

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 3540.



# The Regional Municipality of Durham Report

---

To: Works Committee  
From: Acting Commissioner of Works  
Report: #2023-WR-6  
Date: June 7, 2023

---

## **Subject:**

Request to Execute Sole Source Agreement with Product Care Association of Canada

---

## **Recommendation:**

That the Works Committee recommends to Regional Council that the Commissioner of Finance be authorized to execute a sole source agreement with Product Care Association for the collection and management of Hazardous and Special Products (HSP) for a five (5) year term at an estimated compensation to the Region of \$335,000 annually (estimated \$1.68 million in compensation to the Region over the five-year term), and subject to termination with ninety days (90) notice by either party.

---

## **Report:**

### **1. Purpose**

- 1.1 This report seeks Regional Municipality of Durham (Region) Council approval for the Commissioner of Finance to execute a sole source agreement with Product Care Association as a Producer Responsibility Organization for a five-year term effective January 1, 2023, to secure continuous funding and environmentally responsible collection and disposal of Municipal Hazardous and Special Waste.

### **2. Background**

- 2.1 The Region accepts Municipal Hazardous and Special Waste (MHSW) from Durham residents at three Waste Management Facilities (WMFs), the Clarington Household and Special Waste Depot, and a sub-contracted MHSW depot in the City of Pickering. The Region also collects MHSW at four collection events annually with locations rotating throughout the eight lower-tier municipalities.

- 2.2 On October 1, 2021, Ontario Regulation 449/21 Hazardous and Special Products (HSP) came into effect with the Regulation taking full effect on January 1, 2023, which makes producers of hazardous materials financially and operationally accountable for products supplied to the market. Producer-obligated materials included in the HSP regulation are:
- a. Category A: Non-refillable pressurized containers (NRPCs) and oil filters
  - b. Category B: Refillable pressurized containers, anti-freeze, oil containers, paints and coatings, solvents, and pesticides
  - c. Category C: Mercury-containing thermometers, thermostats, and barometers
  - d. Category D: Fertilizers
  - e. Category E: Refillable propane containers
- 2.3 In 2022, the Region diverted over 1,200 tonnes of MHSW materials from the residential waste stream of which approximately 50 percent was producer obligated HSP materials. MHSW encompasses all household hazardous waste materials, whereas HSP only includes materials designated in the HSP regulation.
- 2.4 The Region has contracted Product Care Association of Canada (PCA) since 2015 to oversee the hauling, processing, recycling, and/or disposal of types of producer-obligated HSP at Regional collection sites and community events, during which time several amendments were made to the original agreement.
- 2.5 PCA is a registered Producer Responsibility Organization (PRO) contracted by producers to provide collection, management, and administrative services for HSP materials across the province and to meet regulatory obligations under the HSP Regulation.
- 2.6 PCA represents over 700 producer members and has managed 17 producer responsibility programs in nine (9) provinces across Canada since 1994. The Region contracts PCA for the management of paints, pesticides, and solvents collected at Durham Region collection sites and events.
- 2.7 The Region receives compensation from PCA to collect, transport, and dispose of obligated materials on behalf of producers.
- 2.8 The new agreement with PCA will be retroactive to January 1, 2023, and subject to termination by either party with ninety (90) days' written notice with an automatic annual renewal on January 1, 2024. This will ensure service continuity and funding of the HSP program. The proposed agreement would expire December 31, 2027.

### 3. Previous Reports and Decisions

- 3.1 Works Committee Report #2021-WR-9 provided an update to the Municipal Hazardous or Special Waste (MHSW) transition to Extended Producer Responsibility (EPR) and requested extension of Standing Agreements C002769 and C002745 with Photech Environmental Solutions Inc. for MHSW collection and haulage.
- 3.2 Information Report #2021-INFO-27, *Staff Comments on Proposed Hazardous and Special Products (HSP) Regulation ERO #019-2826*, provided an update on the proposed producer responsibility regulation for Hazardous Special Products and implications to the Regional MHSW program.
- 3.3 Information Report #2018-INFO-73, *Update on the Transition of Diversion Programs under the Waste-Free Ontario Act*, provided an update on the transition of diversion programs for tires, Waste Electronics and Electrical Equipment (WEEE) and Municipal Hazardous and Special Waste (MHSW) under the Waste-free Ontario Act.
- 3.4 Committee of the Whole Report #2017-COW-178, provided an update on the Region's participation and opportunities to influence the implementation of the *Waste Diversion Transition Act, 2016*, the *Resource Recovery and Circular Economy Act, 2016*, and the Ministry of the Environment and Climate Change's Strategy for a Waste-Free Ontario: Building the Circular Economy.

### 4. General Market Analysis

- 4.1 Region staff have conducted market research with registered HSP PROs to understand how each PRO plans to administer and fund the collection and management of HSP materials and services offered.
- 4.2 There are currently seven registered HSP PROs, including PCA and Automotive Material Stewardship (AMS). The Region has contracted with AMS since 2017 for the collection and management of oil filters, oil containers, and anti-freeze.
- 4.3 Resources, administrative processes, services offered (i.e. depot or event collection), and compensation per HSP material type varies by PRO. **PCA is the only PRO currently offering the full suite of services required by the Region.**
- 4.4 PROs canvassed by the Region were either not interested in conducting business with the Region, did not have the producer or logistic capacity to collect and

manage the quantities of HSP materials collected at the Region's depots and events, or only offer services for a type of HSP (i.e. only propane tanks or only thermostats) which would significantly increase administrative burden.

- 4.5 Staff will continue to monitor market conditions for opportunities to engage with HSP PROs.

## **5. Financial implications**

- 5.1 PCA's new agreement converts the current financial compensation model into a "per kilogram" rate per HSP material type collected, whereby collection sites that recover higher quantities of HSP materials receive higher compensation. Changes to the compensation model will result in a loss of funding to the Region of \$230,000 annually compared to previous years.
- 5.2 Notwithstanding, staff negotiated with PCA to continue funding the transportation and disposal of paints and coatings at the Scugog WMF, which is currently not required as a collection site under the Regulation at an estimated annual value of \$300,000.
- 5.3 Not executing the proposed agreement with PCA for all PCA HSP material types, transportation and disposal of these materials will result in a cost increase to the Region of approximately \$600,000 annually due to loss of funding, increased costs to transport and dispose of paints and coatings at the Scugog WMF, and to transport and dispose of other HSP materials collected at depots and events currently funded by PCA.
- 5.4 PCA will continue to partially reimburse the Region for collection, transportation, and disposal of producer-obligated paints, solvents, and pesticides at an estimated annual amount of approximately \$335,000 to the Region, in addition to the value provided by continuing to collect from the Scugog WMF.

## **6. Relationship to Strategic Plan**

- 6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 1: Environmental Sustainability
    - 1.2 Increase waste reduction and resource recovery

## **7. Conclusion**

- 7.1 Staff recommends entering into a new agreement with Product Care Association of Canada effective January 1, 2023 for a five (5) year term, subject to termination with ninety (90) days' notice from either party, to ensure service continuity for Region of Durham's residents, continuous program funding and proper collection and management of HSP and that the Commissioner of Finance be authorized to execute the new agreement with Product Care Association of Canada.
- 7.2 This report has been reviewed by the Finance Department.
- 7.3 For additional information, contact: Andrew Evans, Director, Waste Management, at 905-668-7711, extension 4102.

Respectfully submitted,

Original signed by:

---

Ramesh Jagannathan  
MBA, M.Eng., P.Eng., PTOE  
Acting Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

---

Elaine Baxter-Trahair  
Chief Administrative Officer