

Item No. 13.1.2
Environment and Sustainability Standing Committee
December 7, 2023

TO: Chair and Members of the Environment and Sustainability Standing Committee

SUBMITTED BY:



Cathie O'Toole, Chief Administrative Officer

DATE: November 7, 2023

SUBJECT: **Extended Producer Responsibility Municipal Registration**

ORIGIN

On August 2, 2023, Nova Scotia Environment and Climate Change announced extended producer responsibility regulations for packaging, paper products and packaging-like products¹. A submission date of January 1, 2024, has been set for municipalities to register for participation in the program.

LEGISLATIVE AUTHORITY

Environment Act, S.N.S. 1994-95, c. 1

95 The Minister may enter into agreements or co-operate with a municipality or other persons to ... (e) encourage industry stewardship and product stewardship;

101(1) The Minister may establish or adopt programs or policies respecting the use of packaging and labelling of materials ...

102(1)(a) The Governor in Council may make regulations respecting designated materials including, but not limited to, ... (iv) requiring the development and implementation of a waste minimization, recycling or recovery plan for designated material by manufacturers, distributors, retailers or any other person, specifying the manner in which designated material is to be managed,

Extended Producer Responsibility for Packaging, Paper Products and Packaging-Like Products Regulations

16(1) On and after a submission date specified by the Administrator and no later than January 1, 2024, a municipality must apply for registration in the form and manner required by the Administrator.

Halifax Regional Municipality Charter, S.N.S. 2008, c. 39 as amended

335 The Council may make by-laws respecting solid waste, including, but not limited to, ... (i) requiring compliance with a waste resource diversion strategy; (j) respecting anything required to implement the integrated solid-waste resource management strategy of the Municipality.

RECOMMENDATION ON PAGE 2

¹ [Nova Scotia Environment and Climate Change. Circular Economy Progress Update. August 2, 2023.](#)

RECOMMENDATION

It is recommended that the Environment and Sustainability Standing Committee recommend that Regional Council:

1. Approve the registration of the Municipality for participation in the Extended Producer Responsibility for Packaging, Paper Products and Packaging-Like Products program and direct the CAO to register the Municipality by no later than the January 1, 2024, deadline, and in accordance with the requirements of the *Extended Producer Responsibility for Packaging, Paper Products and Packaging-Like Products* regulations; and,
2. Direct the CAO to negotiate and execute agreements, on terms and conditions satisfactory to the CAO, and in accordance with the *Extended Producer Responsibility for Packaging, Paper Products and Packaging-Like Products* regulations with applicable Producer Responsibility Organization(s) related to the Municipality's curbside recycling collection and operation of the Municipality's Materials Recovery Facility and as required, with Divert Nova Scotia.

BACKGROUND

Extended Producer Responsibility (EPR) is a policy approach which makes the end-of-life management of a product the physical and financial responsibility of the producer. Packaging and paper products (PPP) consist of materials currently managed in municipal blue bag recycling programs.

Support for adoption of EPR for PPP in Nova Scotia has been endorsed by Halifax Regional Council over many years². Letters of support that were sent to the Province of Nova Scotia and to the Federation of Canadian Municipalities from Mayor Savage on behalf of Regional Council in 2019 have been included as Attachments A and B.

On August 2, 2023, Nova Scotia Environment and Climate Change (NSECC) announced EPR regulations for PPP from eligible sources (i.e., residential premises and facilities³). Effective December 1, 2025, producers, or their designated Producer Responsibility Organization (PRO)⁴ will be responsible for the collection and management of this material⁵. Since this is a provincial regulation, it is expected that a uniform recycling sort list will be used across the province.

Divert NS has been named as the Administrator of the regulations, enforcing the obligations of producers, PROs, processors, and municipalities. This oversight activity will be run separately from Divert NS's existing operations (i.e., beverage container and tire recycling programs) and any costs incurred will be recovered from the producers.

The following are key highlights from the regulations:

- Producers will be required to consult with municipalities and submit a readiness report by October 1, 2024, outlining actions they will take to meet the regulation.
 - Consultation will likely be facilitated through the Regional Chairs Committee.
- Curbside collection must be provided for all residential premises that receive curbside garbage collection.
- Eligible facilities (e.g., multi-unit residential properties) must be provided with collection, including receptacles to contain material between collection days.

² [ESSC Information Report. Extended Producer Responsibility. September 6, 2019.](#)

³ Residential premise means a self-contained dwelling (e.g., a house, town home or seasonal dwelling).

Facilities include multi-residential properties (e.g., apartment building or condominium) and public or private schools.

⁴ For consistency, the term 'producer' will be used throughout this report to also include a PRO.

⁵ [NSECC. Packaging, Paper Products and Packaging Like Products Material Management Standard. August 2023](#)

- A promotion and education program must be established to include details of what materials are included, method of collection and how materials will be managed.
- Targets for capture of designated materials are set⁶ and increase over time.
 - To be considered managed, material must be shown to have been:
 - Marketed for re-use
 - Recycled into new products or packaging
 - Marketed as compost
 - Marketed for energy recovery
- Action plans and audited statements are required to be submitted annually by producers.
- Small producers of packaging who have revenue under \$1 million or generates under 1 tonne of packaging per year (within Nova Scotia) are exempt from paying into the program.
 - These producers will still be required to maintain records and report tonnage on request.
 - As a generator of tax bills, recreation catalogues, newsletters etc., HRM may be obligated to register as a producer and pay into the program. Initially, focus on registration will be on the major producers of designated material, and registration of municipalities will follow at a later time.

To assist in development of the Readiness Report and a master commercial contract, municipalities are being asked to provide recycling collection and processing related data to Divert NS, to be shared with producers. This includes information such as number of serviced units, tonnage collected and cost of service.

DISCUSSION

While the regulations define the obligations and targets, how EPR for PPP is delivered, producers are responsible to establish what the final program delivery model will look like. Based on observations of programs launched in other provinces, a review of the regulations, and in consideration of the Nova Scotian context, the discussion below presents areas of consideration and potential impacts to recycling collection and processing services in HRM. A summary of key dates and activities are presented below in Table 1.

Table 1: Summary of Key Dates and Activities

Date	Activity
January 2024	Municipalities must register with Divert NS to signal intent to participate in EPR for PPP as well as provide key data (i.e., number of serviced units and tonnage).
January – September, 2024	Consultation period with producers on development of a readiness report.
October 1, 2024	Deadline for producers to submit the Readiness Report to Divert NS for review and approval.
October 2024 – April 2025	Anticipated negotiation period on commercial contract terms for collection and/or processing services between municipalities and producers.

⁶ [Packaging, Paper Products and Packaging Like Products Material Management Standard. 2023.](#)

Date	Activity
May 2025	Deadline for HRM to decide whether to accept commercial contract terms to continue the provision of curbside collection or withdraw, leaving producers responsible to procure a service.
June 2, 2025	Deadline by which HRM must provide notice to contracted waste haulers for early termination of recycling collection contracts, if necessary.
December 1, 2025	Implementation date for EPR for PPP

The sections below outline key areas of consideration, and potential gaps in service that may arise from implementation of EPR for PPP.

Collection Services

Effective December 1, 2025, producers will be responsible for the provision of recycling collection services for eligible residential premises. This means producers will have the discretion to deliver collection services in a manner of their choice, subject to the EPR regulations. Given that the municipality currently provides curbside collection services for garbage, recycling and organics, it is possible producers will be interested in maintaining this arrangement with the municipality for at least some period of time. If this scenario were to occur, it is anticipated that the municipality would become a service provider on behalf of producers, subject to terms of a commercial agreement which would include cost recovery provisions.

Based on observed experience in other provinces, it is anticipated that producers will propose a per unit or per-serviced stop rate to municipalities for the continued provision of recycling collection services. This rate will not be known until after the Readiness Report is accepted by Divert NS in late 2024 or early 2025 and will likely be further subject to commercial negotiations.

HRM’s current curbside collection contracts have an expiry date of June 30, 2026, with the option to extend for up to two years. The contracts include a termination clause ‘for convenience’ as long as the municipality provides at least 180 days’ written notice to the hauler. The ability to terminate without an event of default by the hauler provides HRM with some flexibility should the municipality and the producers be unable to agree upon reasonable commercial terms for the provision of recycling collection services (i.e., under the scenario that the municipality would continue to act as a service provider to the producers). Therefore, a decision will have to be made by May 2025, whether the municipality will continue to administer recycling collection for producers.

Should producers assume full oversight of recycling collection, the municipality would make reasonable efforts to work cooperatively with producers and haulers, to align service delivery (i.e., same collection schedule, integrated customer service and common educational material) with municipal garbage and organics collection to minimize disruption or program changes for residents.

Cart-based Collection

As part of the Solid Waste Strategy Review⁷, further assessments are being conducted on what a cart-based collection program could look like. Should the municipality want to use of carts for recycling curbside collection, producers will not likely be willing to pay any additional costs relative to the recycling stream. In this case, the municipality may have the option to absorb this additional expenditure if that delivery model is desired.

⁷ [Halifax Regional Council Staff Report. Terms of Reference for HRM’s – Solid Waste Strategy Review. February 2023.](#)

Processing Services and Materials Recovery Facility

Producers will also require services for storing and processing materials and typically look at existing systems and infrastructure (i.e., recycling facilities and transfer stations) for short and long-term needs.

In anticipation of this new EPR legislation coming into force, HRM executed a five-year amendment and extension agreement with Regroup for operation of the Materials Recovery Facility (MRF) in Bayers Lake. The extension, which expires on March 31, 2029, provides the municipality with the ability to terminate the agreement upon 60 days' notice, if needed, due to EPR requirements. Furthermore, the municipality has agreed to make commercially reasonable efforts to facilitate the municipality's operation of the facility, and Regroup's involvement in that operation under potential EPR scenarios for the term of the extension.

It is currently unknown what the long-term plan will be for the use of the Bayers Lake MRF. Producers may have an interest in continuing to operate the site for processing blue bag material or potentially as a transfer station. Given that the MRF is over 30 years old, and to prepare for these potential scenarios, a review of the site infrastructure is being undertaken as part of the Solid Waste Strategy Review.

Rural Small Business Collection

EPR for PPP does not provide collection to commercial or business properties. As such, it is possible some small businesses in rural areas of the municipality may no longer qualify for residential recycling collection⁸. This impact can be mitigated by the municipality covering a per unit cost of collection or establishing a separate collection program for those properties. The full scope of this potential gap will be better understood in the coming months during the consultation period.

Commercial Recyclables Processing

While private sector recycling facilities for paper and corrugated cardboard recycling exist, most blue bag container recyclables (i.e., plastic, glass and metal containers, plastic film) generated in the commercial sector are delivered to the Bayers Lake MRF for processing. In a producer-run program that is not responsible for management of commercial material⁹, a potential gap in service exists.

Given that Nova Scotia has banned different types of containers and film products from landfill disposal, it is essential that access to recycling processing remain. Through the consultation period, staff will engage producers to understand what level of service they may provide (i.e., accept commercial recycling for a fee, as is the current practice), or if private sector processors will be an option.

Provision of Service to Facilities

Producers will also be required to provide recycling collection services to multi-unit apartment buildings and public and private schools (facilities). It is expected that these locations will continue to receive a similar style service that they receive now (i.e., commercial), except that the cost will be borne by producers. The process by which these facilities will be identified and registered for service has not been announced.

Next Steps

Staff will provide periodic updates to Regional Council with respect to the implementation of EPR. Key updates will be in relation to:

⁸ In 1998 Halifax Regional Council approved the inclusion of small businesses in rural areas of the municipality to the residential curbside collection program. This was in recognition of the high cost of private service in low density areas, and to deter illegal dumping. Curbside service is limited to those who can meet residential limits (i.e., six bags of garbage, one green cart and unlimited blue bags). Where waste above these limits is generated, businesses are required to obtain private hauling services.

⁹ EPR regulations in British Columbia are expected to phase-in responsibility for commercial material. This provision is currently not being considered in Nova Scotia.

- Producers' Readiness Report (due October 1, 2024) which will outline the proposed residential recycling program. Producers will complete consultation between January to September 2024.
- Status of service delivery discussion/negotiations including related to recycling curbside collection and operation of HRM's MRF (likely Winter/Spring 2025).
- Addressing any gaps arising from service delivery discussions/negotiations (likely Winter/Spring 2025).

FINANCIAL IMPLICATIONS

Opting in to EPR for PPP will provide cost savings to the municipality starting in the 2025/2026 fiscal year. EPR will be implemented by December 1, 2025, with the PRO delivering residential recycling and processing services on behalf of producers.

A three-year summary/projection of costs and revenues related to HRM's recycling program are shown in Table 2 below. This demonstrates the upper limit of potential savings to the municipality once EPR is implemented as net program costs have the potential to be fully avoided. The full impact will depend on several factors, including whether the municipality continues to act as a service provider for the collection and processing of recyclables, any associated financial impact that does not cover full cost recovery, and any steps taken to mitigate gaps in current service delivery such as the collection of recyclables from rural eligible businesses or processing of commercial recyclables. It is noted that commercial recyclables account for approximately 25% of tonnage processed at HRM's MRF and associated costs and revenues.

Table 2: Projected Recycling Program Costs & Potential Savings

Item	Projected Budget	Estimated Budget	
	2023/2024	2024/2025	2025/2026
EXPENSES			
Curbside Recycling Collection	\$4,454,000	\$4,541,000	\$4,628,000
Condominium Recycling Collection	\$165,000	\$170,000	\$182,000
MRF Operation	\$3,294,000	\$4,315,000	\$4,576,000
MRF Capital Repairs	\$995,000	\$730,000	\$230,000
TOTAL COSTS	\$8,908,000	\$9,756,000	\$9,616,000
REVENUE			
Recyclables Marketing	\$1,300,000	\$1,300,000	\$1,300,000
Bottle Refund	\$1,000,000	\$1,000,000	\$1,000,000
Tipping Fee Revenue	\$285,000	\$287,500	\$290,000
TOTAL REVENUE	\$2,585,000	\$2,587,500	\$2,590,000
Net Program Costs/Potential Savings	\$6,323,000	\$7,168,500	\$7,026,000

RISK CONSIDERATION

The impacts of implementation of EPR for PPP are considered to be low risk.

As noted in the Discussion above, potential service gaps for collection of small businesses in rural areas exist, as well as potential changes access to commercial recycling processing for PPP like materials. Opportunities to mitigate this could be through the municipality paying a per stop fee for collection of these

businesses or establishing a separate collection program.

Changes in residential service delivery (i.e., new service provider) could potentially result in lower resident satisfaction should collection of recyclables not align with municipal garbage or organics collection schedules or if there are different standards for rejections for mis-sorted material (as examples). As noted in the Discussion section, the municipality would make reasonable efforts to ensure program delivery (i.e., collection days and communication) align between recycling, garbage and organics collection.

COMMUNITY ENGAGEMENT

No community engagement was required in the writing of this report, however, as producers prepare a readiness report, they will be engaging with municipalities and other industry stakeholders.

ENVIRONMENTAL IMPLICATIONS

The material management targets set in the Nova Scotia EPR for PPP regulations are among the highest in Canada, designed to reduce waste disposal, and greenhouse gas emissions. Over time these targets are intended to improve packaging design which will in turn promote better market opportunities for recycled products and reduce plastic pollution.

ALTERNATIVES

Regional Council could choose to not register for (opt-out of) participation in EPR. Opting-out would maintain status quo where the full physical and financial responsibility for managing designated materials rests with the municipality. This is not recommended as EPR is intended to address challenges currently faced by municipalities in processing and marketing of recyclable materials.

ATTACHMENTS

Attachment A – November 26, 2019 Letter to Federation of Canadian Municipalities

Attachment B – December 2, 2019 Letter to Province of Nova Scotia

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Shannon Betts, Manager – Policy & Enforcement, Solid Waste Resources, 902.476.2470
Andrew Philopoulos, Director, Solid Waste Resources, 902.864.6833

HALIFAX



MIKE SAVAGE

MAYOR
LE MAIRE
ME'R

1341 Argyle Street
PO Box 1749
Halifax, Nova Scotia
Canada B3J 3A5

902.490.4010
1.800.835.6428

mayor@halifax.ca
halifax.ca
@mikesavagehrm

HALIFAX REGIONAL
MUNICIPALITY
NOV 29 2019
MUNICIPAL CLERK

November 26, 2019

Mr. Bill Karsten, President
Federation of Canadian Municipalities
24 Clarence Street
Ottawa, Ontario K1N 5P3

Dear President Karsten and FCM Board Members,

On behalf of Halifax Regional Council, I am writing to share a proposal to help address what we believe is a shared concern regarding the need for more stringent, harmonized extended producer responsibility (EPR) measures in Canada.

On November 12, 2019, our Council passed a motion to endorse the following proposed Federation of Canadian Municipalities resolution:

WHEREAS, the Canadian Council of Ministers of the Environment (CCME) adopted the Canada-wide Action Plan for Extended Producer Responsibility (EPR) in 2009, and yet EPR programs are not in place in all provinces and existing programs lack harmonization and consistency;

WHEREAS, EPR shifts the responsibility for managing PPP at end-of-life away from the taxpayer and empowers producers to drive innovation, product harmonization, and enhanced product recyclability;

WHEREAS, while FCM has passed five resolutions on the subject of plastic pollution of which two refer to Producer Responsibility for plastics specifically, there is currently no official FCM policy relating directly to harmonization of EPR for Packaging and Paper Products (PPP);

THEREFORE BE IT RESOLVED that the Federation of Canadian Municipalities further call on the Government of Canada to seek progress reports from provinces towards implementation of EPR and further create a harmonized regulatory framework for EPR across Canada including all packaging and paper products (PPP), in cooperation with all orders of government, industry and affected stakeholders, allowing for regional considerations and respect for Provincial authority.

MUNICIPAL CLERKS OFFICE

Date Distributed: Dec - 06 - 19.

Councillors Meeting Regional Council

Mayor

CAO Meeting Date: Nov - 12 - 19.

Solicitor Item No. 15.6.3.

Communications

Public Affairs

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Other

NOTE: This item is being circulated to Regional Council as part of meeting follow up as the request for the letter was made at a previous meeting of

Mr. Bill Karsten, President
Federation of Canadian Municipalities
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November 26, 2019

Thank you for your ongoing efforts to support and spur national and local action on climate change and the environment.

Kind regards,



Mike Savage
Mayor

C: FCM CEO Brock Carlton
Office of the Municipal Clerk, Halifax Regional Municipality

HALIFAX



MIKE SAVAGE

MAYOR
LE MAIRE
ME'R

1841 Argyle Street
PO Box 1749
Halifax, Nova Scotia
Canada B3J 3A5

902.490.4010
1800.635.6428

mayor@halifax.ca
halifax.ca
mikesavagehrm

HALIFAX REGIONAL
MUNICIPALITY

DEC 04 2019

MUNICIPAL CLERK

December 2, 2019

Honourable Stephen McNeil, Premier
Province of Nova Scotia
Post Office Box 726
Halifax, Nova Scotia B3J 2T3

Honourable Gordon Wilson
Nova Scotia Minister of Environment
Post Office Box 442
Halifax, Nova Scotia B3J 2P8

Dear Premier Stephen McNeil and Minister Gordon Wilson,

On behalf of Halifax Regional Council, I am writing to extend congratulations and gratitude for your leadership in introducing Bill 152 - Plastic Bags Reduction Act.

While our Council had already approved the drafting of a municipal plastic bags bylaw to eliminate single-use plastic bags, we are pleased that there will now be consistency across Nova Scotia for residents and retailers. As such, Council voted on November 26, 2019 to rescind its motion of January 15, 2019 directing staff to work with the 10 largest municipalities in Nova Scotia to develop a by-law to eliminate the distribution of single-use plastic bags.

Minister Wilson, I was pleased to see your public comments that the Plastic Bags Reduction Act should be viewed as a signal that the province is willing to consider banning additional single-use plastics.

Our Council would also like to reinforce Halifax Regional Municipality's support for Extended Producer Responsibility (EPR). To that end, on November 12, 2019 Council endorsed a request for a Federation of Canadian Municipalities (FCM) resolution, which read, in part:

NOTE: This item is being circulated to Regional Council as part of meeting follow up as the request for the letter was made at a previous meeting of Regional Council.

MUNICIPAL CLERKS OFFICE

Date Distributed: Dec-09-19

Councillors Meeting Regional Council

Mayor

CAO Meeting Date: Nov 12/19

Solicitor Item No. 15.6.2

Communications

Public Affairs

Gov. Relations

Other

Premier Stephen McNeil and Minister Gordon Wilson
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"...THEREFORE BE IT RESOLVED that the Federation of Canadian Municipalities further call on the Government of Canada to seek progress reports from provinces towards implementation of EPR and further create a harmonized regulatory framework for EPR across Canada including all packaging and paper products (PPP), in cooperation with all orders of government, industry and affected stakeholders, allowing for regional considerations and respect for Provincial authority."

Naturally, we will keep you apprised of any fulfillment of our FCM request and any requests made of the Government of Canada.

Thank you for your ongoing efforts to support and spur broad action on climate change and the environment.

Kindest regards,



Mike Savage
Mayor

SMCK:bmj