

**Environment & Sustainability Standing Committee**  
**June 24, 2013**  
**Item: 3.1**

**SUBMITTED TO:** Chair and Members of Environment & Sustainability Standing Committee

**DATE OF MEETING:** June 24, 2013

**SUBJECT:** Nova Scotia Solid Waste Resource Management Regulation Review

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**BRIEFING NOTE**

**ORIGIN**

Environment & Sustainability Standing Committee, June 6, 2013 – Item 6.1.5:

*The Standing Committee requested that staff prepare and circulate briefing material outlining proposed changes to the solid waste-resource regulation and implications for HRM. Moreover, it requested that a meeting be scheduled in advance of the June 24, 2013 meeting with Nova Scotia Environment to review the material and identify points of consensus.*

**RECOMMENDATION/ DECISION REQUIRED**

None required in this case. For information and discussion only.

## **BACKGROUND**

Nova Scotia Environment (NSE) is tasked with undertaking a review of the Nova Scotia Solid Waste-Resource Management Regulations. This is part of a process contemplated in the NS Solid Waste Management Strategy document “Our Path Forward” <http://www.gov.ns.ca/nse/waste/docs/Solid.Waste.Strategy-Our.Path.Forward.2011.pdf> issued in fall 2011. This document identified actions to achieve the provincial waste disposal target of 300 kilograms per person by 2015 as well as how to maintain Nova Scotia’s leadership role in waste diversion.

In January 2013, NSE launched preliminary discussions with Waste Management Regions (through Regional Coordinators and Regional Chairs) and with the RRFB to review the following 7 focus areas for potential revisions to the regulations:

1. Product Stewardship
2. Disposal of C&D waste
3. Beverage Container Deposit Refund Program Efficiency
4. Used Tire Management Program
5. Regional Solid Waste Management Plans
6. Regulatory Clarity on Energy from Waste
7. Improvements and Changes to the Enforceability of the Regulations

Input was gathered from Regional Chairs and Coordinators at a special full day workshop facilitated by NSE on February 7, 2013. This was the first stage in receiving input from designated stakeholders.

In May 2013, NSE issued a revised Discussion Paper (Appendix “A” attached) as the next stage in the stakeholder consultation process. Staff have highlighted where revisions have occurred as a result of preliminary stakeholder feedback.

## **DISCUSSION**

The following is an overview of staff input framed for the 7 focus areas under discussion at the workshop with NSE.

### **1. Product Stewardship**

Making brand owners and manufacturers of products and packaging responsible for the cost of managing end of life recovery through implementation of Extended Producer Responsibility (EPR) policy/regulation is critical to increasing diversion and sustaining materials management systems. EPR is an economic policy approach in which producers of products and packaging bear responsibility for ensuring materials are properly managed at end of lifecycle. It shifts the burden for materials management and recovery upstream to the product manufacturer and away from the taxpayer/municipalities. The true EPR models require manufacturers to “internalize” recycling and recovery costs in the price of the product as a cost of doing business and not apply the cost as an added fee/levy at point of purchase. Fees at point of purchase are considered “external” and are typical of collective industry led stewardship programs where the consumer pays the same in product levy, commonly referred to as “Eco” or “Recycling” fee, collected by an Industry Association/Group and every manufacturer member shares in the costs/benefits. However, under this model, there is no direct ownership or incentive to reduce waste or design for the environment.

Sweeping changes to product stewardship and EPR programs are now occurring across Canada, most notably in Ontario and BC. Ontario has recently proposed it will scrap its “Eco Fees” applied on products such as e-waste, paint and other special waste, as this form of product stewardship has not demonstrated success in achieving waste diversion targets. It has also proposed to eliminate the industry association, Waste Diversion Ontario (WDO), which collects the fees. The government proposes to introduce an EPR approach that includes clear diversion outcomes for industry including targets for recovery/recycling as well as to require producers to reimburse municipalities for collection and handling of materials.

The Ontario Waste Management Association (OWMA) recently (June 2013) issued a policy paper regarding EPR that advocates for an outcome based approach to EPR, “internalizing” recycling costs. The role of the provincial government is to establish and enforce environmental standards, set standards for accessibility to collection programs for specific materials and set waste diversion targets for industry to meet. OWMA identifies an EPR based approach as an effective means to reduce waste, increase diversion and ensure proper and safe management of waste.

In an outcome based approach, the hierarchy for materials management needs to focus first on reduction, especially packaging, and then on integration into existing curbside systems (for efficiency). Accessibility to existing curbside programs, making it easier to recycle, rather than drop off systems, is key to increasing diversion.

As an outcome based approach to EPR, Regional Coordinators have discussed a set of standards and fundamental principles for industry to be held accountable. The following principles should be included in the NS Provincial Regulations for the Stewardship Framework:

- To recognize municipalities as stakeholders with industry to fund 100% of the cost where municipalities handle the stewarded materials that can be in the curbside recycling, organics and garbage streams and HHW collection programs.
- Require a minimum of 75% diversion achievement from landfill as the goal.
- Ensure industry accountability and adopt the CCME Canada Wide Action Plan for EPR National Performance Measures which provides outcomes that industry must complete to meet and sustain compliance.

Convenience to the public – the existing integrated waste management system relies on existing infrastructure investment by municipalities and taxpayers. Product stewardship plans should include a plan to recognize the significant capital and operating investment demanded of municipalities to support the Provincial waste management regulations, and utilize and capitalize on the accessibility, flexibility and efficiency of existing infrastructure and convenience of the existing curbside programs.

Current NS Provincial Regulations recognize stewardship with fees at point of purchase and currently, there is no incentive to reduce packaging waste. Post-consumer packaging is not currently designated for recovery. There are inconsistencies within the current regulation, Section 18B(1)(f) contemplates industry paint to include its container and contents, however the levy collected by ‘Product Care Association’ does not recognize the recovery of the empty paint can, ending up in the garbage stream. The municipality is left dealing with the cost to manage the empty paint can where a levy was charged at point of purchase and there is no recognition of municipal costs for this portion of the product. There is a need to recognize the municipal stakeholder role in collection of packaging and reimbursement for costs, **including disposal**, where this occurs and a product and/or packaging is not recovered in the stewardship plan.

It is crucial that existing curbside systems be the first priority for consideration in all EPR collection systems and that funding derived from the EPR programs be directed to fund the municipalities managing the existing systems.

A review of other jurisdictions where industry stewardship or Extended Producer Responsibility programs have been adopted show a patchwork of industry drop off collection programs and adds confusion to the system, in terms of “what do I take where”? For program simplicity, accessibility and efficiency, it is recommended that any stewardship programs for materials already in the curbside collection system remain in the curbside collection system. Typically, national programs benefit industry at the expense of not recognizing the integration within existing municipal waste management systems.

The Province of BC is in the forefront making changes to the landscape of the waste management industry with its new Recycling Regulation that recognizes the EPR approach. The regulation identifies a broad range of packaging and printed paper (PPP) for recovery by the

product manufacturer, distributor or brand owner. In this model, industry becomes responsible for delivery of the recycling collection and processing of residential materials.

In this model, where there is an existing municipal curbside collection program in place for recycling, municipalities will be eligible for a financial incentive to offset collection, education and administration costs for program management. There will be additional financial incentives for municipalities based on performance to increase material capture rates. Post collection processing (MRF processing) will be the responsibility of industry, not the municipality. This shifts costs, but also drives how collection systems will operate. In the BC model, materials such as glass, plastic film and bags are not acceptable for inclusion with other single or 2 stream recycling programs, these are required to be collected separately or brought to a depot for drop off.

A multi-material stewardship organization, MMBC, has been set up in BC as an agency to provide producers with services to meet the regulatory requirements including entering into agreements with municipalities. This agency will also provide provincial education programming, funded by industry.

In NS, while there are merits to a Provincial education program, waste management program messages require integrated education programs designed around and aligned with municipal administered programs which can be different between municipal waste management Regions. Funding should be directly channeled to the municipal level to support residential and business education measures.

Curbside accessibility has been a major factor in encouraging program participation and diversion success to date. Setting up separate drop off programs for materials that are traditionally collected through blue bag recycling and organics programs impacts public convenience and program participation. Materials easily included in the recycling stream should be dealt with in the existing system with the provision that integration into existing models needs to be negotiated in terms of operational, processing and collection impacts.

The Depot drop off recovery models do not capture all program materials, those not voluntarily “dropped” off end up in the municipal waste system and the costs are incurred by the municipality. The depot drop off program requires consumers to voluntarily transport stewarded products to designated locations, which also results in a duplication of existing curbside collection and processing systems. These drop-off programs also leave out residents and consumers who do not have personal transportation means. Where there are existing municipal recovery programs in place for curbside recycling collection of a stewarded product, integration with these existing programs should be the requirement in a plan considered by the Minister.

BC has set a recycling target of 75% for each of the product categories. At present no visible eco fees are being proposed with the exception of the existing beverage container deposit program. As a materials priority list for EPR is being developed for NS, consideration should be given to those products with a well-established recovery program in other jurisdictions such as is the case for mercury containing bulbs, batteries and other special care waste. As another example, much research has already been completed in NS on the recovery for reclamation of disposable propane tanks; this special waste is a priority for diversion away from landfill.

Both Producer Pay and Stewardship are recognized within the NS Environment Act. NSE is well positioned and needs to be encouraged to move EPR forward to be able to meet the EGSPA targets and remain a leader in waste management programs.

## **2. Disposal Bans and Compliance Procedures**

Nova Scotia is unique in Canada having established material disposal bans; however, nearly 100% of the burden for compliance with the regulation rests with the municipality. As owner and operators of landfill disposal facilities, these banned items are included in the landfill operations and disposal approvals. Most municipalities, including HRM, mandate provision for source separation within municipal By-Laws. In the current NS regulatory approach, the burden of compliance rest almost exclusively with the landfill operator and not the generator or hauler.

Disposal bans for additional materials such as drywall/wallboard, asphalt shingles and coating free wood are supported. However, regulations should provide for the requirement for separation at source and hold all stakeholders (residential and ICI generators, commercial property owners and haulers) accountable in the chain of custody. The regulations should be changed to place responsibility and accountability more effectively encourage and support separation at source. There has been considerable discussion at Regional Coordinators and Chairs Committee regarding enhancing C&D materials diversion and including designated materials on the list of materials banned list. It has been discussed that the implementation of material bans should ensure there are 2 key fundamental elements in place:

- 1) Sustainable Diversion Opportunities for C&D materials;
- 2) C&D debris industry stakeholders accountable for separation at point of origin, not just processing sites.

C&D bans need to account for and incorporate acceptance of the after-use of C&D matrix products which might also be used in landfill operations. If there are outright bans on C&D matrix materials being used in landfill operations this needs to be very clear in advance. As noted in the discussion paper, the intention is to develop after use options for the materials other than just landfill. However, this should not preclude manufactured products from C&D materials being used in landfill operations, as is the case currently in HRM.

Sustainable diversion opportunities are less likely once C&D is mixed, crushed and ground into pieces under heavy equipment at job sites. Therefore, in order to ensure materials that are banned, and that can and should be recycled are protected to enable recycling, they must be planned for in advance, before structures are demolished. Planning for and properly managing construction materials is imperative to supply markets with separated, uncontaminated materials and enables further processing into value added products.

A variety of stakeholders have a role in planning, preparing and undertaking separation activity. There is no value in holding facility owners/operators accountable if the development contractors, demolition company and hauler are not likewise all to be held accountable. The example noted in the document would have a C&D facility operator “administering” notices to contractors, developers and haulers to have their materials properly sorted. This is not considered an effective approach to achieve the Province’s goal for effective diversion and after

use of C&D materials. This approach also removes, in large part, any accountability of the generator or hauler to abide by the legislative objective. Material management plans need to be approved and haulers need to be held accountable to not remove mixed materials from C&D job sites.

C&D Facility operators can and should be required to monitor loads they're receiving; however, regulatory oversight and monitoring must also take place at point of generation. In the case of C&D, this includes the contractors' job sites by all responsible parties, not reception at the processing facilities. Source separation systems are based on the responsibility resting with the generator, not receiver. As is the case with all waste, including C&D material bans, if instituted, provincial regulations should provide for the requirement for separation at source and hold all stakeholders (residential and ICI generators, commercial property owners and haulers) accountable in the process.

Hauler licensing is another area of opportunity to ensure loads are properly sorted prior to collection and transportation. Non-compliance would be a simple case of suspending a license, access to facilities or fines. The issue is where accountability needs to be placed.

With respect to C&D, similarly if developers as well as contractors were required to have materials plans that were subsequently approved, then non-compliance would have a formal system to address compliance. There is no escape based on "someone else's job" claims. Both licensing haulers and materials plans permits are readily administered within existing by-law and waste management regimes.

### **3. Beverage Container Deposit Refund Program Efficiency**

Staff conducted an analysis of the financial impact of modifications to the RRFB budget model and presented findings to ESSC in a report dated February 7, 2013 and onto Council for consideration. At the February 19, 2013, Halifax Regional Council Meeting, Council endorsed having correspondence sent to the Minister of Environment to request consideration for changes to the deposit-refund model rather than just increasing existing deposit fees to support the EGSPA goals as mandated by the Province.

RRFB operates the beverage container system and review of this program efficiency is prudent. RRFB reports net costs in excess of 10 million dollars to receive, transport, process and market approximately 13,500 tonnes of recyclable containers. HRM's net cost to collect, process and market approximately 24,300 tonnes of recyclable materials is 4 million dollars. Given the high commodity value of the deposit bearing containers, it is more than reasonably conceivable that these containers could be incorporated into the existing municipal recycling programs at a zero net cost and possibly yield a profit.

The idea of a floating fee (tax) on containers based on what they cost to collect, process, market and recycle externalizes true costs and there is no incentive to increase program efficiencies. This is not dissimilar to the eco fee approach which is not true EPR and passes down cost to the consumer and not upstream to the producer in the true EPR model. These fees typically do not drive innovation, efficiency or recycling.

Adding additional costs to support this unsustainable, and duplication of existing curbside service is not supported. HRM has identified benefits, both financial, and environmental. The RRFB system of depots, collection, transportation, processing, marketing and end of life management costs, based on RRFB provided figures, is estimated at \$777.00/tonne. By comparison, the HRM curbside collection, recycling processing and marketing systems would in fact earn a profit of \$50.00/tonne for the same load of materials. This variance brings into question the justification for maintaining the existing model for beverage containers where there is an alternative with improved access in curbside collection services with the objective to support and sustain diversion programs. Environmental benefits can accrue as the removal of trucks required for separate depot collection to processing centres can result in reduction in greenhouse gas emissions in the transportation industry sector.

#### **4. Used Tire Management Program**

Expansion of the program to include off road and industrial {agriculture} use tires would enhance diversion of these materials from landfill in support of HRM's objective to support diversion.

During the preliminary discussions with Chairs committee there was some discussion to modify existing drop off program. The existing program allows consumers to drop off tires at any tire retailer. Direct to retail is where consumers often visit for tire change and servicing where the retailer is currently required to provide for this drop off option. If NSE is to consider any changes to the return to retail model, there should first be a survey of public opinion regarding the value of the return to retail consumer convenience option and this option can be built into any new EPR model.

#### **5. Regional Solid Waste Management Plans – Regional Requirements**

Revising the regulation to reflect an updated target of having Regions achieve the EGSPA target goals as set under the act will require much more discussion and clarity to ascertain if this requires each Region to meet the 300 kg goal or if it is to remain a provincial goal as currently established.

The idea that the provincial targets would be redefined to be regional targets is not equitable in Nova Scotia where HRM is its own region. The concentration of population, business and industry within HRM verses the remainder of the Province makes this model unfair and would penalize HRM in any future programs for diversion credit funding. This model is not supported. Furthermore, this is the same issue which has been raised a number of times and which HRM has raised with the Province in terms of previous RRFB programs which provide equal payments in some special programs and initiatives to all 6 regions, regardless of the fact that one has 40,000 residents and one has 400,000 residents.

#### **6. Regulatory Clarity on Energy from Waste**

Staff are not aware of any permitted municipal solid waste incineration facilities in NS. To date, any facility that converts waste into energy has been considered as disposal.



New technologies are evolving which should provide real, practical and viable alternative options to landfill for Nova Scotia. The key will be to ensure the focus of first priority remains diversion through recycling and composting programs such that these materials do not become a factor in materials management for the EFW systems.

With respect to residue garbage, as otherwise unviable resources, alternative to landfill disposal to create green energy, and reduce the waste's environmental footprint is an option that should be examined. However, this issue requires further examination on how it would be integrated into the existing and mature diversion model in Nova Scotia.

## **7. Improvements to the Enforceability of the Solid Waste Regulation**

As noted in comments on the Material Bans issue #2, these restrictions for proper management of materials only apply to operators of disposal facilities. There is no provincial requirement for the generator of the waste to separate, while the municipality can be fined under the regulations for accepting materials banned from landfill where separation does not occur. The regulations should provide for accountability of waste generators and waste haulers, all key stakeholders in the waste management strategy. There is currently no provision for the provincial regulator to seek compliance for the separation of banned materials from the ICI sector and should be revised to include a definition of Waste Diversion and encouraging waste diversion by:

- (a) Establishing requirements for source separation of banned materials;
- (b) Establishing licensing for waste haulers;
- (c) Regulate waste diversion practices and or introduce materials management planning regulations for all materials at construction and demolition sites.

The Ontario Regulations(s) 101-105/94 and 103/04 "ICI Source Separation Programs" require the ICI to establish and maintain source separation programs for designated recyclable materials. These regulations (102/94) "Waste Audits and Waste Reduction Workplans" require the ICI to develop and implement waste management plans. These Regulations should be considered by NSE to encourage ICI program participation as waste generators.

## **Litter Abatement - Flyers**

The distribution of flyers into driveways, bushes and for some, in their mail box, continues to be an issue raised by HRM Council. Residents complain these flyers create litter and in some cases, are unwanted. Currently the regulations recognize flyers as litter only if placed onto parked cars or attached to poles, a structure, fence or other thing without the permission of the owner of the pole, structure, fence or other thing. The regulations should seek to address unwanted distribution of flyers in addition to agreements with the industry sectors that identify the proper distribution of flyers and promotion of 'opt out' programs.

Responsibility for Litter Abatement is fostered in the Environment Act and regulations and demonstrates the Province's commitment to environmental sustainability. Litter abatement regulation has a long standing linkage to support the social norm that littering is unacceptable. Another unacceptable practice is the act of illegally dumping waste and should continue to be endorsed in Provincial regulations. There has been some concern expressed by NSE that these

regulations are difficult to enforce when and if there are resources available. Regulations should be written with the ability to prosecute, if required and should be re-written to become enforceable. While recognizing that this activity may not be a high priority for deployment of enforcement resources, the littering provision in the regulation nonetheless can serve as a deterrent.

There is no identifiable advantage to the municipality to take on additional roles to enforce littering, illegal dumping and open burning activity where this is the current role of the province.

### **COMMUNICATION ISSUES/OPPORTUNITIES**

The Province has indicated that this is the second stakeholder outreach stage which will be followed by further review with other Maritime Provinces. There will then be further internal review by NSE. NSE has indicated that regulatory change would subsequently include a public engagement phase, if it is decided to proceed.

### **ATTACHMENTS**

NS Solid Waste-Resource Management (SWRM) Regulation Review – Discussion Paper, May 2013

### **KEY STAFF CONTACT**

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