and challenges associated with including these additional products in the HHW EPR program(s).
3. If including some or all additional HHW, what are the implementation considerations? Should these products be included in the program from the start or phased in over time?

4. What is the maximum size of containers for HHW products that should be included in the programs?
5. Do you have any comments or advice on how to draft technical definitions of the proposed and proposed additional HHW to ensure easy identifications of obligated products by the producers, consumers and depot operators?

### 2.3 Automotive wastes

Liquid automotive wastes are in fact a subset of HHW. However, because they are usually managed separately under EPR frameworks, and also have many more generators, they are considered to be a separate waste category for this discussion paper. Automotive waste is the third waste category proposed to be managed under EPR.

Similarly to HHW, liquid automotive wastes are currently collected from residents in the Yukon either at collection events (HHW days) or through year-round drop off at local transfer station. Residential “Do-It-Yourselfers” generate only a small portion of waste oil (e.g., ~6% in BC in 2021) Businesses that generate wastes such as used oil and antifreeze make their own arrangements for collection, transportation and disposal. As such, the primary change for businesses already collecting and transporting automotive wastes will be to work with the PRO rather than their current contractor.

Some facilities in the Yukon are authorized to incinerate waste oil to heat buildings. EPR program is expected to be compatible with continuation of this practice.

Similarly to HHW, the Yukon proposes to obligate all products in automotive waste category, regardless of the generation source. The maximum container sizes collected in other Canadian jurisdictions range from 30L in BC to 50L in SK, NS, NB, PEI, and NFLD.

Automotive waste has all the same environmental and human health risk considerations as HHW discussed in the previous section.

**It is proposed that the automotive waste product category includes:**

- Waste oil and its containers
- Waste antifreeze and its containers
- Oil filters

**Additional automotive waste product for consideration includes:**

- Diesel exhaust fluid (DEF) and its containers

### Discussion Questions:

1. Do you have any comments on the proposed automotive waste products?
2. Should DEF and its containers be included in the automotive waste products at this time? Tell us about opportunities and challenges associated with including DEF in the automotive waste EPR program.
3. If including some or all additional automotive waste products, what are the implementation considerations? Should these products be included in the program from the start or phased in over time?
4. What is the maximum size of containers for automotive waste products that should be included in the programs?
5. Do you have any comments or advice on how to draft technical definitions of the proposed and proposed additional automotive waste products to ensure easy identifications of obligated products by the producers, consumers and depot operators?

### 3. Waste Management Hierarchy

Once the obligated products are collected through an EPR program, they need to be managed. All jurisdictions in Canada require the wastes to be managed in accordance with the waste management hierarchy, also known as pollution prevention hierarchy. Options higher on the hierarchy have higher environmental value and are, therefore, more preferred. The management options at the top should be utilized to their full extent before using an option on a lower rung of the hierarchy.

It is important to recognize that some wastes, especially some in the HHW category, may not have any recycling options due to their toxicity or other factors. However, the hierarchy still considers reducing environmental impacts at product design and manufacture stages, trying to reuse products where possible, or capturing energy during incineration. Regardless of the product, the hierarchy presents a useful approach to lower the overall environmental impact through manufacture and disposal choices.

#### It is proposed that:

The Yukon harmonizes waste management hierarchy with British Columbia and include the following rungs in the descending order of priority:

1. Reduce environmental impact of product,
2. Redesign the product to improve reusability or recyclability,
3. Eliminate or reduce the generation of unused portions of a product that is consumable,
4. Re-use,
5. Recycle,

6. Recover material or energy,
7. Dispose.

**Discussion Questions:**

1. Do you have any comments on the proposed waste management hierarchy?

## 4. Fees

In EPR, producers fully fund the program operations. When a PRO is operating an EPR program on behalf of multiple producers, the PRO sets the cost structure for the management of the obligated products and then charges those costs to the producers.

These costs can be either internalized in the price of the product or passed down to the consumer through a visible fee charged at a point-of-sale. Internalized fees are typical when they are a small part of the price, like for the PPP products, where additional cost for each item of packaging can be a fraction of a cent. Internalized fees can also ensure that the producer incorporates waste management costs into the overall product pricing encouraging greater consideration of environmental impacts during the product design and manufacturing. Visible fees appear as a separate line on the customer's receipt. To the consumer it would look the same as the current government-run stewardship programs in the Yukon for tires and electronics. Visible fees can act as an educational tool letting customers know that they have pre-paid for waste management of the purchased product, but they may also be mistaken for a government tax.

Some jurisdictions, like NB, mandate that the advertised price of the product include all fees, thus internalizing the costs. In BC, the regulation allows both visible and internalized fees, and an audited financial statement is required if visible fees are charged to the consumers.

**It is proposed that:**

The Yukon harmonizes fee rules with BC and allow both visible and internalized fees. If an EPR program charges visible fees to the consumers, an audited financial statement of those fees is required to be submitted as part of the annual report.

**Discussion Questions:**

1. Do you have any comments on the proposed rules on fees and associated reporting requirements?

## 5. Stewardship plans and target setting

EPR regulation is by design an outcomes-based regulatory tool. The regulation sets the rules and the producers design EPR programs to achieve targets while following established rules.

Stewardship plans are a way for the program operators to outline their proposed approach for the program operation, and to set metrics and targets that will be used to evaluate program performance. The plans are prepared by operators of EPR programs (PROs or individual producer). The plans are submitted prior to the start of the program operation to be reviewed and approved by the regulator. This approach is the same as British Columbia's and the main elements of the plan described below generally align with their requirements.

It is proposed that the stewardship plan development process includes a consultation process with stakeholders prior to submission for approval. The stewardship plan is proposed to include the following information, at minimum:

- Description of the stakeholder consultation and how stakeholder input was incorporated into the plan;
- Opportunities for the stakeholders to provide ongoing input to the EPR program operator during the program implementation and operation;
- Proposed material collection, recovery targets, and/or other performance measures and requirements for up to a five-year period. As the programs mature, it is expected that the targets will increase over time. Targets are also expected to be product and material specific where possible;
- For new programs, proposed timeline prior to the start of program operation;
- Proposed accessibility and service levels to ensure EPR program is providing adequate and free collection of the obligated materials from all Yukon communities;
- For PPP, the plan to provide adequate collection from residential properties and other obligated sources of waste;
- Plan on how interested municipal and local government can enrol their communities to participate in the EPR program;
- For PPP, plan on how local governments can participate in collection service delivery to their citizens if they want to.
- Plan on how the producers will collect and pay for the costs of collection and post-collection management for the obligated products (including legacy and orphan products).
- Plan on how EPR program operator will collaborate with other EPR programs.

- Consumer awareness plan to communicate how collection services can be accessed, what materials are accepted and how to safely handle any hazardous materials.
- Proposed end-of-life waste management plan for the products in the program, taking into account waste management hierarchy;
- Plan to reduce or eliminate environmental impacts of a product throughout its lifecycle;
- Dispute resolution procedure between EPR program operator and a service provider for collection and waste management.

Upon receipt of the stewardship plan, the regulator reviews the plan and may engage in a negotiation with the PRO or a producer to ensure that what is proposed in the plan is effective, reasonable, and would serve the needs of the Yukoners.

**The regulator will, at a minimum, consider the following in deciding on whether to approve the plan:**

- Advice from an established or an ad-hoc advisory group;
- The consultation conducted in the stewardship plan preparation and how the stakeholder concerns raised on those consultations are addressed the plan.
- Program plans from other producers or PROs for the product(s) in the same category;
- Effectiveness of each element of the stewardship plan proposal;
- Locations and types of collection services and availability of collection services offered to Yukoners;
- Methods of product collection, storage, transportation and end-of-life management;
- Proposed financial and operational collaborations with other EPR program operators to keep the program costs down and enhance access to EPR program participation by the communities and access to collection services by the residents;
- Ease for communities to join and participate the EPR program without undue administrative burden;
- Amount of the product expected to be placed on the market and collected;
- Proposed performance metrics, performance targets and how targets will increase over the proposed plan duration.

**It is proposed the stewardship plans are approved for a maximum period of five years and that:**

- There is no set timeline for the regulator to review and approve the plan.

- The regulator will have authority to establish or amend performance metrics, performance requirements or targets to replace or add to those proposed in the stewardship plan, with written reasons provided.
- The regulator will have authority to rescind the approval of an approved plan at any time, with written reasons provided.

### **Discussion Questions:**

1. Do you have any comments on the proposed elements of a stewardship plan?
2. Are there additional elements that you would like to propose to be included in the stewardship plan?
3. Considering that final waste diversion targets for each product category will be set in the stewardship plans, should Yukon consider including minimum waste diversion target(s) in the regulation, similar to British Columbia? If so, what should those levels be?
4. Considering that final accessibility and service levels for each product category will be set in the stewardship plans, should Yukon consider including minimum accessibility and service levels in the regulation? If so, what should those levels be?
5. If no or few ICI sources of PPP waste are obligated in the final regulation, what consideration should the PPP program stewardship plan include to provide opportunities for non-obligated sources (in this case, the ICI sector) to participate in the collection, transportation and processing of PPP materials for a reasonable and proportional fee?
6. Do you have any comments on the considerations for the approval of a stewardship plan?
7. Do you have any comments on the proposed regulatory approval process?

## **6. Reporting**

To enable monitoring of the success and compliance of the EPR programs and to promote transparency, the producers, have to submit annual reports. If multiple producers engage a PRO to operate a program, BC and most other Canadian provinces allow the PRO to report collectively on behalf of all producers. The reports are expected to be free and easy to access by the public. All Canadian jurisdictions require annual reporting.

### **It is proposed that:**

- The annual reports will be required on a calendar year basis.
- The deadline for the report is proposed to be July 1 for the previous calendar year.
- The producer shall publish the report on the internet to ensure free access.

- If multiple producers engaged a PRO to operate an EPR program on their behalf, the PRO may submit a single report on behalf of all producers, providing aggregate data.

The reports typically outline how the program operated over the past year, including performance against established metrics, accounting of how collected materials were managed, and financial reporting. In BC, the required elements of the report are included in the regulation and the regulator has capacity to request any additional information. The reporting elements proposed below are generally aligned with BC's requirements. Reporting requirements were identified as an important element of EPR framework to harmonize in order to reduce administrative burden on the producer and thus keeping the overall program costs lower.

**The annual report is proposed to include, at minimum:**

- Description of the collection network and collection events and associated service levels;
- Amount of material supplied into the Yukon;
- Amount of collected materials;
- Description of how collected material was managed in accordance with the waste management hierarchy;
- Performance results against approved performance metrics, performance requirements, and targets;
- Description of educational materials and consumer awareness efforts;
- Description of efforts taken by the producer to reduce environmental impact of the product throughout its lifecycle and improve reusability and recyclability;
- Independently audited financial statement(s) for:
  - EPR program's deposits and refunds from and to producers;
  - Visible fees, if applicable.
- Other information as requested by the Regulator.

**Discussion Questions:**

1. Do you have any comments on the proposed reporting submission rules?
2. Do you have any comments on the proposed minimum contents of the annual report?
3. Are there any additional reporting elements that Yukon should consider?

## 7. Oversight and compliance

The oversight, compliance and enforcement are important elements to ensure EPR programs are operating in compliance with the EPR regulation and are achieving environmental objectives.

The oversight and compliance activities include stewardship plan review and approval, annual report reviews, inspections, audits, compliance efforts and enforcement. The PROs perform some compliance tasks like identifying free-riders (producers that should be paying into the EPR programs but are not) and attempting to bring them on-board. If the PRO is not successful, they can pass on the issue to the regulator.

Oversight options vary across Canadian jurisdictions. In BC, the government performs the regulator role in-house. That means government employees review stewardship plans and annual reports and liaise with the producers and PROs as necessary. The director serves as a decision maker issuing stewardship plan approvals. In jurisdictions like MB, SK and PEI the government also performs these functions and the Minister serves as a decision maker. On the other hand, NB, NFLD and ON utilize an arm-length organization to serve the role of the regulator. ON has a form of EPR called individual producer responsibility that is not being considered in the Yukon. Therefore, RecycleNB in NB and Multi-Material Stewardship Board (MMSB) in NFLD are more relevant arms-length organization examples for the Yukon. In these jurisdictions, the regulations set rules on how the Board of the organization is structured and selected and how the organization should be run. For instance, the board of RecycleNB is allowed to charge producers or PROs the administrative costs incurred to administer the programs. Arms-length organizations perform the same tasks as the government, including stewardship plan review and approval, annual report review and general oversight and compliance of the EPR programs. If Recycle NB is unable to achieve compliance, it passes the issue to the government for enforcement.

### Proposal:

The government will conduct all oversight, compliance and enforcement functions. The regulation will also enable the government to assemble a permanent or an ad-hoc committee to assist with evaluation and approval of the stewardship plans.

### Discussion Questions:

1. What challenges and opportunities does the in-house oversight and compliance model option present?
2. What regulatory tools (e.g., administrative fines, penalties, public registry of non-compliances, etc.) are most effective for compliance and enforcement issues such as free riders, accurate reporting and participation in EPR programs, etc.?
3. Do you have any other comments?