2022 RRCEA Program Fees Proposal

March 10, 2022

RPRA Resource Productivity & Recovery Authority

Background

- The Resource Productivity and Recovery Authority (the Authority or RPRA) is the regulator mandated by the Government of Ontario to administer the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WDTA), and their associated regulations.
- The RRCEA and WDTA outline the legislative framework for winding up and transitioning legacy waste diversion programs to Ontario's new extended or individual producer responsibility regulatory framework for waste diversion and resource recovery.
- The new regulatory framework requires producers to be individually accountable and financially responsible for their products and packaging once consumers dispose of them.
- To date, the Authority has overseen the wind up and transition of four legacy waste diversion programs:
    - The Used Tires Program operated by Ontario Tire Stewardship transitioned January 1, 2019
    - The Batteries portion of the Municipal Hazardous or Special Waste (MHSW) Program operated by Stewardship Ontario transitioned July 1, 2020
    - The Waste Electrical and Electronic Equipment (WEEE) Program operated by Ontario Electronic Stewardship transitioned January 1, 2021
    - The Municipal Hazardous or Special Waste Program operated by Stewardship Ontario transitioned September 30, 2021
- Additionally, the Blue Box Program operated by Stewardship Ontario is slated to wind up between July 1, 2023 and December 31, 2025

Background

- Producers obligated under RRCEA Regulations – Tires, Batteries, Electronics (ITT/AV and Lighting), Hazardous and Special Products, and Blue Box – are required to register and report to RPRA through its Registry system.
- The Registry is an online platform that allows the Authority to securely and confidentially collect information from obligated parties and monitor performance.
- As an administrative authority of the Government of Ontario, RPRA does not receive any government funding and funds its operations through fees charged to regulated parties on a cost-recovery basis.
- The WDTA and RRCEA allow RPRA to set and collect fees to recover its costs. Fee revenues come from three sources:
    1. RRCEA: Annual fees to obligated parties required to register and report to RPRA under RRCEA regulations
    2. EPA: Transaction fees to parties obligated to register and report through RPRA's Excess Soil Registry starting January 2022 and the Hazardous Waste Program Digital Reporting Service starting January 2023 under EPA regulations
    3. WDTA: Monthly cost recovery charges to industry funding organizations (IFOs) and industry stewardship organizations (ISOs) under the WDTA
- RRCEA Program fees cover the RPRA's costs to develop and operate Registry systems; carry out compliance and enforcement activities related to the RRCEA regulations; and provide support to registrants in complying with their regulatory obligations.
- EPA Fees cover RPRA's cost to build and operate digital reporting services for programs under the EPA and provide support to users. The Ministry of the Environment, Conservation and Parks is responsible for compliance activities related to these EPA programs.
- WDTA monthly charges cover RPRA's costs to oversee the operation of legacy waste diverse programs, and IFOs and ISO's and their wind up.

Proposal Scope

- This proposal is provided for information and to obtain feedback on proposed fees for the following RRCEA programs:
  - Tires
  - Batteries
  - ITT/AV
  - Hazardous and Special Products
  - Blue Box
  - Lighting (This is the first year that Lighting producers are required to pay RRCEA Program Fees to the Authority.)

- This proposal outlines the Authority's budget and Cost Allocation Methodology for 2022 and includes revisions to the Authority's General Fee Setting Policy, which guides how fees are set in accordance with a list of principles and objectives.

- This proposal does not include WDTA fees charged to IFOs and ISOs, or Registry Fees for digital reporting service programs under the EPA:
  - Excess Soil Registry
    - 2022 Registry Fees were set in November 2021
  - Hazardous Waste Program (industrial and liquid hazardous waste) Digital Reporting Service
    - Digital Reporting Service development is currently underway and slated to launch January 2023
    - HWP Registry Fees will be proposed, consulted on and set later in Fall 2022

Approach to fee setting

- RPRA's proposed fees are guided by its General Fee-Setting Policy, which is posted on RPRA's website.

- There are four main steps to developing RPRA's fee proposal:

  1. The **Annual Budget**, which is set out in the annual Business Plan, consulted on with the Industry Advisory Council and Service Provider Advisory Group, and approved in fall 2021

  2. A **Cost Allocation Methodology** (CAM), which allocates RPRA's budget to the different RRCEA, EPA and WDTA programs it operates

  3. A **Fee Model** that determines the fee that obligated parties within each RRCEA program are charged

  4. The **Fee Model Inputs**, which determine the specific fee rate paid by producers in each program. These include number of producers and amount of material supplied for each program, and any surplus or deficit from prior years

Third-Party Review of RPRA Fees

- RPRA engaged Optimus SBR to conduct a third-party review of its fees in fall 2021 to identify any enhancements to reflect best practices in fee setting

- Optimus SBR's review included:
    - A jurisdictional review of comparator organizations
    - Assessment of Step 2 (Cost Allocation Methodology)
    - Assessment of Step 3 (Fee Model)
    - Assessment of the General Fee-Setting Policy.

- Optimus SBR's findings and recommendations concluded:
    - RPRA's fee-setting principles are consistent with recognized best practices
        - Principles could be condensed and simplified
    - RPRA's program weight cost allocation methodology is reasonable
    - RPRA's fee model is reasonable

- Read Optimus SBR's Executive Summary of their review of the Authority's Cost Allocation Methodology and Fee-Setting Model.

Consultation process

- The Authority's legislative framework requires the Authority to consult on its fees for 45 days.
- The Authority's legislative framework also requires its fees to be posted for 30 days once finalized.
- The consultation on the proposed 2022 RRCEA Program Fees for Tires, Batteries, Electronics (ITT/AV and Lighting), Hazardous and Special Products, and Blue Box begins on **March 10 and ends on April 25.**
- Feedback about the proposed fees can be sent to consultations@rpra.ca on or before April 25.
- If you have questions about the proposal or would like to discuss it in more detail, email us at consultations@rpra.ca.
- Additionally, two webinars will be held on March 21 and March 22.
- Feedback from the consultation will be summarized in a report that will be posted to the Authority's website.
- The final fees will be posted to the Authority's website and stakeholders will be notified when they have been posted.
- The Authority will communicate with producers on how and when they can complete their annual reporting requirements and pay their RRCEA Program Fee once the fees have been finalized.
- For more information on the consultation process, visit the Authority's website.

Proposed revisions to General Fee-Setting Policy

RPRA Resource Productivity & Recovery Authority

Overview of fee-setting policy and proposed revisions

- The General Fee-Setting Policy was first approved in 2018. The purpose of the policy is to set out the objectives and principles that RPRA uses in setting fees.

- The proposed changes will simplify and clarify the policy, and merge RPRA's Fee-Setting Methodology with the General Fee-Setting Policy. The proposed changes are not directionally different from either document.

- The revisions condense and revise the list of fee-setting principles in order to:
    - enable flexibility in future fee setting,
    - reduce redundancy,
    - eliminate extraneous information, and
    - eliminate or revise outdated information.

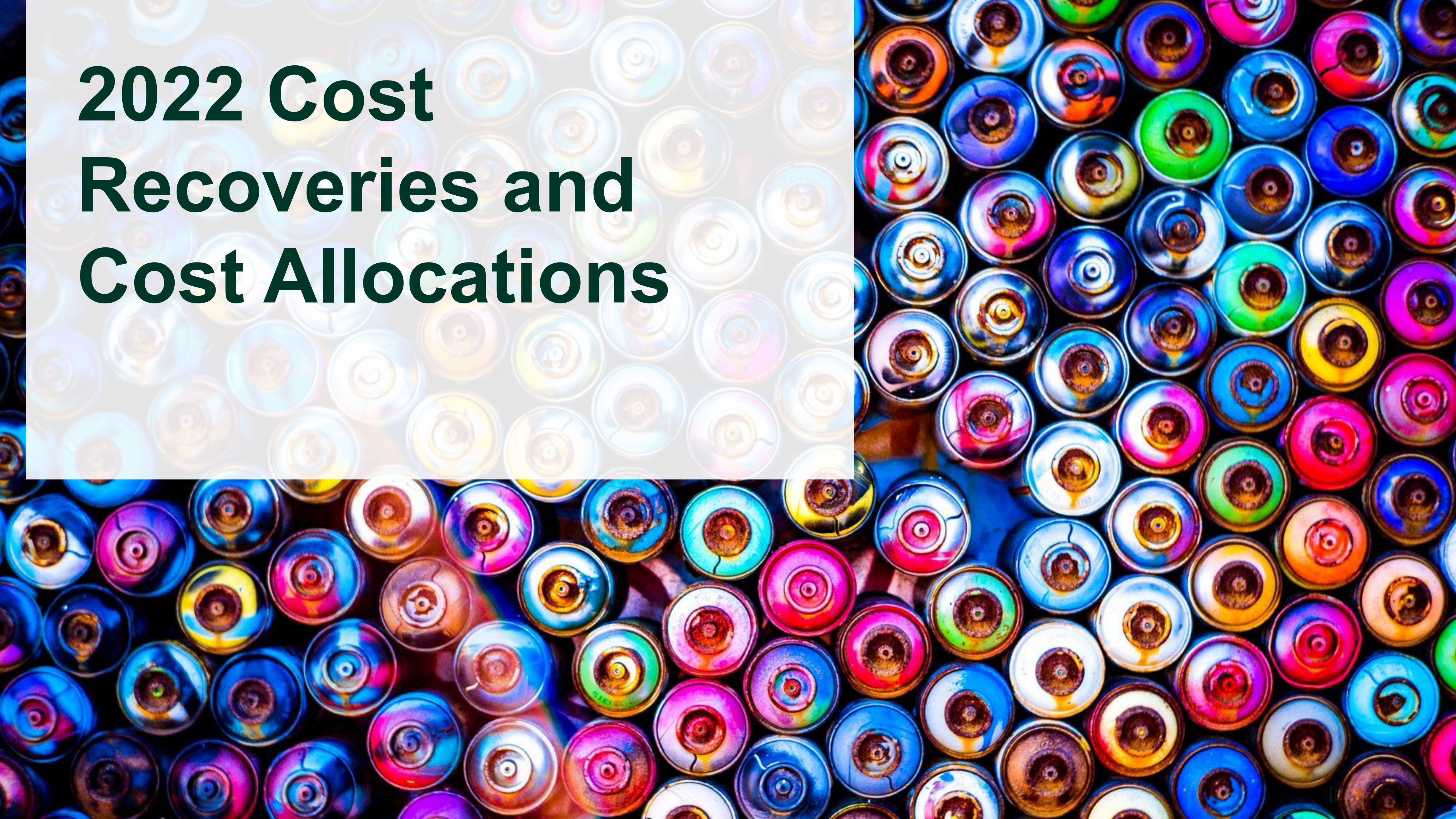
- The proposed revisions to the fee-setting principles were recommended by Optimus SBR.
    - View the proposed revised General Fee-Setting Policy.

Proposed changes to fee-setting principles

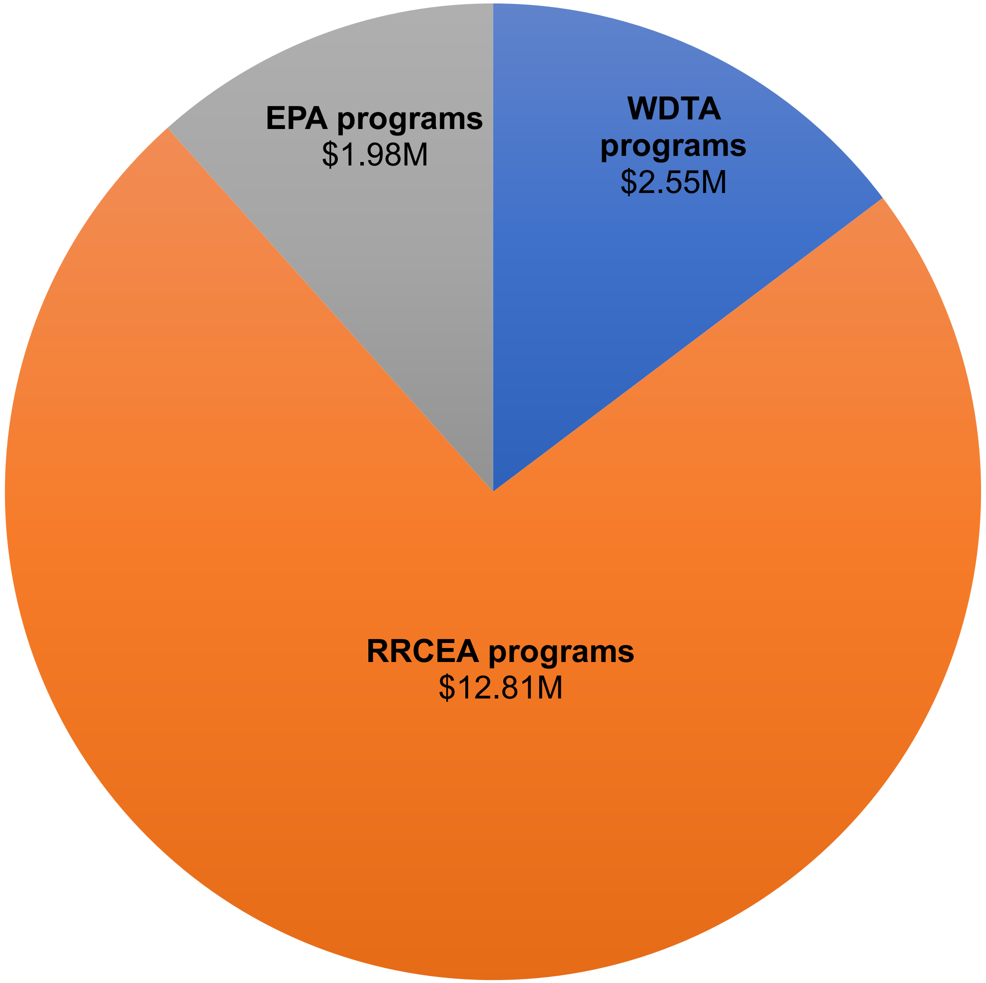
The proposed revised list of principles consolidates and simplifies the current list without changing the principles' intent. The proposed revised list aligns more seamlessly with RPRA's fee-setting objectives, which are set out in the policy and remain unchanged from 2018.

Current Principles	Proposed Principles
1) Clear legal authority	1) Clear legal authority
2) Consultation with users	2) Transparency and consultation
3) Treatment of receipts (e.g., fees are booked as revenues to offset costs)	
4) Effective and efficient collection system (e.g., clear instructions for payment and defined payment deadline)	
5) Determine full costs	3) Determine and fairly allocate full costs
6) Improve and monitor organizational performance (e.g., in setting fees, costs and other charges)	4) Commitment to continuous improvement
7) Appropriate pricing strategies	5) Simplicity and predictability
	6) Sustainability and agility
8) Recognize equity considerations	7) Recognize equity considerations (including effects of fees in the marketplace)
9) Consider the effects of fees in the competitive marketplace	

2022 Cost Recoveries and Cost Allocations



2022 RPRA Cost Recovery Target



- RPRA's 2022 Cost Recovery Target is approx. $17.35 M
- The RRCEA cost recovery target is approx. $12.81
- Cost Recoveries assigned to WDTA oversight are declining year-over-year as waste diversion programs transition to the producer responsibility framework under the RRCEA, resulting in commensurate increases to recoveries assigned to RRCEA programs
- Recoveries assigned to EPA reporting programs will increase in future years. The HWP program is not yet operational in 2022 (about $1.3 M in HWP development costs have been deferred in 2022 to be recovered in later years).

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Change in Cost Recovery Targets from 2021

	2021 Recovery Target	2022 Recovery Target	% Change	Notes
WDTA Programs	$4.0 M	$2.55 M	-36%	WDTA programs are winding up, so total budget is decreasing; these program fees are not being consulted on
RRCEA Programs*	$9.7 M	$12.8 M	+32%	RRCEA programs are expanding, so total budget is increasing; these program fees are being consulted on
Total costs to be recovered through WDTA + RRCEA fees	**$13.7M**	**$15.35M**	**+12%**	This is the total amount that must be recovered through WDTA and RRCEA fees. The 12% ($1.65M) increase reflects the addition of the new Lighting program, which has a cost recovery target of $1.7M.

*Does not include 2022 Excess Soil Cost Recovery Target

Context:

- Although the 2022 RRCEA allocation is increasing, it is entirely offset by an overall decrease in WDTA allocation
- Although proposed RRCEA fees are higher than 2021 as a result of the increased RRCEA allocation, for many producers at least a portion of the increase will be offset by eliminated or lower fees from IFOs/ISOs under the WDTA

2022 RPRA Cost Allocation Methodology

1. **Apply forecasted direct expenses to each program**, including registry amortization and interest, and registry foundational costs and interest
    - Over their lifetimes, all programs are expected to incur an equal amount of the Registry foundation common costs
2. **Apply forecasted indirect costs equally across all programs that incur them**
    - Examples of indirect costs include website and communications, IT expenses and some payroll
3. **Apply forecasted shared service expenses to programs that incur them**. These are either allocated equally, or in proportion to the number of fee-paying producers or number of registrants
    - Examples include registry-specific IT resources, and some payroll (compliance registry support and compliance inspection)
4. **Contribution to reserve is allocated to each program** based on proportionate share of total expenses to be recovered per program
5. **Contribution to start-up costs recovery allocated equally** to each active program

Proposed 2022 Fee Model

RPRA Resource Productivity & Recovery Authority

Overview of proposed 2022 fee model

- The Authority is proposing to use the same fee model in 2022 that was used in 2020 and 2021: producers are assessed variable fees tied to material supply (units for tire producers, and kgs for other producers), or flat fees below a de minimis threshold (unique to each program)

- The Authority is proposing to increase the flat fee for small producers from $75 to $100 to keep pace with variable rates for large producers, which have bean increasing annually in accordance with budget increases, while the flat fee has remained the same since it was first established in 2018.

- The proposed fee model was recommended for 2022 by Optimus SBR

- The proposed fee model is aligned with the government objective to hold producers responsible for the products and packaging they supply into the market (producer pays according to amount of material generated)

- The proposed fee model is aligned with both the previous and proposed General Fee-Setting Principles, including:
    - **Equity:** It protects small producers from excessive burden, ensures large producers pay fees that reflect the relative quantity of material they supply into the Ontario marketplace, and ensures that no producers have a competitive advantage on a per product basis
    - **Simplicity and Predictability:** Per kg/unit variable fees are aligned with regulatory requirements for producers to report by weight/unit, and enable revenue estimates based on estimates of future supply volumes

Overview of proposed 2022 fee model

- As in previous years, fees are charged to producers only. There are no fees for service providers or producer responsibility organizations (PROs).
- De minimis thresholds for all programs for determining whether producers pay a flat fee or a variable fee remain the same as 2021
- Variable fees for Tires are based on number of Tires supplied as per the Tire Regulation
- Variable fees for HSP, Blue Box, ITT-AV, Batteries, and Lighting are based on the kilograms of material supplied as per the regulations, and account for adjustments for prior year surpluses or deficits
- As in 2020 and 2021, ITT-AV and Batteries cost allocations are merged and assigned a single variable fee rate
- As in 2021, HSP categories A and B are grouped together because they have similar requirements under the regulation
- As in 2021, HSP categories C, D, and E are assigned a fixed fee only, reflecting their unique program requirements; the small producer revenue threshold for these HSP producers remains the same as 2021 ($2 Million)

Alternative fee models explored with Optimus SBR

- Several alternative fee model options were considered and assessed against the proposed fee-setting principles by RPRA and Optimus SBR. In summary, the following options were considered:

  - A 3-tiered flat fee model for small, medium and large producers
    - Not recommended for 2022 because the model shifts substantial costs from larger producers to smaller producers, creating undue burden;
    - Distorts playing field because unit costs would no longer be the same across competitors in the same material group

  - Shift to per unit across the board, instead of per kg outside of tires
    - Not recommended for 2022 because the model increases complexity (no common definition of units for programs with multiple material groups)
    - Reduces equity (costs would depend on how units are defined across materials, rather than on amount of material supplied into the province)

  - An amalgamated fee model, which would combine all RRCEA registry program costs and recover them across all RRCEA producers, regardless of program:
    - Could be considered for future fee setting following additional review
    - Not recommended for 2022 because there was insufficient time and data to analyze the model's impact on individual producers – may be considered again when RPRA's year-over-year activities are more stable

Proposed 2022 RRCEA Program Fees

Tires - proposed fee method and estimated rates

Material Group	Registrant	Est. 2022 Fee
Tires	Producer: 0 to 999 tires supplied	$100 flat fee
	Producer: 1,000+ tires supplied	$0.141 per tire

- Fee structure is unchanged from 2021
- Estimated rate is an increase of ~4% from 2021 rate of $0.135 per tire:
  - Proposed 2022 **base fee per tire is $0.153**; preliminary estimate of the surplus carryover from 2021 means the final proposed fee rate for 2022 is $0.141 per Tire
  - The 2021 base fee rate of $0.135 was held steady from 2020; Fees in 2018 and 2019 were $0.14 per Tire
- The number of tires supplied is a rolling average of 2018, 2019 and 2020
- Rolling average supply volume predicted to remain consistent with 2021 reported supply:
  - 255 small producers (<1,000 tires): 27,900 tires
  - 168 large producers (>= 1,000 tires): 13,000,000 tires

ITT-AV and Batteries - proposed fee structure and estimated rates

Material Group	Registrant	Est. 2022 fee
ITT-AV	Producer: 6360 Kg or less	$100 flat fee
	Producer: > 6360 Kg	$0.059 per Kg
Batteries	Producer: 6250 Kg or less	$100 flat fee
	Producers: >6250 Kg	$0.059 per Kg

- Fee structure is unchanged from 2021. As in 2020 and 2021, cost recovery targets for ITT-AV and Batteries are merged
- Proposed fee is an increase of ~48% from 2021 rate of $0.04 per Kg due to: (i) lower ITT-AV supply volume and (ii) a preliminary estimated ~$615,000 deficit from 2021
- Estimated 2022 **base fee is $0.05 per kg**, a ~24% increase over the 2021 rate, without accounting for the deficit
- If we used the same ITT-AV volume estimates that were used to set 2020 fees, and without the deficit, the 2022 rate would be $0.032/kg, a decrease over both 2021 and 2020 fees
- In 2021, the per Kg variable rate for ITT-AV and Batteries did not keep pace with increases in RPRA's budget, due to the necessary timing of the fee consultation in relation to budget adjustments; 2021 fee was carried over from 2020
- Volume of Batteries and ITT-AV supplied are rolling averages of 2018, 2019 and 2020, net of the kgs producers are permitted to count toward a reduction in the management requirement under the regulation
- Rolling average supply volume predicted in 2022 to remain consistent with actual 2021 reported supply:
  - Batteries:
    - 114 small producers (up to 6250 Kg): 98,000 Kg
    - 45 large producers (>6250 Kg): 8,043,000 Kg
  - ITT-AV:
    - 7 small producers (up to 6360 Kg): 18,000 Kg
    - 158 large producers (>6360 Kg): 55,017,000 Kg

HSP - proposed fee structure and estimated rates

Material category	Expected revenue collection
Category A and B (non-refillable pressurized containers, oil filters; antifreeze, oil containers, paints and coatings, pesticides, solvents, refillable pressurized containers excluding propane)	$1.95M
Category C, D and E (mercury-containing barometers, thermometers, thermostats; refillable propane containers; fertilizer)	$200K

Material Group	Registrant	Est. 2022 Fee
HSP Category A&B (non-refillable pressurized containers, oil filters; antifreeze, oil containers, paints and coatings, pesticides, solvents, refillable pressurized containers excluding propane)	Producer: up to 10,000 Kg	$100 flat fee
	Producer: > 10,000 Kg	$0.015 per Kg
HSP Category C (mercury-containing products)	Producer	$15,000 flat fee
HSP Category D (Fertilizer)	Producer	$1,250 flat fee
HSP Category E (Refillable Propane Containers)	Producer	$1,000 flat fee
Category C, D and E	Producer with annual revenue in Ontario < $ 2 Million	$100 flat fee

HSP - proposed fee structure and estimated rates

- Fee structure is unchanged from 2021
- Overall revenue collect from producers in Categories C, D and E is adjusted downward to reflect re-assessment of level of effort for Categories D and E programs.
- Flat fee rates for Categories C and D are proposed to increase because there are substantially fewer obligated producers in these categories than predicted in 2021. Flat fees were implemented for these categories in 2021 because producers are not obligated to report any supply.
- Estimated base fee rate for Categories A & B increases by about 12% from the 2021 rate per Kg, in part as a result of allocating a smaller portion of the HSP cost recovery target to Categories C, D & E.
- The number of Kg supplied is a rolling average of 2018, 2019 and 2020
- The supply data estimated to calculate the fee will be the supply made into the sectors identified for that material type in the 2021 rules for stewards under the Municipal Hazardous or Special Waste (MHSW) programs (consistent with 2021 fee structure)
- Determination of whether a producer of HSP pays a flat or variable fee for material supplied is made according to the material supplied in each material type of categories A & B as defined by the HSP regulation: oil filters, oil containers, pesticides, paints & coatings, solvents, antifreeze, non-refillable pressurized containers, and refillable pressurized container excluding propane.
- Rolling average supply volume of A & B in 2022 predicted to remain consistent with 2021 predictions:
  - 50 small producers (up to 10,000 Kg): 200,000 Kg
  - 130 large producers (> 10,000 Kg): 120,000,000 Kg

Blue Box - proposed fee structure and estimated rates

Material Group	Registrant	Est. 2022 Fee
Blue Box Materials	Producer: 50,000 Kg or less	$100 flat fee
	Producer: > 50,000 Kg	$0.0044 per Kg

- Fee structure is unchanged from 2021
- Estimated base fee rate is an increase of approx. 15% from 2021 rate of $0.0038 per Kg
- No material deficit or surplus carryover is predicted, so no adjustment made to the base fee for surplus/deficit reason
- Supply volume predicted to remain consistent with what was reported in 2021:
    - 800 small producers (up to 50,000 Kg): 9,000,000 Kg
    - 556 large producers (> 50,000 Kg): 910,000,000 Kg

Lighting - Proposed Fee Structure and Estimated Rates

Material Group	Registrant	Est. 2022 Fee
Lighting	Producer: 350 Kg or less	$100 flat fee
	Producer: > 350 Kg	$0.327 per Kg

- Threshold of 350 Kg separating small and large producers aligned with regulation
- Relatively high per kg rate reflects lighter-weight material
- The volume of lighting supplied is the average of volume supplied in 2018, 2019 & 2020
- Supply volume predicted based on supply volume into the BC market under the BC producer responsibility regulation, adjusted for population and program differences:
  - 185 small producers (up to 350 Kg): 16,900 Kg
  - 75 large producers (> 350 Kg): 5,034,000 Kg

Feedback

- If you have questions about the proposal or would like to discuss it in more detail, email us at consultations@rpra.ca.
- Register for one of our two webinars discussing the proposed 2022 RRCEA Producer Fees:
    - March 21: Fees for Batteries, ITT/AV, Lighting, and Tires
    - March 22: Fees for Blue Box and HSP
- Email your feedback to consultations@rpra.ca on or before April 25, 2021.