

Extended Producer Responsibility (EPR)

What We Heard

Results of public engagement conducted from November 2022 to February 2023



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Background

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](#).

This new regulation will enable a new framework for end-of-life management of materials in the territory. All Canadian provinces already have EPR regulatory frameworks and Yukon can become the first territory.

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.

The three priority categories for EPR in the Yukon were identified to be:

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

This report documents the feedback received during the public engagement on Extended Producer Responsibility that took place between November 1, 2022 and February 17, 2023.

Engagement process

Objectives

This engagement satisfied statutory requirements to engage as per section 29 of the *Environment Act*.

The primary objectives of this engagement were to gather input and hear concerns from stakeholders and the public about the proposed EPR framework. We also asked about implementation expectations that will be incorporated into the roll out of EPR after regulation is passed.

A secondary objective was to educate stakeholders about EPR and to build relationships between government and stakeholders to facilitate implementation of the EPR framework and programs roll-outs.

Methods

How we reached out

Led by the Department of Environment, the stakeholder engagement on extended producer responsibility started on November 1, 2022. The original closing day of the engagement was January 27, 2023, however, on January 17, 2023, the engagement was extended by three weeks closing on February 17, 2023.

On November 1, 2022, the Government of Yukon issued the [news release](#) to announce the beginning of the engagement period. Letters, electronic or hard-copy, were sent to the stakeholders notifying them as well. The engagement was also announced at the Yukon Recycling Summit held in Whitehorse on November 1 to 3, 2022. Yukoners had an opportunity to learn about extended producer responsibility (EPR) engagement process and to fill out the public survey on-site during the Open House event held on the first day of the Summit.

The engagement webpage (<https://yukon.ca/en/engagements/extended-producer-responsibility-epr-yukon>) went live and included a link to the public survey, discussion paper dated October 25, 2022, and additional information. Dates of the stakeholder engagement sessions and public information sessions were published throughout the engagement period. Emails were sent to the stakeholders informing them of additional sessions as they were scheduled.

Table below outlines public and stakeholder engagement sessions. Stakeholder engagement sessions included an educational presentation on the basics of Extended Producer Responsibility followed by the presentation on the regulatory proposal.

Additionally, direct meetings were organized with over 10 stakeholders and multiple stakeholders reached out over phone and email to ask questions about the EPR proposal.

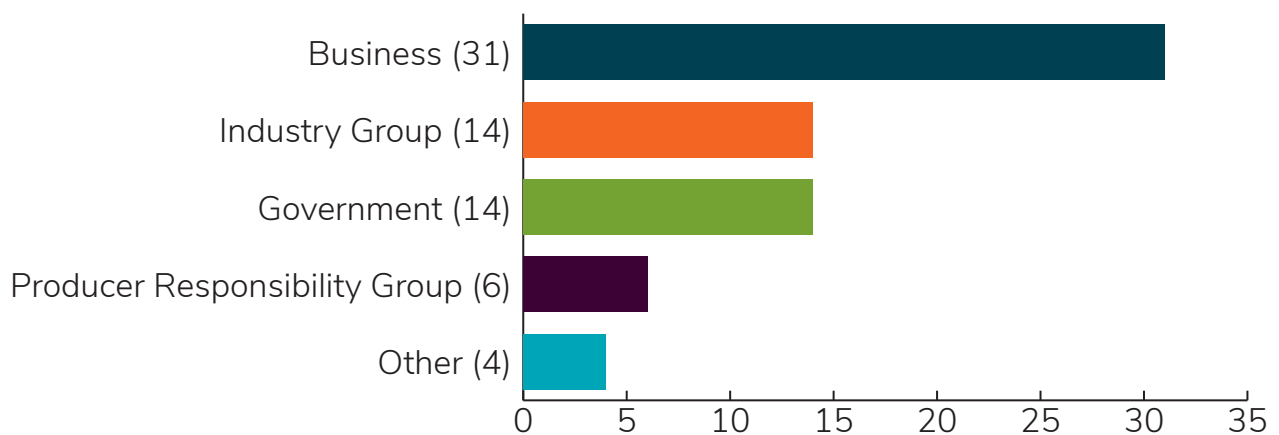
Date and time	Audience
Nov 2, 2:15pm	Yukon Recycling Summit participants
Nov 24, 6:30pm – 8pm	Yukon stakeholders (aimed at potential obligated producers)
Nov 25, 10am-11:30am	Yukon stakeholders (aimed at potential obligated producers)
Nov 29, 6:30pm – 7:30pm	General public
Dec 2, 11:30am-12:30pm	Association of Yukon Communities administrators
Dec 3, 1:45pm-2:30pm	Association of Yukon Communities elected officials
Dec 5, 1:30pm-3pm	Yukon service providers sessions
Dec 6, 10:30am to 12pm	Non-Yukon stakeholders
Dec 8, 2:30pm-4pm	First Nations

Dec 14, 5:30-7 pm	General public
Dec 15, 10am-11:30am	Yukon stakeholders (aimed at potential obligated producers)
Jan 9 at 2:30pm-4pm	Yukon stakeholders (aimed at potential obligated producers)
Jan 16, 6pm-7pm	General public
Jan 17, 9:30am-11am	First Nations
Jan 17, 1:30pm-3pm	General stakeholders meeting

Who responded

The public survey was completed by 278 individuals, 44 businesses and 8 organizations. Whitehorse residents made up 78% of respondents and 22% were from other Yukon communities. Whitehorse businesses and organizations made up 71% of the respondents, 10% were from Dawson City, 8% from Watson Lake, 6% from either Haines Junction, Mayo and Burwash Landing and 6% had no storefront in the Yukon. Eight members of the public additionally reached out via email to submit their comments. Government of Yukon staff spoke to a number of residents during the Public Open House event on November 1, 2022, which was held as part of the Yukon Recycling Summit conference.

Twenty-two stakeholders submitted formal responses to the discussion paper or indicated they have no comments. An additional 10 stakeholders provided input into the engagement through email. The first engagement session at the Yukon Recycling Summit was attended by approximately 55 people in person and online. Over 75 people attended other scheduled engagement sessions for stakeholders, and some stakeholders participated more than once. The chart below shows the types of stakeholders that participated in the engagement through sessions, written submissions, email, meetings and phone conversations.



What we heard

Many businesses and groups used the stakeholder sessions and other communication channels to ask questions about how EPR works in general and how it is proposed to look in the Yukon, in addition to providing direct feedback. Some followed up with written submissions. The input from the stakeholders and the public are summarized below, organized to follow the questions outlined in the discussion paper dated October 25, 2022. Information received from all sources, including the public survey, input received during the engagement sessions, phone conversations, and written stakeholder and public submissions are included below.

Stakeholders supported Government of Yukon's goals of reducing waste, keeping plastics out of the environment and transitioning to circular economy. Majority of respondents and participants in the engagement sessions expressed support for full responsibility EPR as an appropriate tool. There was also desire expressed to ensure that the EPR framework can be used to designate more products and specifically plastic products in the future.

Some stakeholders indicated that they did not believe the adoption of an EPR system in the Yukon was appropriate and suggested alternative solutions. Examples of alternative solutions suggested included delaying implementation of EPR and increasing government spending and investment in the current recycling system.

Several stakeholders expressed concerns that geography and low population may lead to higher program costs compared to southern Canadian jurisdiction, specifically, for household hazardous waste and printed paper and packaging programs (see [section 2](#)). Additional concerns about additional administrative burden to small businesses were also identified. At the same time, there was a desire to ensure that the Yukon's EPR programs heavily focus on strong environmental outcomes.



1. Producer considerations

1.1 Definition of a producer

Q1: *What comments, concerns or recommendation do you have on the proposed clarifications of obligated producers?*

The stakeholders agreed that definition of the producer is a very important element of the EPR framework. Because the definitive proposed definition of the producer was not presented at the engagement, some business stakeholders had a difficult time providing feedback and identifying if their business may be impacted by EPR. Clear communication on the final definition of producer was preferred to avoid confusion.

The respondents supported the hierarchical approach to defining producer. It was also recommended that the definition be harmonized with other jurisdictions, but there was no consensus on the jurisdiction. Both BC and Ontario definitions of producer were supported.

Specifically, the requirement for the brand owner to be 'resident in Canada' rather than in the jurisdiction was supported. One respondent expressed support for the way Ontario provided clarifications on situations with multiple brand owners.

Other respondents commented that the producer definition should be drafted to minimize free riders to the EPR system. In particular, it was important to the stakeholders that the definition captures e-commerce scenarios.

In response to the proposed rule that the franchisor would be the obligated producer on behalf of all franchisees in the Yukon, there was general support due to it being common practice to simplify reporting.

“Harmonized definitions should be used and should ensure there is no opportunity for free riders.”

Stakeholder “is supportive of a hierarchical producer definition but would like to see more detail when it comes to residency. Consistent with other Canadian jurisdictions (e.g., Ontario, Alberta, Manitoba, Saskatchewan), the first obligated party should be the brand owner resident in Canada.”

Q2: *Are there other situations and clarifications that need to be addressed?*

Several comments indicated that definitions and/or clarifications should be included to identify that online retailers are included in the definition of producer. Definitions of 'marketplace facilitator' from BC and Ontario were recommended as useful examples.

“Consideration of online retailers should be considered in the EPR regulation so as not to disadvantage those businesses located in the territory.”

1.2 Producer exemptions for PPP

Q1: *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?*

Majority of respondents expressed support for the revenue-based exemption for small PPP producers. However, a number stakeholders from the business community indicated preference for no exemption.

The respondents generally found it difficult to suggest a specific revenue value partially due to lack of sufficient data and partially due to sales figures being a poor proxy for amount of PPP placed on the market.

The suggested revenue threshold values ranged between \$1 million per year to align with BC and \$5 million per year, with no clear consensus. Larger businesses were concerned with having to cover the costs of collection of materials placed on the market by the exempt businesses and small businesses advocated for high exemptions to avoid the risk of overburdening small businesses with new costs.

One respondent stated that having an exemption would potentially exempt national brands with relatively small Yukon market which would be contrary to the goals of the small business exemption (to reduce burden on small local businesses).

Small businesses expressed concern that if the revenue of all franchises are added together for the purposes of producer exemptions, it would be a disincentive for business expansion.

“The Yukon should adopt the same producer exemption thresholds for PPP as British Columbia: \$1 million gross revenue or 1 tonne material placed on the market.”

“Due to the variety of business types and sizes of obligated companies, it is difficult to suggest cut-offs for revenue ranges and exemptions”

“We continue to believe all producers should be obligated to report paper and packaging waste in the territory and remit at least a minimum fee to a Producer Responsibility Organization.”

Q2: *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?*

Similarly to the revenue based exemption for small producers of PPP, some respondents felt there should be no weight-based exemption. Those stakeholders that supported the exemptions in general, agreed that 1 tonne of PPP supplied to the Yukon market per year is a reasonable threshold.

Q3: *Do you have any comments on the proposed exemption for registered charitable organizations?*

Few stakeholders commented on this proposed exemptions and no specific concerns with this proposals were raised at the stakeholder engagement sessions. One respondent felt that there should be no exemptions for any producers, including registered charities. Another respondent suggested exempting the registered charities from all producer obligation except for reporting.

Several stakeholders were initially concerned that the proposed exemption would only apply to the registered charities but not registered non-profit organizations. However, after understanding the other exemption criteria, they commented that most non-profits would be exempt through the proposed revenue and weight based thresholds.

Q4: *What comments do you have about the participation of newspaper producers in the EPR programs?*

Those non-print media stakeholders that addressed this question were in favour of no exemptions for the newspaper producers. They indicated that, because newspaper is proposed to be included in the definition of PPP, newspaper producers should be paying their fair share. One respondent indicated that if newspaper producers are exempt from the programs, the producers should be required to report annual volumes of newspaper supplied to the market and cover their share of the administrative costs to run the EPR program.

Printed media stakeholders indicated the newspapers and other community printed media in the Yukon are important to the society and frequently operate with small profit margins. There was also a concern expressed that businesses inserting flyers into the newspapers may switch to more online advertising if they would have to pay additional fees to manage the flyers under EPR.

Based on the information shared by the publications, all print more than 1 tonne of material per year and less than half of the outlets would be exempt if the revenue-based exemption threshold was set at \$1M per year.

“As newspaper is proposed to be an obligated product, newspaper producers should be required to participate in the EPR program for PPP so that costs of managing this material are not borne by other producers.”

“I appreciate your acknowledgement of the importance of newspapers to society in your recent presentation. In an era of mass misinformation local journalism is very important to Yukon. (...) I encourage the government of Yukon to consider the Ontario model where community newspapers are exempt from producer requirements even if the newspaper materials remain an obligated product.”

Q5: *What other comments do you have on the proposed exemption criteria and maintaining proof of exemption?*

A small business stakeholder recommended adding a single point of retail exemption for small PPP producers, which would be applied as a secondary only if the producer is below the revenue threshold.

The automotive stakeholders indicated that they would like an “industry calculator” be an acceptable approach to determine the weight of PPP from the sale of service parts, based on new vehicle sales.

Respondents agreed that exempt producers should keep records confirming they meet the exemption criteria.

1.3 Fulfilling producer responsibilities

Q1: *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.*

Stakeholders supported the regulation allowing multiple PROs to operate in the Yukon in principle since competition is considered to lead to lower costs and better material recovery rates. However, due to the small population of the Yukon and small volumes of materials, multiple PROs are not expected to result in any actual economic advantage and may, in fact, lead to fragmenting the market removing economies of scale. Therefore, some stakeholders advocated for a single PRO model.

There was support expressed for the regulation allowing the producers to fulfill their EPR obligations by themselves, without involving the PRO. Also, the importance of competition was highlighted including expressing concerns for potential monopoly PROs, non-competitive behaviours, and the need to remove barriers for new PROs to enter the market.

“By permitting multiple PROs, the expectation is that competition will lower costs. However, due to a small population base, we do not expect any economic advantage.”

“Given that it is more likely only a single PRO will operate for each obligated product category, the potential exists for monopoly PROs to engage in non-competitive behaviour. Yukon’s regulation should ensure that producers and the PRO representing them are not sheltered from the *Competition Act* through stewardship plan approval or any other means.”

Q2: What comments do you have about allowing both for- and non-profit PROs to operate in the Yukon?

About equal support was received for allowing both for- and non-profit PROs and for limiting PROs to non-profit model only. Additional comments about PROs operation suggested that PROs should be controlled by the producers, should not be affiliated with the waste management sector, should provide full financial disclosure of fund use, and that those funds should not be used for advocacy.

Q3: Do you have any other comments?

Respondents advocated allowing PROs to report on behalf of numerous producers in aggregate to reduce administrative burden on individual producers and to better protect sensitive supply information. This was also flagged as consistent with the British Columbia's approach. At the same time, respondents felt that individual producers should be held liable for the performance of the PRO acting on their behalf.

Other comments were made including:

- Recommendation to eliminate government-approved stewardship plans, which reportedly enable PROs to not be subject to some requirements under Canada's *Competition Act*.
- Draft regulation should not be overly prescriptive which may allow producers to implement creative and innovative solutions for efficient and cost-effective programs.
- Local stakeholders were concerned that existing PROs may not be interested in operating in the Yukon due to small size and remote location. In turn, the stakeholders were concerned with the heavy burden of responsibility for the local business community. If the existing PROs did operate in the Yukon, the concern was that local businesses would have little impact on their operations.
- There was a need expressed for safeguards to be built into the regulation to ensure PROs satisfy defined responsibilities, particularly financial ones, and don't unfairly delegate them to service providers.



2. Product Categories

During the public engagement sessions, participants clearly indicated that product categories should be broadly defined with limited detail, except where necessary for clarity and precision. For example, where a certain type of waste might overlap categories, its assignment should be explicit. Too much prescription in other parts of Canada are reported to have made it difficult to deal with some waste materials efficiently. Since certain types of waste product may require specific approaches, some participants suggested each product category should have room for interpretation.

A number of participants expressed hope that the program would expand to new waste categories. There was also strong support for product categories being re-named to accurately reflect the materials they contain.

2.1 Printed Paper and Packaging (PPP)

Q1: *What comments do you have about proposed definition of PPP and corresponding exemptions?*

In general, stakeholders supported aligning (or even copying verbatim) the definition of PPP with other jurisdictions, BC in particular. Specifically, inclusion of packaging-like and single-use items (such as party supplies) have been suggested. For packaging-like items, a stakeholder pointed to Ontario's regulation as a good model for clearly defining producers of packaging-like products. Another stakeholder cautioned against defining narrow reporting categories and sub-categories for plastic packaging in the regulation. One stakeholder recommended to incorporate definitions of "primary", "secondary", and "transport" packaging in the definition of PPP.

Construction and demolition packaging was suggested for inclusion in the PPP definition.

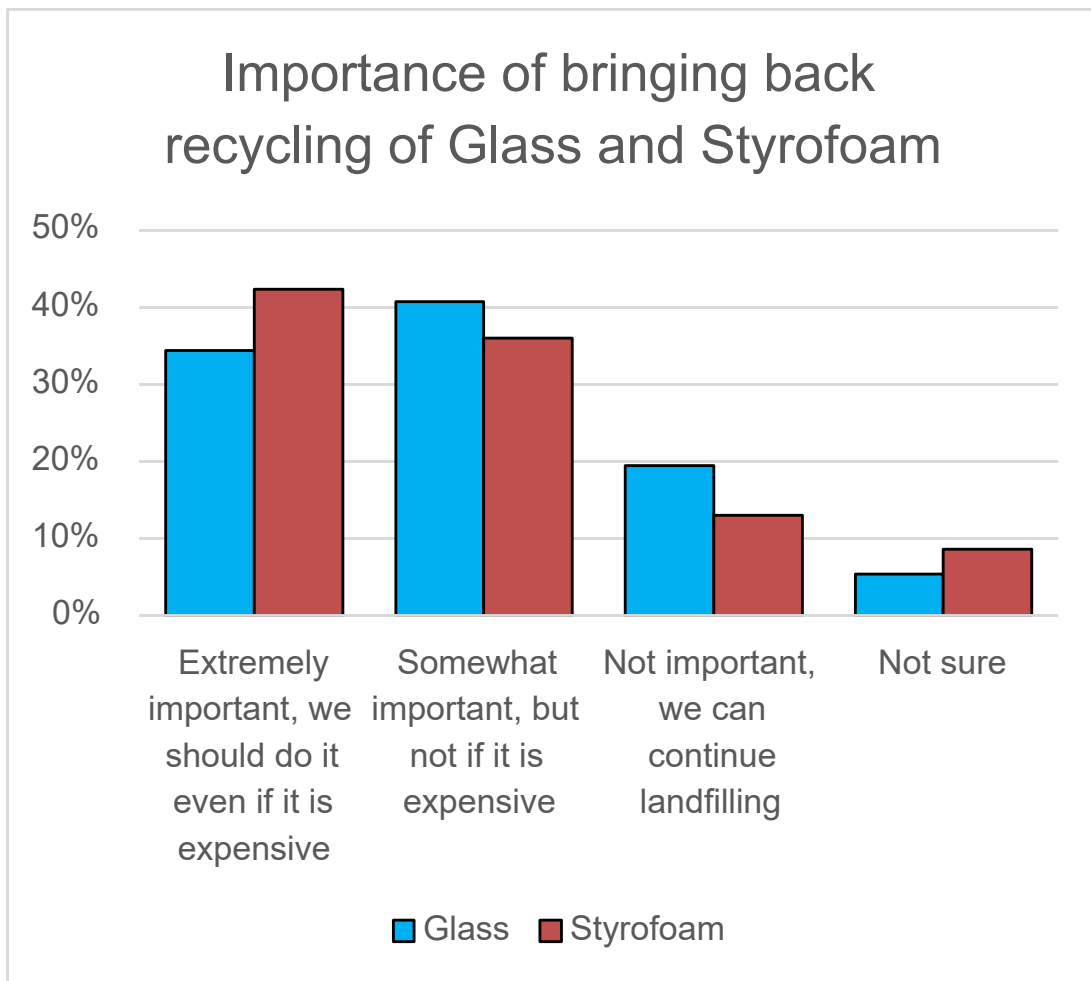
Three stakeholders commented that single-use items that are being banned by the federal government should be excluded from the definition. One stakeholder commented that bound books, including car manuals, should be also exempt. Another stakeholder suggested fully exempting or phasing in over time containers that are required under Drug Identification Number (DIN), Transportation of Dangerous Goods (TDG) and International Maritime Organization (IMO).

"It is better to align with other provinces to allow for uniform operations across Canada."

Stakeholder "recommends that Yukon fully harmonize definitions with the British Columbia EPR program. Yukon should adapt, verbatim if possible, the British Columbia definitions of producer, producer hierarchy, printed paper and packaging, household hazardous waste, waste management hierarchy, reporting requirements, and any other key definitions"

Q2: How important is it to include or exclude glass and/or Styrofoam for the success of Yukon's program for PPP?

The public survey respondents indicated that it was important to bring back recycling of glass and Styrofoam in the Yukon. More people (41%) thought that Styrofoam recycling should be done even if it is expensive compared to glass (34%) as shown in the Figure below. The cost of recycling was an important concern 41% (glass) and 36% (Styrofoam) of surveyed public.



Local stakeholders recognized cost considerations, but expressed support for inclusion of glass and Styrofoam based on considerations of environmental footprints, material recyclability, reduction of landfilled waste, environmental concerns regarding landfilling Styrofoam, and incentives for producers to consider reuse or alternative packaging choices. A suggestion was made to set separate management targets for glass and Styrofoam.

Other stakeholders recommended to either phase in obligations for glass and Styrofoam or exempt them due to high cost and/or difficulty since these materials are not part of the existing system. One stakeholder also suggested that in the event there are no economically viable recycling options for these materials, producers should pay landfilling fees.

“Strong consideration should be made for inclusion of glass and Styrofoam in the PPP category as a means to incentivize producers to consider reuse or alternative packaging choices, and to prevent landfilling of these materials.

“Changing to EPR requires a significant amount of change and associated work, the priority should be converting over existing materials, with new materials added at a later date (phased in) when appropriate.”

Q3: *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?*

About two thirds of respondents, mostly from out of territory, did not support inclusion of any waste generated by the ICI sector in the Yukon’s EPR program due to concerns regarding cost, non-inclusion of these materials in most other Canadian EPR programs, and not wanting to disrupt current commercial arrangements with waste collection service providers.

The rest of the stakeholders supported inclusion of most or all of ICI due the current set up of the recycling in the Yukon, desire for the economy of scale, and desire to divert materials based on their material (e.g., cardboard) rather than origin. Separate targets for residential and ICI sectors were suggested to ensure producers and PROs collect from all sources to achieve their collection targets.

“Yukon is a small jurisdiction and, to reach any economy of scale and to get to the best possible environmental outcomes, ICI, including C&D packaging, should be included.”

“The inclusion of Industrial, commercial and institutional (ICI) PPP waste may be necessary for the Yukon to achieve economies of scale and reach targets.”

“We continue to believe that management of waste generated by the Industrial, Commercial, and Institutional (IC&I) sector should remain the responsibility of IC&I companies and be addressed separately from a residential blue-box-based EPR program. “

Q4: *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).*

Those respondents that supported inclusion of ICI sources recommended that all ICI sources should be part of the Yukon's EPR program. High contamination rate of PPP from institutional sources was marked as a potential concern to be addressed through education efforts by producers.

If all PPP from ICI sources are not included in the program, it was suggested that only cardboard is included because cardboard makes up the largest portion of the currently recycled ICI PPP and this move would support City of Whitehorse's landfill ban on cardboard.

One respondent advocated for data-driven decisions. Another recommended to either include all or none of the ICI sources to avoid administrative burden identifying whether material belongs to the program.

2.2 Household Hazardous Waste (HHW)

Q1: *Do you have any comments on the proposed HHW products?*

The stakeholders commented that the HHW EPR program should include those products currently collected with existing infrastructure and systems, which includes all proposed sub-categories of HHW: solvent and flammable liquids, domestic pesticides, paint, and rechargeable and single-use household batteries.

Harmonization of product lists was recommended with either BC or with Saskatchewan and Manitoba due to the fact that BC is working to expand its current scope of HHW products. Clarity and communication of what is included in the program was identified to be important by the stakeholders at the engagement sessions. It was also noted that PROs operating programs for PPP and HHW will need to cooperate to ensure all containers are properly managed.

Stakeholder “is supportive of the proposed list of products outlined in the HHW product category, and strongly supports inclusion of all additional HHW products identified for consideration.”

Stakeholder “recommends product harmonization with the programs in Saskatchewan and Manitoba, as British Columbia is planning to expand its scope of HHW products.”

Q2: 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).

The survey indicated that all proposed additional products are important for the Yukoners to be managed properly.

How important is it that the following wastes are managed through an EPR program where producers take direct responsibility for products they manufacture or sell?	Very important	Somewhat important	Not important	Not sure
a. Household pesticides	56%	19%	18%	8%
b. Solvents (such as paint strippers, cleaners, etc.)	60%	22%	12%	5%
c. Fuels and other flammable chemicals (such as paint thinners, varsol, etc.)	61%	22%	12%	5%
d. Non-fillable pressurized containers (including camping fuels and bear sprays)	58%	23%	13%	6%
e. Single-use and rechargeable batteries	60%	22%	13%	4%
f. Paint (including interior and exterior paint, varnishes, etc.)	55%	24%	15%	5%
g. Waste oil and waste antifreeze (including their containers and oil filters)	69%	15%	11%	5%
h. Lights and light fixtures, including fluorescent lights	54%	23%	16%	7%
i. Alarms (such as smoke and carbon monoxide)	44%	28%	19%	9%

Stakeholders expressed support for individual sub-categories (lights and light fixtures, batteries, and mercury containing devices), data driven selection, or all proposed additional sub-categories. It was also suggested that corrosive and toxic materials are added to the HHW product category as well as refillable compressed gas cylinders.

Q3: *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?*

Few responded to this question. Those that did indicated that additional HHW sub-categories should be phased in as per capacities of the PROs to get the stewardship plans approved and roll out the programs.

Q4: *What is the maximum size of containers for HHW products that should be included in the programs?*

The maximum size of the HHW containers to be included was recommended to be aligned with other jurisdictions, such as 30L in BC. One respondent suggested exempting all ICI products in containers greater than 20L.

Q5: *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?*

Majority of the stakeholders indicated that technical definitions should be broad and result in easy identification by the consumer using existing icons or labels. One stakeholder recommended to base definitions on the CSA Standard Z750-03 “Definitions of Household Hazardous Waste” as is currently done in BC. Another stakeholder also pointed to BC’s definitions but flagged that BC is currently considering amendments which should be also taken into account in the Yukon.

For batteries, a stakeholder commented that the definitions should include easily removable single-use and rechargeable batteries without specific chemistry limitations, pointing to Prince Edward Island and Manitoba as useful definition references. Small sealed lead acid batteries were also suggested for inclusion, while automotive batteries over 5 kg were suggested to not be included.



2.3 Automotive wastes

Q1: Do you have any comments on the proposed automotive waste products?

Majority of the respondents supported proposed automotive waste products. It was recommended that this category be assigned a different name to communicate that some of the materials proposed to be collected are not automotive in origin.

Q2: *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?*

Respondents to this question were concerned with ensuring that program operator has capacity to collect and process DEF, DEF containers, and any other additional products prior to adding them to the product list. A potential program operator did not raise any concerns with inclusion of these additional products from the start of the program.

Q3: *What is the maximum size of containers for automotive waste products that should be included in the programs?*

The few respondents to this questions suggested either setting the maximum size of container to 30L to align with BC or set a higher volume limit such as 50L.

Q4: *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?*

One respondent indicated that technical definitions should rely on easy identification by the consumer using existing icons or labels. Existing definitions for waste oil and oil filters in BC were recommended. For antifreeze, it was noted that the definition can be expanded beyond automotive antifreeze, which is currently the case in BC, as long as it is limited to ethylene glycol based chemistry and not propylene glycol.



3. Waste management hierarchy

Q1: Do you have any comments on the proposed waste management hierarchy?

Stakeholders supported the proposed waste management hierarchy and its alignment with BC's approach. The hierarchy was identified to lead to improved environmental outcomes of the EPR programs, align with commonly accepted definitions and can be used to set detailed targets for materials

Additionally, it was commented that the concept of circularity should be incorporated into definitions of terms such as 'end-of-life', 'recover' and 'management', some of which are used in the hierarchy. One stakeholder called for explicit inclusion of 'advanced recycling' in the waste management hierarchy.

Differing opinions were received regarding incineration (with or without energy recovery) of PPP. Incineration of PPP was advised against due to environmental and human health concerns as well as incineration not being a circular pathway. On the other hand, low volume of Yukon's PPP and large distances to recycling markets were thought to result in PROs considering incineration, especially for recyclables with poor end-markets.

Stakeholders generally recognized that for some hazardous products there are no reuse or recycling options, and that downcycling or proper disposal may be the only viable options.

At the stakeholder engagement sessions, a number of participants expressed a need for the government to stress the value of reducing consumption and, therefore, reducing waste. There was also support expressed for developing ways to manage waste locally in the Yukon instead of shipping it out.



4. Fees

Q1: Do you have any comments on the proposed rules on fees and associated reporting requirements?

In general, stakeholders expressed that EPR costs will be passed down to the consumer regardless of the rules on fee visibility.

Majority of stakeholder supported the proposed rules on the fees to allow the producers to decide whether the fee is visible or incorporated into the price of the product. This choice was indicated to provide flexibility to the producers to fulfill their obligations in the most efficient manner. Visible fees were considered a useful educational tool for the consumers by some.

However, several stakeholder felt strongly that no visible fees should be allowed for any products as they allow producers to externalize waste management costs and can increase program complexity and costs. Local recyclers indicated that current fees on products covered under existing stewardship programs in the Yukon for electronics and tires do not result in customers knowing that they can dispose these items for free, suggesting that visible fees are not an effective communication tool in the Yukon.

“Visible fees allow the producer to externalize costs directly to the consumer. It removes market forces that would help incent companies to make their packaging easier and more affordable to recycle.”

Discussions with producer responsibility organizations (PROs) and industry groups indicated that they either don't have a preference on the ability to charge visible fees or else they prefer visible fees as an education tool, but would be able to run programs with incorporated fees if necessary.

One stakeholder advocated allowing fees to be shown as a separate line item on the business to business invoicing for the automotive sector. Clear communication of visible fees to customers before they get to the check-out was deemed important.

“The regulation should not stipulate the visibility of eco-fees. This will allow for flexibility of the producer to determine the best and most appropriate approach to funding and applying visible fees.”

It was important to all stakeholders to have transparent reporting on the fees. Some suggestions on usage of fees and reporting included:

- Full reporting on revenues and expenditures of PROs regardless of fee visibility.
- Not allowing the use of visible consumer fees collected by a PRO to fund dispute resolution process between the PRO and a service provider.
- Visible consumer fees should be used for material collection, recycling, and incorporation into new products, to improve recycling technologies and to advance products design.
- If visible fees are allowed, require PRO to decide how much of the producer cost is passed down to the consumer to avoid the full cost being collected through eco-fees.
- Set clear rules for internalized fees.
- Require financial auditing of the fees.

“The Yukon should harmonize fee rules with BC to allow both visible and internalized fees.”



5. Stewardship plans and target setting

Majority of stakeholders support the stewardship plan approach to program development and target setting. One respondent felt that ambitious targets set in the regulation would lead to stronger environmental outcomes.

A few stakeholders were concerned that the stewardship plan based EPR framework may provide grounds to the PROs for regulated conduct defense (see [section 8.5](#) for more on competition).

Q1: Do you have any comments on the proposed elements of a stewardship plan?

The following proposed elements of the stewardship plans received support:

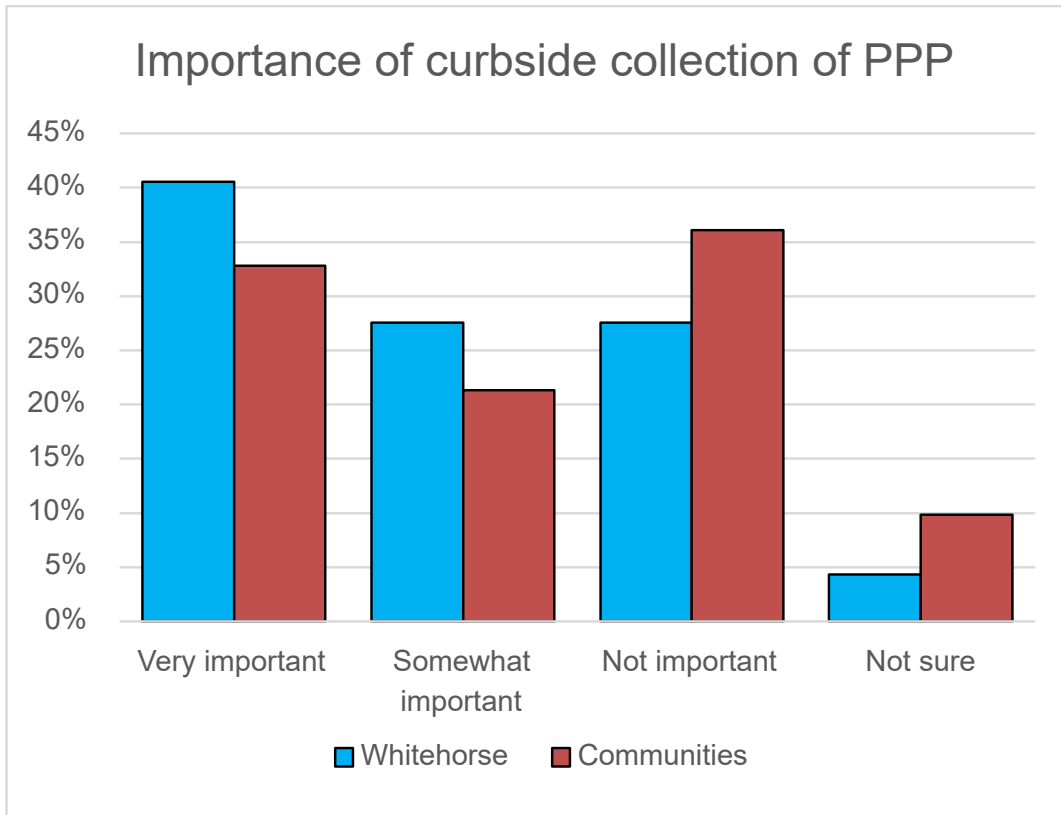
Consultation:

- Consultation with stakeholders was identified as very important.
- It was suggested that the regulation should define what effective consultation looks like and how the input is incorporated into the stewardship plans.
- Due to heterogeneous nature of products in the HHW category, requirement for stakeholder input into target setting was highlighted.
- Ability for the stakeholders to submit input between official consultation periods for the stewardship plans.

“Consultation with stakeholders is key. Input that considers the Yukon specific realities as compared to other jurisdictions will be needed and should be weighted accordingly.”

Accessibility/service levels:

- Support for ‘free and reasonable collection’ approach like in BC.
- Desire for clearer definition of what ‘adequate’ or ‘free and reasonable collection’ means.
- Support for clear outline of the specific collection methods for each community in the stewardship plan.
- Strong desire for residential curbside collection of PPP and year-round collection of HHW and automotive products in Whitehorse.
- Common collection system of standardized list of PPP materials.
- Due to the Yukon’s small population and spread-out geography, non-traditional approaches to accessibility should be allowed.
- Accessibility targets should consider service provider capacities and permitting requirements, where applicable.
- Desire for fair access to the EPR collection and processing network for those ICI materials that may be outside of the EPR framework.
- Public survey indicated that curbside collection of PPP is very important or somewhat important to 68% of Whitehorse residents and to 54% of residents in other Yukon communities.



“Establish a common collection system for packaging and paper products with a standardized list of materials that will be collected across the territory.”

“Free and reasonable access to collection locations or services is essential to ensuring that regulated materials are diverted from the waste stream. Accessibility depends on geographic and demographic characteristics; the Yukon should consider allowing programs to determine how to maximize access by considering the specific characteristics of a product and the needs of communities of various sizes and geographic locations while ensuring that accessibility continuously improves over time.”

Material recovery targets:

- Time is required to assess the baseline data to set up meaningful and realistic targets.
- Benchmarking initial recovery targets to the current system performance would facilitate smooth transition to EPR.
- Consider following Ontario's approach to allow 'best-effort' program operation at the start of EPR programs, without setting numerical targets in the stewardship plan.
- Set individual material recovery targets for residential and ICI sector to ensure producers have to collect from all sectors to achieve the targets.
- Set material specific targets.
- Set measurable and achievable targets based on the way materials are sorted, baled and marketed from material recovery facilities, not just based on collection.
- Desire for ambitious targets.
- Desire for achievable targets.
- Desire for a formal recognition of advanced recycling in achieving targets.
- Weight of residual material that may be landfilled (e.g., contamination in a mixed recycling stream) should not be counted towards recovery targets.
- Recovery or collection target calculated based on annual sales may not be the appropriate measure for all products such as batteries that have longer lifespan, may be purchased in bulk and have declining weights. Similarly, hazardous products can be partially consumed and may be stored for long periods of time before disposal.
- Targets should be phased in.
- Targets should increase over time.

“The Yukon’s EPR regulator should measure environmental performance based on the diversion of materials. In other words, to count towards targets, producers must collect, sort and market materials for recycling.”

“When developing performance targets for the Household Hazardous Waste (HHW) program, the Yukon government must take into account existing recovery rates for these materials and the impacts of the transition on producers and recovery networks.”

“A successful EPR framework should allow for time to develop baseline data, prior to setting any targets. Targets should not be embedded in the regulation, but the regulation should allow for target setting to be addressed in the program plan approval process.”

“Targets should increase over time to ensure there is incentive within the regulation to support continuous improvement”

Awareness:

- Support for awareness requirements to ensure consumers and residents understand what they can recycle and how.
- Consider how producers should be communicating to the consumers about the environmental impacts of their products.

“PPEC strongly supports efforts to ensure consumers and residents are educated and aware of their role in achieving successful recycling outcomes.”

Other:

- A minimum of six months was recommended to allot to the development of stewardship plans by producers and PROs.
- To allow for greater flexibility for producers, the initial stewardship plan should not require that producers report on how they will collect and pay for the costs of collection and post-collection management.
- Do not refer to packaging (and other obligated materials) as ‘waste’.
- Concerns about proposal that “for PPP, plan on how local governments can participate in collection service delivery to their citizens if they want to” is included in the stewardship plan. This is due to the position that how services are delivered are up to producers and PROs.
- Desire for guidance on how environmental impacts are to be measured when addressing “reduction or elimination of environmental impacts of a product throughout its lifecycle”.
- Requirement for the PROs to pay majority of the dispute resolution costs in case of disputes with a service provider and not using funds collected from eco-fees
- Ensure producers shoulder full costs of EPR programs and not download partial costs to service providers.

Considerations by the regulator in deciding whether to approve the stewardship plan:

- Additional consideration suggested was whether the draft stewardship plan is expressly supported by producers and related trade associations.

“If ICI sources are not included in the regulation, PRO stewardship plans should be required to offer opportunities for these sources to participate in the program for a proportional fee negotiated with the PRO.”

Q2: *Are there additional elements that you would like to propose to be included in the stewardship plan?*

Stakeholders proposed the following additional stewardship plan elements or clarifications:

- Information on the PROs governance including for- or non-profit status, Board of Directors, voting members, and other information regarding PROs internal rules.
- Information on how producers and/or PROs would foster healthy competition amongst service providers through their procurement process (e.g., contracts and provision of incentives).
- Detailed reporting of performance at each level of the waste management hierarchy including reuse, repair and repurposing of the obligated products.
- Reporting of the recovery rates including weight of the product placed on the market, weight of the product collected, rather than reporting the rate only or number of units.

Q3: *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?*

Stakeholders expressed concerns regarding availability of data prior to the start of program operations to inform appropriate waste diversion targets in the regulation and unknown impacts on program costs if targets are set prior to stewardship plan development. Majority of the stakeholders preferred not to set minimum targets in the regulation; however, one stakeholder considered that targets set in the regulation would lead to the strongest environmental outcomes.

Q4: *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?*

Some Yukon stakeholders were in favour of accessibility in Whitehorse and communities be tied to the existing garbage and/or compost services. In particular, a concern was expressed that without stringent accessibility targets, producers may be able to reach their collection targets through collection in Whitehorse alone. Several businesses stakeholders at the public engagement sessions expressed concerns about subsidizing EPR programs in communities they do not operate in.

Majority of out-of-Yukon stakeholders were against including minimum accessibility and service levels targets in the regulation mostly due to uncertainty around program costs. It was also mentioned that different accessibility and service levels are required for different product categories or sub-categories. One stakeholder indicated that there should not be mandatory participation of retailers in return-to-retail schemes and that best collection outcomes can be achieved through curbside, depot or event-based collection approaches. Another stakeholder spoke out against setting accessibility levels based solely on population levels

Q5: *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?*

Few stakeholders commented on this question. At the stakeholder engagement sessions, the local stakeholders indicated that it would be helpful for the ICI sector outside of the EPR framework to have fair access to the collection, transportation and processing of PPP materials. One written response indicated that PROs should be left to make voluntary agreements with ICI service providers as to not impact costs and efficiency of the PPP within the EPR framework.

Q6: *Do you have any comments on the considerations for the approval of a stewardship plan?*

Majority of stakeholders did not have specific comments regarding the approval considerations. One comment indicated that approval should include consideration of Yukon-specific conditions as compared to other jurisdictions.

Q7: *Do you have any comments on the proposed regulatory approval process?*

The proposal to approve stewardship plans for a defined period of time was supported. Some stakeholders agreed with the proposed period of maximum five years while others thought a shorter period may be beneficial.

One respondent was concerned with the proposed ability of the regulator to rescind or amend an approved stewardship plan as it may introduce uncertainty for producers. There was also desire expressed for a short or regulated timeline for the stewardship plan approvals to allow for stakeholders to plan for the logistics of the program roll-outs.

The proposal to allow for an establishment of an ad hoc advisory group was supported, however one stakeholder commented that the mandate and role of the group should be clearly defined.



6. Reporting

Q1: *Do you have any comments on the proposed reporting submission rules?*

Most respondents supported proposed reporting submission rules and general timelines. In particular, support was expressed for:

- the regular reporting on the program's performance, in particular as outlined in the approved stewardship plan;
- PROs being allowed to report and provide performance audits on behalf of the producers they represent;
- harmonization of reporting requirements with other provinces, such as BC; and
- reports to be freely available to the public.

Q2: *Do you have any comments on the proposed minimum contents of the annual report?*

The respondents highlighted the importance of transparent reporting. This included many elements financial transparency, such as reporting on fees collected, funds used for program operation, funds used to invest in advancement of the circular economy, administrative costs, consulting costs, funds recovered from sale of collected materials, third-party financial auditing, etc. Additionally, it was suggested that non-financial performance audit is included with the reporting and a list of producers represented by a PRO submitting the report.

Several stakeholders expressed concern that annual financial and performance audits may be costly and suggested that the audits are not required every year, but once every three or five years. One stakeholder supported some other type of compliance review in lieu of annual third party financial and non-financial auditing requirements for the HHW program.

Q3: *Are there any additional reporting elements that Yukon should consider?*

Some of the respondents reiterated the desire for strong financial reporting that would account for how programs funds were used to achieve outcomes and improve programs, how much is held in reserves including a mechanism to return surplus to producers or investing in local program improvements. One stakeholder indicated that reporting accessibility (or collection sites) by a geographic region would be beneficial to evaluate program performance.

7. Oversight and compliance

Q1: *What challenges and opportunities does the in-house oversight and compliance model option present?*

Majority of respondents supported in-house oversight and compliance model and listed the following advantages:

- avoid difference of regulation interpretation between government and an arms-length oversight body;
- faster decision making and time-effective;
- alignment with British Columbia;
- more cost-effective for producers and, as a result, for the consumer;
- allows for direct engagement between producers and regulators; and
- ability to assemble permanent or ad-hoc committee to review stewardship plans.

The challenges associated with the in-house oversight were described to include:

- higher cost to taxpayers;
- inconsistency with polluter-pay principle; and
- uncertainty about government's capacity to monitor and enforce.

Support for the arms-length oversight body was expressed by two stakeholders. One stakeholder expressed preference for voluntary self-oversight by the producers or PROs.

Q2: *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.?*

Education, outreach and compliance promotion were highlighted as important regulatory tools, especially at the start of the EPR programs operation.

Several respondents urged the government to create a plan to address "free riders", specifically online sellers. The initial focus was advised to be on ensuring all obligated producers are participating in the EPR program.

Multiple stakeholders highlighted that the consequences of non-compliance should be greater than the benefit of non-compliance. This might mean timely penalties for failure to meet approved targets, progressive penalties for under-performance, and reputational consequences for producers.

Several comments were received regarding who the compliance and enforcement efforts should be directed at. It was mentioned not producers, but also at the program operators and service providers should be held accountable. Additionally, fines and penalties issued to the PRO may be passed down to the consumers through eco-fees. Individual producers were noted to potentially not have great ability to impact PROs operation on their own. If a penalty is levied against a PRO, the producers should be notified.

Q3: Do you have any other comments?

Other comments submitted by the respondents included:

- PROs should not be identifying free riders as this work would be funded by those producers that are complying.
- Government should track EPR regulatory compliance as an accountability measure.
- As part of the oversight activities, the government should consider risk associated with exchange of sensitive information and other prohibited conduct by the Competition Act.
- Automotive importers should be permitted to use an automotive sector calculator to determine the amount of PPP sold in the territory.
- Producers should only finance EPR programs for the type of products and packaging they themselves supply to the market.
- PROs should only charge producers administrative fees on cost-recovery basis and these fees should be equitable and transparent.



8. Additional comments

Additional comments were received covering topics other than the discussion questions. Those comments are summarized below grouped by themes.

8.1 Harmonization

Stakeholders generally supported harmonization of EPR framework elements with other Canadian jurisdictions. However, opinions differed on which elements were more important to harmonize and which jurisdiction to align with.

In general there was support for consistent definitions (e.g., producer, PPP, HHW, waste management hierarchy), standards, rules on visibility of eco-fees, registration rules, and reporting requirements. Targets were seen as an element that should be Yukon-specific. Alignment with adjacent jurisdictions (BC or Alberta) was mentioned along with borrowing elements from Ontario's, Manitoba's, and Saskatchewan's EPR frameworks.

There was a concern expressed about the overall large number of EPR programs across Canada that national producers have to comply with resulting in a heavy administrative burden.

8.2 Transition and program launch

Stakeholders indicated that the length of time between EPR regulation coming into force and start of EPR programs is important to ensure the success of the programs. Having a longer period for the transition to EPR programs was also identified as important to allow small businesses to further recover from the pandemic and to provide cost predictability for the producers. One respondent suggested a minimum period of six months for the stewardship plan preparation period and further twelve months for the plan implementation for the PPP program. Staggering of program launch dates was also recommended to reduce the burden on the producers and regulators. One stakeholder suggested to establish an Industry Advisory Council to meet regularly with the PRO and government during the transition period.

For the transition period, some producers would like to have access to robust support regarding technical program requirements through web and over the phone.

8.3 Local government participation

During the public engagement sessions, some First Nations participants expressed enthusiasm for the opportunity that EPR presented to their communities, particularly in the realm of entrepreneurship. Some participants were supportive of the fact that EPR alleviated a significant and inappropriate financial and operational burden from the territorial government and created opportunities for smaller community governments. The Government of Yukon was advised to expend considerable effort on preparing those smaller communities for the transition of responsibility.

8.4 Cost concerns

Concerns about costs of the EPR programs in the Yukon were brought up by some stakeholders and members of the public. Several written submissions raised a question on whether an EPR framework would be suitable for a low population and spread out geography of the Yukon. Others were worried about financial impacts and additional administrative burden on local businesses, some of which are still in the process of recovering from the COVID-19 pandemic.

Local business participants at the engagement sessions expressed several concerns about the financial impacts of EPR. In the absence of information that might provide guidance on the potential cost of an EPR program in the Yukon, these business participants hypothesized that it would be substantial. (Note: Economic analysis of EPR scenarios conducted by a consultant for the Department of Environment was shared in January and final report published in February)¹. They indicated that these costs would be passed on directly to their customers. They suggested that to help manage those costs to businesses, the Government of Yukon “backstop” fees charges by PROs in the Yukon to those charged in BC. The government would make up the difference to PROs.

Many business participants also felt that EPR represented another cost and management burden imposed by government on top of many already imposed, such as the bag ban and the carbon tax. Business participants also expressed concerns around employment. There is already a labour shortage in the Yukon which the new positions introduced by EPR may exacerbate. Finally, the issue of transportation of goods was raised. Stakeholders indicated that EPR may further stress infrastructure, as there are already many challenges facing transport companies bringing goods into and out of the Yukon.



¹ Eunomia Research and Consulting, 2023, Economic analysis of development and implementation of Extended Producer Responsibility in the Yukon, <https://yukon.ca/en/economic-analysis-development-and-implementation-epr-yukon>

8.5 Competition

A number of questions and concerns regarding the competition aspects of the EPR framework were raised. The following elements of the framework were identified as supporting competition:

- Ability of the producer to operate its own program or engage a PRO.
- Allowing multiple PROs to operate EPR programs for the same product category, if compatible.
- Allowing non-profit and for-profit PROs to operate EPR programs in the Yukon.

Some elements of the proposed framework may need to be further considered with regards to the promotion of competition:

- An approved stewardship plan may become a benchmark and possibly a barrier to any new entrants wishing to operate an EPR program.
- There are risks to consider with respect to sharing of sensitive information as part of oversight and enforcement of the EPR framework.

The stakeholders expressed a concern that approval of a stewardship plan by the government may provide a 'regulated conduct' immunity from the federal *Competition Act* with respect to the PROs in their dealings with the service providers. As a result, there is a fear of anti-competitive behaviour by the PROs. It should be noted that the applicability of the 'regulated conduct' defence to the PROs acting under an approved stewardship plan has never been proven in court.

8.6 Other

Other comments received from stakeholders:

- Desire for additional consultation and communication with affected stewards to further understand implications to businesses.
- Support for the landfill cardboard ban for residential and ICI users.
- One stakeholder recommended that Yukon support PROs eco-modulating EPR fees charged to producers. Eco-modulation is an approach where the fee can vary based on favourable or unfavourable product characteristics or attributes in an effort to drive design for environment.

Public comments

The public survey did not have a comment box. Public provided comments at the public engagement sessions and through email. Yukoners are in general always supportive of good environmental stewardship. Majority of public comments were generally in support of better recycling systems and EPR in particular. Those that were against EPR were concerned about the costs that may be passed down to them as consumers or they did not think that any new programs would improve recycling in the Yukon. The public has strong desire for the overall reduction of volume of plastics on the store shelves. In conjunction with concerns about amount of plastic and additional EPR related costs, there are concerns about general practices of producers that result in higher prices for smaller packages of products.

“This EPR scam is another useless waste of time and money that will do little good and likely make the situation worse.”

“For me, a Yukoner for 50 years, being a senior and a widow living on my own and on a pension, I would like to know how any new regulations will affect me financially. Will rates put on the producers be passed on to consumers so that they (producers) can justify raising prices?”

“EPR may be criticized because waste producers will pass on the costs of dealing with waste to consumers. That may be inevitable, but is not a reason for stalling full-fledged EPR. Those of us who live in the north, where so much of what we consume comes with packaging, must take on the cost of what is now an unsustainable lifestyle.”

“So much packaging is useless or even counterproductive (does anyone actually like clamshell packs? Does anyone actually enjoy peeling condoms off cucumbers?), we really need to find a way to end these practices.”



Yukon