
To: Minister Halman and staff of Nova Scotia Environment and Climate Change
From: Ecology Action Centre
Date: 11 April 2022
RE: Recommendations on the soon to be implemented Extended Producer Responsibility for Printed Paper and Packaging Regulations

Background

Nova Scotia conducted public consultations on solid waste management in 2011 and 2014. In both consultations, Nova Scotians expressed support for extended producer responsibility (EPR) for printed paper and packaging (PPP). The Nova Scotia Department of Environment and Climate Change in subsequent reports released in 2012 and 2015 recommended implementation of ERP for PPP. Unfortunately, nothing happened for almost six years until the announcement in December 2021 that the Nova Scotia Government is moving ahead with EPR for PPP. EAC welcomed this announcement and supported targeted consultations rather than full public consultations because the Department has already consulted Nova Scotians twice on this topic.

This is EAC's response to a PowerPoint that Nova Scotia Environment presented on EPR on PPP in January 2022 to stakeholders.

We have not provided recommendations on every facet of the EPR for PPP program. In some instances, we are confident that other stakeholders will be doing so, for example the relationship between municipalities and producer responsibility organizations.

In preparing this submission we have relied on material from Nova Scotia and other jurisdictions. In particular, we have drawn on the expertise and writings of Usman Valiante¹ and Tony Walker and Avalon Diggle², Dalhousie University. We encourage the Minister and staff of NSECC to give extra consideration to their recommendations for successful EPR programs.

Goals

The NSECC PowerPoint lists the goals or benefits of EPR for PPP as follows:

- cost efficiency
- municipal government support (large and small)
- industry support (large and small)
- improved environmental performance
- consistency with policy in other provinces where EPR already exists

¹ <https://recycle.ab.ca/wp-content/uploads/2020/08/290720-Usman-ELC-EPR-Critique.pdf>

² See this [2020 article](#) by Walker and Diggle in Waste Management or Avalon Diggle's recently completed thesis.

Cost efficiency, consistency across jurisdictions and other factors are important ingredients for effective and enduring public policy and programs. However, it is crucial that environmental benefits sit at the core of any EPR program.

NSECC needs to set strong environmental targets for EPR and ensure those targets are met or surpassed. To be considered a success, EPR must increase recycling rates, reduce packaging and reduce the amount of plastic entering the environment. Over time, EPR, through the addition of new targets, must elevate the other Rs in the waste hierarchy such as reuse and repair.

Over time EPR for PPP must change the amount and type of packaging materials Nova Scotians put in their blue bags. For those consumers with some knowledge of the recyclability of materials, it is frustrating to be confronted with packaging that is made from mixed materials or in some other way difficult or impossible to recycle and therefore realize that placing it in the blue bag is a futile act. The implementation of near nation-wide EPR programs for PPP should ensure this type of packaging is phased-out and Design for Environment (DfE) principles applied.

Recent EPR programs in jurisdictions such as Maine, Oregon and France are including other targets into EPR such as eliminating toxins from plastics, GHG reduction, increasing recycled content of plastics, litter reduction, and preventing environmental racism or inequity. In Canada there will likely be some discussion about whether these measures are better enacted at the provincial or federal level. For example, it might make more sense for the federal government to take the lead on increasing the recycled content in plastics or removing toxics from plastics.³

One dimension of any EPR program which NSECC and the Government of Nova Scotia must take full responsibility for is ensuring that EPR programs do not result in environmental racism and disproportionate impacts on marginalized populations. Historically, landfills have been disproportionately sited next to African-Nova Scotian and Mi'kmaw communities. While EPR should reduce the amount of material going to landfills, **NSECC should ensure that any new sorting, processing and recycling facilities do not have disproportionate impacts on marginalized communities.**

The waste hierarchy also typically works in terms of GHG emissions. That is re-use is better than recycling, recycling is better than energy recovery and so on. It is probably not realistic to expect an EPR program for PPP to report comprehensively on GHG emissions as the work required would likely be significant. The Resource Recovery and Productivity Authority of Ontario does not appear to report on GHG emissions.⁴ RecycleBC measures and reports on GHG emissions from their operations.⁵ They do not appear to report on overall GHG emissions avoided because of recycling, packaging reduction or from other Rs such as reuse or repair.

³ If leadership from the Federal Government isn't forthcoming, provinces could collaborate on certain targets thereby effectively creating change at national level with or without federal legislation.

⁴ https://rpra.ca/wp-content/uploads/Datacall_Report_2020_Web_FINAL-updated.pdf

⁵ <https://recyclebc.ca/wp-content/uploads/2021/06/RecycleBC-2020AR-FINAL.pdf>

Litter is perhaps the most visible and obvious manifestation of a malfunctioning and inefficient waste management system. Litter is visible to the public and media. The Ecology Action Centre routinely receives calls from the media regarding litter. And, as we know from an expanding body of research, plastic pollution isn't just an aesthetic concern, it's a growing and serious ecological, toxicological, and human health concern.

There is a definite risk that if EPR for PPP doesn't address litter, the public might judge the program ineffectual. **EAC supports efforts to have EPR funds cover litter clean-up costs in parks and other public areas but recognizes that this will only capture a relatively small portion of litter in Nova Scotia.** Nova Scotia must also consider other mechanisms to reduce litter like fees on disposable items, such as Tim Horton's cups.

The targeted consultations asked whether schools should be included in EPR program for PPP. This is a good idea. Nearly all school snacks come in disposable plastic packaging. Litter is serious and persistent problem in schoolyards and adjacent areas. **EPR for PPP should include schools and also the costs of litter clean-up in schoolyards.**

EAC supports the expansion of EPR to other items such as textiles, mattresses, more electronics, etc. We can refer to France for the range of items that can be covered by EPR. It is crucial for the credibility of existing and future EPR programs that EPR for PPP, as the largest program yet in Nova Scotia, succeed.

Governance

EPR programs should be driven by targets for recycling or recovery rates for materials and progress in meeting those targets. The targets should be progressive and increase over time. The targets should drive performance rather than performance determining targets.⁶

The EAC lacks the expertise to suggest specific targets for recovery rates in various categories of printed paper and packaging. The EU has set a series of progressive targets between now and 2030 for PPP.⁷ NSECC, in setting targets, should look at jurisdictions like the EU, not just other Canadian provinces. The targets should be fair but ambitious.

There should be overall targets for a producer responsibility organization (PRO) but there should also be targets for individual producers within a PRO. This will ensure that the incentives that are built into EPR are active at the level of the individual producer.

The premise of EPR is that by making producers responsible for end-of-life management of the waste they produce will create incentives for them to recycle and reduce packaging. However, the feedback loop needs to be robust and real. Valiante in his 2020 brief to The Recycling Council of

⁶ For example, it appears that EPR for PPP in BC is meeting or exceeding all targets, in some cases by more than 20%. This could be a case of high performance or a situation where targets are too low.

⁷ Eurostat. (2021). *Recycling rates of packaging waste for monitoring compliance with policy targets, by type of packaging* [Dataset]. Retrieved from https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=env_waspacr&lang=en

Alberta notes that many EPR programs in Canada are EPR programs in name only because the individual producers are not legally liable for meeting stringent targets. We repeat and stress his recommendation that **EPR policy for PPP in Nova Scotia should ensure that individual producers are legally liable for meeting stringent recycling targets even though their efforts will likely be through a collective recycling system.**

Industry should operate EPR for PPP, NSECC should regulate it. For example, NSECC would set targets, industry would have the latitude to determine how best to meet those targets. By this measure, Nova Scotia should adopt a full-responsibility program.

We encourage NSECC to support competition by providing no refuge for producers and their PROs from the Competition Act Canada.⁸

EAC does not have strong views on whether NSECC itself or an agency like Divert NS is responsible for direct oversight of the PRO. In other Canadian jurisdictions, like New Brunswick, Ontario and BC, government-created agencies directly oversee the operation of EPR programs.

It is crucial that the agency overseeing the PRO(s) have the capacity to do so, e.g. ability to audit the PRO, and also the authority and culture to pursue enforcement measures when appropriate. Unfortunately, in Nova Scotia, there is not a strong track record of enforcement around waste disposal. Under the Environment Act, Nova Scotia prohibits the disposal of items that can be recycled or composted. Unfortunately, these provisions are rarely enforced despite ongoing documentation of banned materials, e.g. organics or recyclable plastics, ending up in landfills.⁹

If Divert NS assumes the oversight role for EPR for PPP this would be a major expansion of its responsibilities. It has been sometime since Divert NS has undergone an independent review. **NSECC should consider a timely independent review of Divert NS and solicit input from stakeholders including environmental organizations.**

Performance cannot be measured without data collection. The producers, producer responsibility organizations, the oversight body and NSECC should all ensure that there is credible data collection, compilation and analysis.

NSECC should build transparency into this EPR program. Transparency supports accountability. Transparency also engenders public interest and support and public support is key for any residential waste program. **NSECC should make comprehensive annual results of the program available in a manner that is understandable and accessible to the public and the media.**

EAC understands there are technical and other barriers to the inclusion of the industrial, commercial and institutional (ICI) sector in the EPR for PPP program. **NSECC should ensure that if the ICI sector is not joining EPR for PPP that it is meeting recycling and reduction targets.** Apart from the significant

⁸ EAC does not have a lot of expertise in this area, but points to Usman Valiante's 2020 brief to the Recycling Council of Alberta.

⁹ <https://divertns.ca/sites/default/files/researchreportsfiles/2021-09/WasteAudit2017.pdf>

volume of waste generated by that sector, the public perception that industry and institutions don't have to recycle would be damaging to public support for EPR.

EAC is opposed to incineration of PPP materials. Emphasis should be on the rapid elimination of materials that are not recyclable. **NSECC should prohibit the incineration of materials collected under an EPR program for PPP.**

Participation in an EPR program could be an undue hardship for a small business. EAC supports the de minimis for businesses with less than \$2 million dollars of revenue or 1 tonne of material. **NSECC should consider suspending the \$2 million de minimis exemption where a business, though under the \$2 million de minimis, generates significantly more than 1 tonne of material.** As a general rule, all of us, that is consumers, businesses large and small, institutions and governments should all be responsible for the materials we use or sell and for the recycling and for the reduction and elimination of packaging where possible.

Newspapers should be included in EPR for PPP.

Nova Scotia is lucky to have a number of researchers, in particular Tony Walker, Avalon Diggle and colleagues, with expertise and interest in waste management, plastic pollution and EPR. **NSECC and Divert NS should continue to collaborate with researchers to monitor and assess the effectiveness of EPR programs.**

Summary of Recommendations

Goals

1. NSECC needs to set **strong environmental targets** for EPR and ensure those targets are met or surpassed. To be considered a success, EPR must increase recycling rates, reduce packaging and reduce the amount of plastic entering the environment.
2. NSECC should ensure that any new sorting, processing and recycling facilities do not have **disproportionate impacts** on marginalized communities.
3. EAC supports efforts to have EPR funds **cover litter clean-up** costs in parks and other public areas but recognizes that this will only capture a relatively small portion of litter in Nova Scotia.
4. EPR for PPP should include **schools** and also the costs of litter clean-up in schoolyards.

Governance

1. There should be overall **targets** for a producer responsibility organization (PRO) but there should also be targets for individual producers within a PRO.
2. EPR policy for PPP in Nova Scotia should ensure that individual producers are **legally liable** for meeting stringent recycling targets even though their efforts will likely be through a collective recycling system.
3. Industry should operate EPR for PPP, NSECC should regulate it.
4. We encourage NSECC to support **competition** by providing no refuge for producers and their PROs from the Competition Act Canada.

5. NSECC should consider a timely **independent review** of Divert NS and solicit input from stakeholders including environmental organizations.
6. NSECC should make comprehensive **annual results** of the program available in a manner that is understandable and accessible to the public and the media.
7. NSECC should ensure that if the **ICI sector** is not joining EPR for PPP that it is meeting recycling and reduction targets.
8. NSECC should prohibit the **incineration** of materials collected under an EPR program for PPP.
9. NSECC should consider suspending the \$2 million **de minimis** exemption where a business, though under the \$2 million de minimis, generates significantly more than 1 tonne of material.
10. **Newspapers** should be included in EPR for PPP.
11. NSECC and Divert NS should continue to collaborate with **researchers** to monitor and assess the effectiveness of EPR programs.