



**RAVEN RECYCLING**

*Our Commitment is the Environment*

February 2023

EPR Team  
Department of Environment  
Yukon Government

Sent by email to: envprot@yukon.ca

Re. Extended Producer Responsibility Discussion Paper

Thank you for the opportunity to participate as an advisor throughout the Yukon Government's (YG's) Extended Producer Responsibility (EPR) consultation. We have learned much about the issues and options that need to be considered to effectively regulate EPR in Yukon including through participation in government stakeholder consultation sessions, our research, and through direct outreach to PROs, recycling depots, and recycling authorities in other jurisdictions.

Raven Recycling Society is Yukon's primary processor for paper products and packaging and its leading voice advocating for recycling opportunities for over 30 years. Our vision is a zero waste Yukon, and our mission is to provide services, including access to recycling, that enable zero waste choices and lifestyles. As a result, it is our view that an EPR approach in the Yukon should be focused on ensuring the best environmental outcomes possible as primary focus. That viewpoint is reflected in our response below.

We stand behind EPR as an environmental policy that, in concert with recycled content mandates, and labelling regulations, can support a circular economy, ease pressure on natural resources, lower GHG emissions, and provide predictable revenue for local businesses that in turn support local jobs. We understand, firsthand, that our current recycling system is unsustainable, both environmentally and economically, and we are pleased to endorse EPR as an important part of the solution.

As members of the Recycling Council of Alberta, we have paid close attention to the well-researched and informed advice they have given the Government of Alberta throughout the development of their regulations, which came into effect in late 2022. We have included references to their recommendations throughout our discussion paper response.

As a Society that operates a recycling depot and in recognition of the government's intent to align its impending EPR system with BC's *Recycling Regulation*, we have also paid attention to advice given by the BC Bottle & Recycling Depot Association, which continues to advocate for improvements to BC's approach. As a jurisdiction that is joining the EPR wave late in the game, Yukon can benefit from avoiding some of the mistakes that have been made in other places.

We have provided a detailed response to many of the discussion paper questions below. Our answers apply to both residential and Industrial, Commercial & Institutional (ICI)

material. Raven serves both sectors and we are clear that excluding ICI material from this regulation will leave most of the fibre and much of the other PPP material that is currently recycled stranded. Leaving ICI producers unregulated will harm economies of scale and undermine the intent of the regulation. It will also make municipalities and YG responsible for the costs of disposal in all Yukon communities. Residential and ICI should have individually defined targets to ensure that producers cannot meet accessibility and material management targets in one sector alone.

In summary, we recommend that YG:

- Set material recovery targets in either the regulation, if Yukon develops a plan-based regulation, or other enforceable directive in an outcomes-based regulation, for each material category and include as many materials as possible, including glass and foam, which are products that Yukoners have consistently expressed a desire to recycle, and hold producers and their PROs absolutely accountable to reaching those targets. We recommend that YG follow Ontario or Quebec’s targets, which are more ambitious than B.C.s and consider targets that increase with phasing. Yukon can look to Quebec as an example.
- Ensure effective territory-wide accessibility both in Yukon’s major cities (e.g., Whitehorse and Dawson City) and rural areas by requiring producers provide a common collection system that is equal to garbage and organics (where applicable) collection. For example, if garbage collection is provided by cart at curbside, then recycling collection should be provided in the same manner. This will ensure all Yukoners and Yukon communities are not dis-incented to using the recycling system simply due to ease of participation.
- Define ‘end-of-life’ and ‘management’ according to the concept of circularity.
- Ensure that Government approval of a stewardship plan does not negate the ability of the Competition Bureau to enforce anti-competitive behaviour of monopoly PROs under the Competition Act (e.g., price setting), including that producers and their PROs cannot use a regulated conduct defense to justify anti-competitive behavior.
- If an outcomes-based regulation is chosen, consider assigning oversight and compliance duties to an established, arms-length body to reduce costs to taxpayers, reduce administrative burden to producers and costs to consumers and ensure the greatest possible level of transparency, accessibility to data and alignment with other jurisdictions.

1. Producer considerations	
1. What comments, concerns or recommendations do you have on the proposed clarifications of obligated	If the current definition of a producer in the Environment Act is used, we recommend adding clarity to the term ‘recovery’ to specify producer responsibility for ensuring material makes it to end markets, defined at the point of remanufacturing.



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<p>producers?</p>	<p>It is our understanding that BC's definition of a producer is outdated. This makes sense given that BC's regulation is older than most. Ontario has the most progressive definition of producer in Canada. We encourage YG to align with their definition.</p>
<p>2. Are there other situations and clarifications that need to be addressed?</p>	
<p>3. 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?</p>	<p>Without an understanding of the business revenue landscape, it is difficult to understand how to assign responsibility.</p> <p>However, from an environmental perspective, revenue thresholds should be as low as possible, or removed altogether. If small businesses are exempt, material that they put on the market will not be accounted for, which will lower the overall amount of material the producers are required to collect. For example, if producers are required to collect 80% of their material but only 50% of businesses are considered producers, the regulation will have a much smaller environmental impact. All businesses, NGOs and charities should be required, at minimum, to report into the system. In both an outcomes-based and a plan-based system, it will be up to the PROs to determine how material from all producers is collected and how producers are required to pay.</p>
<p>4. 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?</p>	<p>Similar to excluding businesses based on revenue, a one tonne de minimis could result in excluding most Yukon businesses and result in excluding large sums of material from the Yukon's reporting.</p> <p>To achieve the best environmental outcomes (i.e., ensure that as much material as possible is captured as part of the system, and that system reporting has integrity), the one tonne threshold should be lowered significantly or eliminated. Yukon businesses are serving a very small population and are likely not distributing anywhere near the amount of product as businesses in other EPR regulated jurisdictions. To capture as much material as possible, all businesses should be obliged to report their tonnages and pay into the system. According to YG's proposal, it will then be up to the PROs to determine how to set a fair</p>

	<p>producer fee structure.</p> <p>If YG maintains its position that there should be a de minimis and producers are exempted due to size or income, then it is important that the regulation ensures that the material imported, distributed, and sold by those businesses is still collected and that its contribution to the recycling stream is reported transparently.</p>
5. Do you have any comments on the proposed exemption for registered charitable organizations?	To capture as much material as possible, there should be no exemptions. See answers to questions 3 and 4 above.
6. What comments do you have about the participation of newspaper producers in the EPR programs?	<p>The intent of the regulation is to encourage a reduction in use of natural resources and better product design. This is best achieved without exemptions.</p> <p>We align with the Recycling Council of Alberta’s recommendations to include all producers and their supporting rationale.<sup>1</sup> There are other mechanisms that governments can give to ensure a healthy newspaper sector.</p>
7. What other comments do you have on the proposed exemption criteria and maintaining proof of exemption?	N/C
8. 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.	Allowing multiple PROs to operate promotes healthy competition, which keeps prices passed on to consumers low and contracts made with local businesses fair. It can also contribute to high material recovery rates and reduce excuses for not achieving targets.
9. What comments do you have about allowing both for- and non-profit PROs to operate in the Yukon?	Regardless of for-profit or not-for-profit, funds raised by the PRO should not be used for any purpose related to advocacy and the PRO should provide full financial disclosure of how funds are being used.

<sup>1</sup> [https://recycle.ab.ca/wp-content/uploads/2022/01/AEP\\_EPR\\_Consultation2022-RCA\\_Submission-1.pdf](https://recycle.ab.ca/wp-content/uploads/2022/01/AEP_EPR_Consultation2022-RCA_Submission-1.pdf)



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10. Do you have any other comments?	The BC Bottle & Recycling Depot Association has published 6 recommendations for improving BC's EPR regulation. Recommendation #2 is to eliminate government-approved stewardship plans, which enable PROs to use a regulated conduct defense under Canada's Competition Act, enabling them to annex local businesses when they aren't able to meet the terms set out in PRO contracts. <sup>2</sup> See footnote 1.
2. Product Categories	
1. What comments do you have about proposed definition of PPP and corresponding exemptions?	<p>Many jurisdictions are expanding their definitions of PPP. While we support harmonization with BC's PPP product categories to maximize efficiencies, we encourage YG to consider further expansion of the product list. Ontario and Quebec both have included more products than BC, including packaging-like products and party décor. Additionally, their definition of PPP includes unprinted paper. PPP in these jurisdictions is packaging, paper products, and packaging-like products. Yukon should adopt this definition of PPP.</p> <p>Quebec has put all producers on notice that they will have to collect all materials by 2030. This short timeline incentivizes action and innovation and is a signal that those governments take climate change and environmental protection seriously.</p> <p>For products that are exempted due to sanitary concerns, such as paper towel, we recommend that local governments work together to increase diversion of these materials through the existing composting programs.</p> <p>We recommend including construction &amp; demolition packaging.</p>
2. How important is it to include or exclude glass	<p>From an environmental perspective, it is very important to include glass and foam. Excluding materials can result in material switching to avoid responsibility in the system.</p> <p>Although the program costs may increase, both materials</p>

<sup>2</sup> The Dark Side of Extended Producer Responsibility in British Columbia," BC Bottle and Recycling Depot Assoc. [Report](#)

<p>and/or Styrofoam for the success of Yukon’s program for PPP?</p>	<p>are highly resource intensive:</p> <p>Glass is infinitely recyclable<sup>3</sup> and has a huge environmental footprint, so getting it into the circular economy is the most responsible approach.</p> <p>We do recognize that setting a target for foam is a big ask and that getting MRFs and end processors to report on it is difficult. However, foam is also environmentally problematic and forcing collection and remanufacturing may just be what is needed to force a full stop on its production. See footnote 2 for more information about the environmental impacts of glass and plastics.</p> <p>Considering the weight of glass, it is important that each product category has its own management targets.</p>
<p>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?</p>	<p>Yukon is a small jurisdiction and, to reach any economy of scale and to get to the best possible environmental outcomes, ICI, including C&amp;D packaging, should be included. Both Whitehorse recycling depots and all community transfer stations are currently receiving material from some of these sources.</p> <p>To ensure material is captured from both ICI and residential streams, we believe that ICI and residential targets should have individual definition. This will prevent overall collection and recovery targets from being reached within the ICI sector alone.</p>
<p>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</p>	<p>All of these sources should be included to ensure that the materials defined as recyclable in the regulation are recyclable everywhere and that people living, working and learning have equal access to recycling.</p> <p>That said, our experience with processing material from institutional settings is that there are often high rates of contamination. In these types of facilities, producers and their PROs should bear responsibility for preventing contamination through education, increased attendance at deposit sites and investment in appropriate levels of sorting. Yukon should not, under any circumstances, be sending garbage out of territory.</p>

<sup>3</sup> <https://www.sustainablejungle.com/sustainable-living/glass-vs-plastic/>



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commercial operations, and industrial operations (e.g., mine camps).	
5. Do you have any comments on the proposed HHW products?	Cooperation between PPP and HHW PROs is important to ensure containers are properly managed.
6. 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).	N/C
7. 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?	N/C
8. What is the maximum size of containers for HHW products that should be included in the programs?	N/C
9. 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?	N/C

<p>10. Do you have any comments on the proposed automotive waste products?</p>	<p>N/C</p>
<p>11. 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.</p>	<p>DEF and windshield washer fluid containers currently show up in the mixed plastic bunker at Raven Recycling. To prevent contamination of mixed plastic material with hazardous waste, DEF and windshield washer fluid containers should be included as soon as possible.</p>
<p>12. 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?</p>	<p>N/C</p>
<p>13. What is the maximum size of containers for automotive waste products that should be included in the programs?</p>	<p>N/C</p>
<p>14. 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?</p>	<p>N/C</p>
<p>3. Waste management hierarchy</p>	



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<p>1. Do you have any comments on the proposed waste management hierarchy?</p>	<p>The waste management hierarchy aligns with commonly accepted definitions, and we can see how it can be used to set targets that ensure the producers are motivated to design better products and reduce pressure on natural resources. However, it is important to define what counts as recovery and what counts as disposal for each product category.</p> <p>PPP should never be incinerated. There is more and more evidence to prove that incineration leads to bad environmental and human health outcomes. Waste to energy is not a circular pathway and often results in huge infrastructure investments that are then dependent on fossil fuels to cover shortfalls in other material. There should be less and less material available as EPR is developed, so investment in waste to energy is an irresponsible use of funds that could be used to improve recycling infrastructure.</p> <p>However, HHW cannot be reused or recycled. Recovery and disposal option should be clearly defined in the most responsible way possible.</p> <p>We feel the term “recover” should be more clearly defined as “remanufacture” for as many products as possible, and that the success of a recycling system should be measured at this point on the hierarchy.</p>
<p>4. Fees</p>	
<p>1. Do you have any comments on the proposed rules on fees and associated reporting requirements?</p>	<p>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. In Yukon, our current stewardship programs allow for visible fees and every conversation we have with bottle depot customers about how the fee is represented on their bill at the point of sale proves that the customer is unaware.</p> <p>We encourage the government to require that fees be incorporated into the cost of each product. If visible fees are allowed, we strongly encourage YG to develop clear guidelines for reporting and a clear understanding that all fees collected from consumers will be used to ensure material collected is remanufactured and to improve recycling technologies and advance product design.</p>
<p>5. Stewardship plans and target setting</p>	

1. Do you have any comments on the proposed elements of a stewardship plan?

Our understanding of an outcomes-based regulation is that it sets accessibility and material management targets in the regulation and that producers have to meet, and prove that they have met, those targets. They do not need to submit a plan that shows how they will do that. We are confused as to why YG is calling their proposed plan an outcomes-based plan while requiring that producers or their PROs submit a stewardship plan. Ontario and Alberta have developed outcomes-based regulations. BC has a plan-based regulation.

However, if YG ultimately decides to go with a plan-based regulation, we would like clarification about how the regulation will ensure that the plans themselves, are outcomes-based.

Additionally, the regulation should clearly define the expectations for effective stakeholder consultation and clearly outline how stakeholder input will be used to improve the Plans. Government confirmation that stakeholder consultation plans are appropriate (i.e., meet YG standards for length, methods of public engagement) should be required before they are undertaken. If producers or their PROs are allowed to define these terms, there is a risk that consultation is merely a box to tick and results in meaningless stakeholder input. Producers and their PROs should be required to prove how stakeholder input is incorporated into their plans. For example, in a recent consultation in BC, Encorp Pacific held a stakeholder ‘consultation’ over webinar that did not provide opportunity for stakeholders to provide verbal comments AND limited the number of characters that a stakeholder could enter into a chat box, which prevented fulsome input and fulsome questions. This kind of ‘stunting’ should not be allowed. Stakeholders must also have an opportunity to provide input and critique into the ongoing functioning of the programs between five-year Plan renewal terms. Continual improvement of the programs must be encouraged. For more information on issues faced by stakeholders during PRO consultations in BC’s system, Raven can put the YG government in contact with the BC Bottle and Recycling Depot Association Chair.

We do not believe that producers or their PROs should set their own material collection or recovery targets. This should be done by government. Targets should be set high (consider the targets in other provinces like Ontario or Quebec) and producers should be held accountable to reaching those targets. YG should establish clear and incentivizing consequences for targets not being met and



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	<p>producers and their PROs should be rewarded for reaching higher than the established targets in the regulation.</p> <p>Targets should be material specific. We also think they should be sector specific (ICI and residential) to achieve the best environmental outcomes possible.</p> <p>The Recycling Council of Alberta recommended a year for producers to develop their plans and PROs and a year to negotiate collection services with municipalities. See page 4, footnote 1.</p> <p>All plans should specify methods for ensuring material is ultimately recycled (i.e., is supplied to an end market as part of the circular economy).</p>
<p>2. Are there additional elements that you would like to propose to be included in the stewardship plan?</p>	<p>If YG decides on a plan-based system, producers should be obliged to consider reuse, repair and repurposing opportunities within Yukon. Referring to the waste management hierarchy, we believe that recovery and disposal should be clearly defined for each product category.</p>
<p>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?</p>	<p>See above. Quebec has the highest targets set in regulation, followed by Ontario. Because the purpose of this regulation is to improve environmental outcomes, Yukon should follow their lead. Eunomia predicted that it is possible to achieve close to an 80% diversion target in Yukon.</p> <p>We highly encourage YG to set diversion targets for each product category, and each product in regulation, or include a directive for producers to include waste diversion targets for each product category in the plan that they are absolutely required to meet. Each material type within a category should have its own target. For example, each type of plastic, including film, should have a target to ensure lighter materials are captured.</p>
<p>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?</p>	<p>Yes. Service levels and accessibility are arguably low and inconsistent throughout Yukon. There is opportunity to fix that and greatly increase waste diversion by ensuring the producers are equally responsible for each community. Because people in and around Whitehorse consume the vast majority of goods imported to Yukon, there is a possibility that producers could reach targets without including other communities unless the regulation specifies that targets are consistent in all jurisdictions. If high accessibility targets are not set for communities, municipalities and YG will be left</p>

	<p>paying the bill for disposal in each of those jurisdictions.</p> <p>We recommend that the regulation require producers to provide service levels equal to or exceeding current garbage and compost service levels.</p>
<p>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?</p>	<p>We are not sure why YG would consider not including ICI sources. Raven currently receives the bulk of our fibre-based and a large portion of other PPP materials from ICI sources. The City of Whitehorse has listed cardboard as a banned material. Excluding ICI would leave all of that material stranded and compromise the strength of the regulation.</p> <p>We are willing to collaborate further on the inclusion of ICI in the regulation.</p>
<p>6. Do you have any comments on the considerations for the approval of a stewardship plan?</p>	<p>Our concerns with stewardship plans are:</p> <ul style="list-style-type: none"> <li>a) They provide grounds for regulated conduct defense.</li> <li>b) Market dynamics are always changing, which means stewardship plans often become outdated as soon as they pass. As a result, they can hinder innovation.</li> <li>c) They tend to focus on process rather than outcomes.</li> <li>d) Governments lack the teeth needed to enforce targets on a plan they approve.</li> </ul> <p>If YG is heading toward a plan-based system, the regulator should have a timeline to approve the program plan so there is adequate time for all parties to properly plan for fair contracts, appropriate infrastructure etc. The regulation should require that all contracts make provisions for inflation, cost of living increases and other unforeseen increases in the cost of doing business.</p> <p>Given the volatility of commodity markets, it might be helpful for stewardship plans to be reviewed every 2-3 years.</p>
<p>7. Do you have any comments on the proposed regulatory approval process?</p>	<p>The mandate and role of the ‘established or ad hoc advisory group’ should be clearly defined.</p> <p>‘End of life’ and ‘management’ both need to be clearly defined and tethered to the waste management hierarchy.</p> <p>“Proposed financial and operational collaborations”</p>



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	<p>inclusions should be accompanied by a clear analysis of expected consumer cost reductions and proof that the other EPR operators are in good standing with YG.</p> <p>No plan should be approved if it does not go beyond collecting and marketing material. All producers or PROs should be responsible for their products through to the point of remanufacturing.</p> <p>Consider a shorter approval period to maximize opportunity to assess and improve targets.</p>
<h2>6. Reporting</h2>	
<p>1. Do you have any comments on the proposed reporting submission rules?</p>	<p>N/C</p>
<p>2. Do you have any comments on the proposed minimum contents of the annual report?</p>	<p>PROs, on behalf of their producers, should be required to show how fees collected but not needed for the full operation of their programs, are invested in advancing the circular economy and according to the waste management hierarchy. For example, producers should be required to support local reuse, repair, and other zero waste initiatives.</p>
<p>3. Are there any additional reporting elements that Yukon should consider?</p>	
<h2>7. Oversight &amp; compliance</h2>	
<p>1. What challenges and opportunities does the in-house oversight and compliance model option present?</p>	<p>Government oversight and compliance monitoring is costly to taxpayers and inconsistent with the EPR user pay model. While it may benefit from the knowledge base that YG has built through the regulatory process, to our knowledge, YG currently does not have any structure or capacity for monitoring and enforcement and, in fact, has struggled to enforce existing regulations under the Environment Act. Arms length oversight bodies are well established in other jurisdictions and there may be opportunity for producers and PROs to purchase services from them. There are many benefits to this approach including:</p> <ul style="list-style-type: none"> <li>● Reduced time frame required to establish methodology;</li> <li>● Access to national data entry portal to reduce</li> </ul>

	<p>administrative burden on producers and governments; and</p> <ul style="list-style-type: none"> <li>● Minimized the chance for conflict of interest to arise.</li> </ul> <p>The RCA provides rationale advice on how to structure an arms length oversight body. See footnote 1, page 6. It may be wise and cost effective to mandate use of Alberta’s oversight body if an outcomes-based model is chosen.</p>
<p>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.?</p>	<p>We defer to the RCAs extensive research and experience. In their submission to the Government of Alberta re. EPR regulation, they advise, “Enable a flexible oversight agency. In an outcomes-based regulation, it is high targets backed by a real threat of consequence for not achieving those targets that drives change. Producers, like any business entity, need to have incentive to innovate, invest, and continually improve. As a result, the oversight agency must have the flexibility and direction to use education or penalties, as appropriate. There should be punitive consequences for free riders and sham program operators, including financial and reputational consequences. For the regulation to be meaningful and achieve outcomes, the consequence of inaction needs to be greater than any benefit that could be realized by trying to skirt responsibility.</p>
<p>3. Do you have any other comments?</p>	

Thank you for this opportunity to work with Yukon Government toward a healthier, more stable, and more effective waste diversion structure for Yukon. We are excited to see EPR on the horizon.

Respectfully,



Heather Ashthorn  
Executive Director