

Producer Responsibilities under Ontario’s New Hazardous and Special Products and Blue Box Regulations

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Ontario has recently taken additional steps to further mandate the way in which producers manage product waste in the Province. Ontario’s *Strategy for a Waste-Free Ontario* sets out the Province’s vision for a zero-waste, circular economy, namely “a system in which products are never discarded, but reused, recycled, and reintroduced into new products.”¹

Ontario enacted the *Resource Recovery and Circular Economy Act, 2016* (“*Resource Recovery Act*”)² to facilitate the transition to a zero-waste Ontario. The *Resource Recovery Act* established a producer responsibility regime in Ontario that treats end-of-life materials as resources rather than wastes. The *Resource Recovery Act* purposefully places the onus on producers to manage end-of-life materials through recycling.

Regulations under the *Resource Recovery Act* govern the management of specific, designated materials (e.g., tires, batteries, and electrical and electronic equipment).³

Ontario’s producer responsibility regime is overseen and enforced by the Resource Recovery and Productivity Authority (“RPPA”).⁴

¹ Ontario’s Strategy for a Waste Free Ontario: Building the Circular Economy dated February 2017, retrieved from: https://files.ontario.ca/finalstrategywastefreeont_eng_aoda1_final-s.pdf at pg. 3.

² 2016, c. 12, Sched. 1, retrieved from: <https://www.ontario.ca/laws/statute/16r12>.

³ See O. Reg. 225/18 (Tires), retrieved from: <https://www.ontario.ca/laws/regulation/r18225>; O. Reg. 30/20 (Batteries), retrieved from: <https://www.ontario.ca/laws/regulation/r20030>, and O. Reg. 522/20 (Electrical and Electronic Equipment), retrieved from: <https://www.ontario.ca/laws/regulation/r20522>.

⁴ Resource Recovery and Productivity Authority Website, retrieved from: <https://rppa.ca/>.

Hazardous and Special Products Regulation and Blue Box Regulation

In June 2021, the Province filed two new regulations under the *Resource Recovery Act*, the Hazardous and Special Products Regulation (O. Reg. 449/21)⁵, and the Blue Box Regulation (O. Reg. 391/21)⁶.

The Hazardous and Special Products Regulation:

- ◆ replaces Ontario’s Municipal and Hazardous Special Waste (“MHSW”) stewardship program
- ◆ governs the management and disposal of prescribed hazardous and special products, including refillable and non-refillable pressurized containers, refillable propane containers, oil filters, oil containers, antifreeze, paints and coatings, pesticides, solvents, barometers, thermometers, thermostats, and fertilizers, and
- ◆ sets out obligations for hazardous and special products:
 - ◆ producers (e.g., brand holders, importers, and marketers in certain circumstances)
 - ◆ processors
 - ◆ haulers, and
 - ◆ disposal facilities.

The Blue Box Regulation:

- ◆ replaces Ontario’s existing Blue Box recycling program
- ◆ standardizes what products can be recycled in blue boxes across Ontario, including printed paper, plastic, metal, glass containers, packaging-like products (e.g., aluminum foil, metal trays, wrapping paper, paper bags, cardboard boxes and envelopes), and service accessories (e.g., straws, cutlery or plates), and
- ◆ sets out obligations for producers of blue box materials, where producers supply blue box materials to consumers in Ontario, as well as obligations for processors of blue box materials. Producers of blue box materials may include brand holders of the blue

⁵ O. Reg. 449/21 (Hazardous and Special Products), retrieved from: <https://www.ontario.ca/laws/regulation/r21449>

⁶ O. Reg. 391/21(Blue Box), retrieved from: <https://www.ontario.ca/laws/regulation/r21391>.

box materials, resident importers or retailers of blue box materials, and franchises in certain circumstances.

There are several notable program dates:

- ◆ as of October 1, 2021, producers of hazardous and special products became responsible to comply with O. Reg. 449/21 requirements, and
- ◆ as of July 1, 2023, providers of blue box programs will be responsible for collecting and recycling blue box materials in compliance with O. Reg. 391/21, although blue box program registration deadlines are considerably earlier.

Producer Obligations

Under the Hazardous and Special Products Regulation and Blue Box Regulation, producers must:

- ◆ register with and pay fees to the RPRA. The fees are intended to hold producers financially responsible for end-of-life management of their products
- ◆ establish and operate hazardous and special products and blue box material collection and management systems, and collection promotion and education programs
- ◆ report regularly to the RPRA, and maintain records relating to information required to be submitted to the RPRA, and
- ◆ cause audits to be completed about the practices and procedures implemented by producers to manage hazardous and special products and blue box materials.

Producer Responsibility Organizations

Similar to producer responsibility regimes in other Provinces, Ontario's new Hazardous and Special Products Regulation and Blue Box Regulation each provide an option for producers of regulated materials to contract with a producer responsibility organization ("PRO"). PROs provide collection, management, and administrative services to assist producers in complying with regulatory requirements.

The PRO model recognizes that it may well be simpler and more cost-effective for industry stakeholders to participate in organized collection, recycling and education programs rather than establishing and operating their own programs in order to comply with Ontario's producer responsibility regulations.

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